

**PUBLIC HEARINGS
MARCH 13, 2023**

7:15 P.M. – Council President Fischer opened the Public Hearing for Resolution No. R-15-23

RESOLUTION NO. R-15-23 – A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY LESTER L. & MARILYN F. DEMALINE & GINGKO LEAF PROPERTIES, LLC TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON LONG ROAD, PERMANENT PARCEL NOS. 10-04-00-012-101-078 AND 10-04-00-012-101-082 (RESPECTIVELY), DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY

There being no comments, the Public Hearing for Resolution No. R-15-23 was closed at 7:17 p.m.

7:20 P.M. – Council President Fischer opened the Public Hearing for Resolution No. R-16-23

RESOLUTION NO. R-16-23 – A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY BARBARA DEMALINE TO HAVE CERTAIN LAND OWNED BY HER LOCATED ON DETROIT ROAD, PERMANENT PARCEL NOS. 10-04-00-001-102-008 AND 10-04-00-001-102-064, AND ON STATE ROUTE 83, PERMANENT PARCEL NO. 10-04-00-013-000-194, DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY

There being no comments, the Public Hearing for Resolution No. R-16-23 was closed at 7:21 p.m.

7:25 P.M. – Council President Fischer opened the Public Hearing for Resolution No. R-17-23

RESOLUTION NO. R-17-23 – A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY WILLOWAY PROPERTIES, LLC TO HAVE CERTAIN LAND OWNED BY THEM LOCATED AT 3540 LONG ROAD, PERMANENT PARCEL NOS. 10-04-00-012-101-087, 10-04-00-002-103-011, AND 10-04-00-001-103-046 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY

There being no comments, the Public Hearing for Resolution No. R-17-23 was closed at 7:26 p.m.

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, MARCH 13, 2023
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

The Chairman, Council President Brian Fischer, called the meeting to order and led in the Pledge of Allegiance.

PRESENT:

Council Members: 1st Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2nd Ward – Dennis McBride; 3rd Ward – Anthony Moore; 4th Ward – Scott Radcliffe; Council-at-Large – Craig Witherspoon; Council-at-Large and Council President – Brian Fischer; Mayor - Bryan Jensen; City Engineer – Ryan Cummins; Planning and Economic Development Coordinator – Pam Fechter; Law

Director – John Gasior; Finance Director – Steve Presley; Safety/Public Service Director – Duane Streator; Clerk of Council – Barbara Brooks

CORRESPONDENCE:

Mayor Jensen advised Council received an email earlier today to explain the plans for the park restrooms that are for consideration in the reappropriations. He said there are two renderings of the proposed project so that Council could see the overall look as well as the inside layout. Mayor Jensen stated the reason they were asking Council to reappropriate the funds is that the City plans to build the restroom facility in-house but will be outsourcing the plumbing and electrical work. He advised Mr. Gasior suggested they get three quotes for the outside work, but they believe the City can save a lot of money this way. Mayor Jensen said the previous bid prices were well over \$300,000 for one restroom facility and in discussions with Mr. Streator and Mr. Loeser they felt like most of the work could be done in-house for a lot less money. He stated they would of course still have to abide by all building codes, and they would be inspected as required. Mayor Jensen advised the City has some talented employees that have carpentry skills and the like. He said if Council is not comfortable with passing the reappropriations, then it can be removed from the exhibit prior to passage. Mayor Jensen stated otherwise they plan to order the lumber package and then discuss getting quotes for the electrical and plumbing.

Mr. Streator advised this is a project that the City has been trying to get going for awhile now. He said bids were received two separate times with the bids coming back over twice the estimated cost. Mr. Streator stated in discussions with City personnel, they looked at the possibility of doing the work in-house as some of them have backgrounds in the construction trades. He advised they believe they can do the concrete work and the framing and roofing of the structure in-house and then for the plumbing and electrical work they would hire outside companies. Mr. Streator said they anticipate all of this would be at a significant savings. He stated they spoke to a number of Streets, Utilities and Parks employees who are capable of this work, and they are excited to be able to use some of their talents for this project. Mr. Streator advised they have done their research on the labor and the lumber package and Mr. Loeser has done a great job of putting the project together and they were hoping to move forward.

Mr. Fischer thanked them for the update and said they would hold any questions until they came to that item on the agenda.

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, FEBRUARY 20, 2023

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Work Session of Council held Monday, February 20, 2023, and to approve said minutes as published, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, FEBRUARY 27, 2023

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, February 27, 2023, and to approve said minutes as published, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 35-23 – AUTHORIZING THE MAYOR TO EXECUTE AN ADDENDUM TO THE COOPERATIVE AGREEMENT WITH THE CITY OF NORTH RIDGEVILLE FOR THE

CONSTRUCTION OF A TRAFFIC ROUNDABOUT AT THE INTERSECTION OF STONEY RIDGE ROAD, MILLS ROAD, AND AVALON DRIVE

The Clerk read Ordinance No. 35-23 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN ADDENDUM TO THE COOPERATIVE AGREEMENT WITH THE CITY OF NORTH RIDGEVILLE FOR THE CONSTRUCTION OF A TRAFFIC ROUNDABOUT AT THE INTERSECTION OF STONEY RIDGE ROAD, MILLS ROAD, AND AVALON DRIVE AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 35-23, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 35-23, and the discussion was:

George Zilka of 4827 Stoney Ridge Road, Avon said he was curious as to what is going on with the North Ridgeville/Avon property taking as he has not heard from anyone. He said it is his property and he would like to know what is going on with it. Mr. Zilka stated he knows that North Ridgeville is trying to eminent domain his property and he felt that was against the law. He advised it was not even dismissed yet and he read in the newspaper that Avon and North Ridgeville were forming some kind of coalition to put a roundabout in. Mr. Zilka asked if someone could inform him what was going on.

Mr. Gasior advised North Ridgeville has been designated as the lead agency on this project. He said it is identical to the project on SR 83 and Mills Road and again North Ridgeville was designated as the lead agency. Mr. Gasior stated as the lead agency it is North Ridgeville’s responsibility to do all that is necessary to complete the project and if that requires the acquisition of property then that is part of North Ridgeville’s responsibility. He advised the only thing that Avon is asking North Ridgeville to do is to install sidewalks and Avon will pay the cost of that sidewalk.

Mr. Cummins confirmed Mr. Gasior’s statement regarding the sidewalk to be correct.

Mr. Gasior advised if Council is familiar with the way that the project on SR 83 and Mills Road worked, and that project was successful, this is the same principle that is being applied here. He reiterated this is not Avon’s project.

Mr. Zilka asked what exactly was the Ordinance that Mr. Gasior was talking about.

Mr. Gasior advised the Law Director for the City of North Ridgeville requested this piece of legislation be passed which is from his perspective a reaffirmation of North Ridgeville’s right to proceed with the eminent domain action on the property in question.

Mr. Zilka advised he believes the case was already dismissed because North Ridgeville could not lawfully take Avon property.

Mr. Gasior advised he believes the case was dismissed, but North Ridgeville is re-filing it.

Mr. Zilka inquired what Avon has to do with it exactly.

Mr. Gasior answered nothing.

Mr. Zilka said the article he read in the Chronicle said that Avon and North Ridgeville were working together perhaps for Avon to make his property to now be considered as part of North Ridgeville.

Mr. Gasior said he guessed that was how the paper wanted to characterize it, but legally this is a North Ridgeville project. He stated North Ridgeville is what is designated under the Ohio Revised Code as the lead agency on this project and it is their project. Mr. Gasior advised the reason for the dismissal was probably because there might have been something in the original agreement between the two cities regarding their authority to acquire this property and he thinks they dismissed the action without prejudice and as soon as Avon Council passes this addendum tonight to clarify that North Ridgeville is in fact the agency with the authority to proceed through an eminent domain, North Ridgeville will be refileing the action and proceeding against that piece of property needed for the project.

Mr. Zilka advised he has not seen what they are talking about here and it would be nice to get a copy of that to see exactly what is going on before this Council passes it. He said he would like to have his lawyer look at it too, especially if Avon is somewhat involved with this seeing as it is before this Council right now.

Mr. Gasior advised he felt it was nothing that Mr. Zilka's attorneys were going to be able to object to as it is just an addendum to the agreement between Avon and North Ridgeville. He said they would provide him a copy, but pointed out that the legislation can be found online at the City's website and is available to the public once the agendas are finalized on Friday afternoons, and he could have easily accessed the information anytime since its posting.

The Clerk proceeded to provide a copy to Mr. Zilka.

Mr. Gasior advised that Mr. Zilka and his legal counsel could see that this is just a mere formality to clarify that North Ridgeville is in fact the lead agency and that North Ridgeville has the right to appropriate the property for this project.

Mr. Zilka said, if possible, that he would like Avon Council to delay voting on this legislation until the next meeting.

Mr. Gasior advised this Council could consider that request, but he would recommend that this Council not delay the passage of this legislation because he felt that North Ridgeville really wants to get this project underway, and this is a procedural matter and is not substantive in anyway. He said North Ridgeville has the right to take the property.

Mr. Zilka interrupted saying that North Ridgeville does not have the right because the case was dismissed because North Ridgeville did not have the right to take the property.

Mr. Gasior advised the property has to be taken. He said Mr. Zilka's attorney can argue in court over the necessity of the take. Mr. Gasior stated this body, Avon Council, is allowing North Ridgeville to proceed and that is all that Avon is doing. He advised to delay that in any way, shape or form would not serve any purpose for the general public.

Mr. Zilka said he disagrees but with this property being in Avon and not in North Ridgeville he feels that they should take the side of the people in their City instead of another city.

Mr. Gasior said this is a procedural matter; it has nothing to do with whether the City of North Ridgeville has a right to take a property. He stated North Ridgeville is designated as the lead agency on this project and partial funding is coming from the Ohio Department of Transportation. Mr. Gasior advised it has been deemed to be a necessary project probably because of the number of traffic accidents occurring at that intersection. He said it is a project that ODOT and North Ridgeville want to go forward with for the safety of the motoring public. The need to acquire property in North Ridgeville as well as the corner of this lot is there and it is a foregone conclusion that property has to be acquired, at least as far as he was aware.

Mr. Zilka said he believes as of right now it is against the law for them to acquire the property.

Mr. Gasior advised he understands what Mr. Zilka is trying to say. He said but he is saying that outside the context of the legal circles within which that taking takes place. Mr. Gasior stated the only thing that Avon has to do with this project is to make it absolutely clear as apparently it wasn't in the other agreement back in 2021 that North Ridgeville is the lead agency on this project and that they have a right to take property through eminent domain in the City of Avon. He advised Avon does not want that authority. Avon is not paying for this project. North Ridgeville is paying for this project along with ODOT. Mr. Gasior said part of the cost of the project is the acquisition of the property and it makes no sense for an entity that is not paying for this project, namely Avon, to have any authority whatsoever over the acquisition of the property, which is a part of the cost. He stated the lead agency is responsible for the acquisition of the property and that is what Avon and North Ridgeville are trying to make clear here. Mr. Gasior said they are not trying to create any kind of smoke screen; something apparently was not up to snuff in the original agreement between the two cities, which was perhaps raised by Mr. Zilka's attorney to the North Ridgeville attorney and the North Ridgeville attorney requested that Avon execute an addendum to the original agreement to make it abundantly clear that North Ridgeville has the authority to move forward and that is what they are doing.

Mr. Zilka said he is concerned about a property in Avon and North Ridgeville taking it.

Mr. Gasior said Avon will not be responsible for paying him for his property because it is not Avon's project. He stated North Ridgeville is the entity that has to pay for this project.

Mr. Zilka said he understands that.

Mr. Gasior said that is all we are doing. He stated there is no reason to delay it because all that Avon is trying to do is move this along so that North Ridgeville can go ahead and seek to acquire whatever property they need for the project.

Mr. McBride clarified that once this legislation is passed, it will make it very clear that North Ridgeville for the purposes of that roundabout project that they can take property across the border by eminent domain. He said once the legislation is executed, it should be crystal clear that North Ridgeville as the lead agency has the right to acquire property by eminent domain in Avon related to the project.

Mr. Zilka said his concern is that Avon seems to be in favor of that.

Mr. Gasior reiterated that North Ridgeville is paying for the project.

Mr. Zilka said there are many other options for North Ridgeville such as installing a smaller roundabout.

Mr. Gasior advised all they are talking about here is who pays for this roundabout, and it is North Ridgeville. He said because North Ridgeville is paying for it, they have a right to control what they are going to pay for the property that needs to be acquired and that is all they are saying here.

Mr. Zilka asked if the property in question was still going to be a part of the City of Avon or would it become part of North Ridgeville.

Mr. Gasior advised it will remain in Avon. He stated a portion of the property is going to be taken for public roadway, but it is still going to be located within the City of Avon.

Mr. Zilka, with a copy of Ordinance No. 35-23 in hand, said he and his lawyers were going to look it over. He felt that Avon Council should delay the vote for it tonight until they have a chance to look at it especially since it is his property, and it is very important.

Mr. Gasior advised this property has not been taken yet and they were going to be compensated for it as that is the law.

Mr. Zilka felt what they were being offered was very little.

Mr. Gasior advised he would recommend to Council that they not delay and that they pass this tonight so that North Ridgeville can proceed to get this project underway.

Mr. Zilka advised he does not understand why Mr. Gasior was concerned with North Ridgeville's project.

Mr. Gasior said that property cannot be taken from Mr. Zilka without justified compensation.

Mayor Jensen advised North Ridgeville could always change their mind. He said he has reached out to North Ridgeville and discussed moving the entrance to that roundabout to see if they could compensate for that instead of going to court. Mayor Jensen stated this body is making sure that Avon is not responsible for any of that and if a judge rules against the roundabout or that there should be more compensation for that corner, that Avon was not going to stand in the way of any of that. He advised they are making sure that Avon is not going to be responsible as a City to have to pay whatever a judge rules. Mayor Jensen said this is what North Ridgeville wants to do and Avon is allowing them to do it, but Avon is not standing in the way of Mr. Zilka receiving more money for his property. He stated the case was thrown out before and this may give Mr. Zilka's lawyers another chance to fight his case. Mayor Jensen advised he does not know what the offer was because Avon does not have anything to do with the project and we are not going to be responsible for paying for a portion of his property. He said he would like to see North Ridgeville look at the project to see if there was a way to move the project slightly to keep his property out of it completely.

And the vote was: Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Fischer, "yes".

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 36-23 – APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION AND PUBLICATION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH

The Clerk read Ordinance No. 36-23 by title only, entitled:

AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION AND PUBLICATION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTION IN CONFLICT THEREWITH AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 36-23, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 36-23, and the vote was: Mr. Witherspoon, “yes”; Mrs. Holtzmeier, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 37-23 – GRANTING A SPECIAL USE PERMIT TO O.E. MEYER CO. TO INSTALL FOUR (4) ABOVEGROUND STORAGE CONTAINERS FOR HAZARDOUS MATERIALS ON PROPERTY LOCATED AT 929 MOORE ROAD (THE SOUTHEAST CORNER OF AVON COMMERCE PARKWAY AND MOORE ROAD)

The Clerk read Ordinance No. 37-23 by title only, entitled:

AN ORDINANCE GRANTING A SPECIAL USE PERMIT TO O.E. MEYER CO. TO INSTALL FOUR (4) ABOVEGROUND STORAGE CONTAINERS FOR HAZARDOUS MATERIALS ON PROPERTY LOCATED AT 929 MOORE ROAD (THE SOUTHEAST CORNER OF AVON COMMERCE PARKWAY AND MOORE ROAD) AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 37-23, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 37-23, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 38-23 – TO AMEND THE PLANNING AND ZONING CODE SECTION 1270.03 SCHEDULE OF PERMITTED USES AND SECTION 1280.05 MINIMUM LOT AND YARD REGULATIONS FOR SPECIAL USES IN NON-RESIDENTIAL DISTRICTS TO REQUIRE A SPECIAL USE PERMIT FOR DRIVE-THRU IN THE C-4 DISTRICT

The Clerk read Ordinance No. 38-23 by title only, entitled:

AN ORDINANCE TO AMEND THE PLANNING AND ZONING CODE SECTION 1270.03 SCHEDULE OF PERMITTED USES AND SECTION 1280.05 MINIMUM LOT AND YARD REGULATIONS FOR SPECIAL USES IN NON-RESIDENTIAL DISTRICTS TO REQUIRE A SPECIAL USE PERMIT FOR DRIVE-THRU IN THE C-4 DISTRICT

The Chairman declared this to be the first of three readings of Ordinance No. 38-23 and a Public Hearing will be held on Monday, April 10, 2023 at 7:20 p.m.

ORDINANCE NO. 39-23 – TO AMEND THE PLANNING AND ZONING CODE SECTIONS 1228.04, 1230.02 AND 1244.06 TO MAKE PRE-APPLICATION MEETINGS WITH STAFF MANDATORY FOR ALL PROJECTS

The Clerk read Ordinance No. 39-23 by title only, entitled:

AN ORDINANCE TO AMEND THE PLANNING AND ZONING CODE SECTIONS 1228.04, 1230.02 AND 1244.06 TO MAKE PRE-APPLICATION MEETINGS WITH STAFF MANDATORY FOR ALL PROJECTS

The Chairman declared this to be the first of three readings of Ordinance No. 39-23 and a Public Hearing will be held on Monday, April 10, 2023 at 7:25 p.m..

ORDINANCE NO. 40-23 – TO AUTHORIZE THE FINAL PLAT AND SUBDIVIDER’S AGREEMENT FOR AUTUMN GROVE SUBDIVISION

The Clerk read Ordinance No. 40-23 by title only, entitled:

AN ORDINANCE TO AUTHORIZE THE FINAL PLAT AND SUBDIVIDER’S AGREEMENT FOR AUTUMN GROVE SUBDIVISION AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 40-23, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 40-23, and the discussion was:

Mayor Jensen asked Mr. Cummins if there was anything outstanding that would prohibit this developer from moving forward.

Mr. Cummins advised there still needs to be a pre-construction meeting for this project, the developer has to submit final sets of the plans for signature, and make sure all the reviews are complete. He said he

believes even their PTI (Permit-to-Install) for sanitary sewer has been obtained. Mr. Cummins stated there are some procedural steps to go through before they officially get started.

Mayor Jensen asked if the developer was waiting on something from the Army Corps of Engineers or the Ohio EPA.

Mr. Cummins answered he does not believe so. He said this subdivision has received their FEMA approval; the Army Corps was not really an issue as there was a very small area that this subdivision managed to avoid so that was not a part of the process.

Mayor Jensen asked for confirmation that this developer can get started once they come in for their pre-construction meeting.

Mr. Cummins answered that is correct.

Mr. Gasior advised since Mr. Presley is relatively new, he wanted to point out that the developer has to produce a Performance Bond. He said there are several ways that they can put that Performance Bond up and it is due 48 hours in advance of that pre-construction meeting. Mr. Gasior stated when the developer comes in with the Performance Bond, he asked Mr. Presley to notify him and together they would make sure it is acceptable and the development can then go forward.

Mr. Presley agreed and said the developer also made all the other necessary deposits.

And the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 41-23 – REAPPROPRIATIONS

The Clerk read Ordinance No. 41-23 by title only, entitled:

AN ORDINANCE TO AMEND AND SUPPLEMENT APPROPRIATIONS ORDINANCE NO. 132-22 AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 41-23, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 41-23, and the discussion was:

Mr. Fischer asked Mr. Presley to review the added items in the Exhibit.

Mr. Presley advised there were a couple of revisions to the Exhibit since last Monday. He said one is, as the Mayor indicated earlier, the re-appropriation of \$100,000 in the Capital Improvement Fund for the construction of restrooms. Mr. Presley stated the other revision was in the 2021 Road Program Fund to

increase the amount from \$3,456.00 to \$18,881.79. He said as he indicated in his email that this change is because of a reduction in the purchase order back in 2021. Mr. Presley stated this additional appropriation was budgeted in 2021, but they are just now receiving and paying the bill and as a result of the purchase order being reduced, he has to re-appropriate it to legally make that payment.

Mr. Fischer thanked Mr. Presley for the update. He said he would also like to thank Mayor Jensen for reaching out to him this weekend and clarifying some of the issues and questions regarding the proposed plan for the restrooms. Mr. Fischer advised he liked the drawing he received, and he is all about saving money, but there were a lot of questions and he thanked Mayor Jensen for clearing those up. He said he is assuming this is going to be a trial run, but the savings on this is unbelievable so he is hoping this goes well and can continue to add restrooms for the two other parks this same way.

Mrs. Demaline agreed and said she is happy to see that they are moving forward with restrooms at Northgate Park, and she thanked the Mayor for the drawings as that was very helpful. She asked regarding a timeline for this project.

Mr. Streator advised the timing was going to be dependent on how quick they can get the lumber package. He said they should be able to have the manpower to start as soon as the lumber package arrives. Mr. Streator stated they are caught up on a number of projects, so they are hoping to get started as soon as possible.

Mrs. Demaline inquired if they are confident that the \$100,000 was the appropriate amount. She said she knows they have not received quotes yet for the plumbing and electrical.

Mr. Streator advised they have received some quotes and he felt the funding should be enough.

Mrs. Demaline asked where in Northgate Park was this restroom facility going to be located.

Mr. Streator advised this will be located across from the community center on the northwest side of the playground parking lot where the handwashing station is currently located as that is where the sewer is located for the tie-in.

Mrs. Holtzmeier said for a point of clarity, the City employees who will be tasked with this construction, what would be their job classification?

Mr. Streator said some of them are laborers all the way up to one of our Assistant Utilities Superintendent, who has some skills that the City will be utilizing to oversee and do some of the labor as he has done framing work previously.

Mrs. Holtzmeier asked regarding those employees who are a part of the bargaining unit if this work is included.

Mr. Streator advised yes.

Mrs. Holtzmeier inquired for our own construction, for anyone that is working on this job, if they are covered by our Worker's Compensation policy for this particular duty.

Mr. Streator said yes; they would be covered by any duties.

Mrs. Demaline asked if Council can be made aware when they are getting close to moving forward with this project.

Mr. Streator advised yes, he will give Council updates as they go along and as they obtain the materials and once they get started so that Council is well aware.

Mrs. Demaline said that would be great and she knows that soccer will be starting soon at Northgate Park. She asked if there was a timeline of how long, once construction starts, it would take to complete the project.

Mr. Streator advised no; he does not have a realistic timeline. He said they anticipate it to be a two-week project as a lot of it is going to be trying to schedule the plumbing and electrical companies that will be hired for that portion of the work.

Mayor Jensen advised they will also send drawings out for Council so they can see exactly where the restroom facility is going to be placed. He said the planned location will be all laid out and they will not be taking up any of the parking spaces to impede with sports or events at Northgate Park. Mayor Jensen stated the work will all take place during the daytime working hours and they will make sure the parking area is clear. He advised there will be a staging area that will be next to where the restrooms will be located, but he does not think it will impede anything that will be going on at the park. Mayor Jensen said if they drive through the parking lot and see where the fencing is near the water fountain area, they will be working on the other side of that fencing area so as not to impede parking spots.

And the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-18-23 – AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF AVON, TO PARTICIPATE IN A COOPERATIVE PURCHASING PROGRAM WITH NATIONAL COOPERATIVE PURCHASING ALLIANCE (“NCPA”)

The Clerk read Resolution No. R-18-23 by title only, entitled:

**AN RESOLUTION AUTHORIZING THE MAYOR, ON BEHALF OF THE CITY OF AVON,
TO PARTICIPATE IN A COOPERATIVE PURCHASING PROGRAM WITH NATIONAL
COOPERATIVE PURCHASING ALLIANCE (“NCPA”)
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Resolution No. R-18-23, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Resolution No. R-18-23, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 42-23 – TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT WITH OES-SCOREBOARDS FOR THE PURCHASE OF A SCOREBOARD MARQUEE SIGN AND APPURTENANCES THERETO FOR THE CITY-OWNED CRUSHER STADIUM

The Clerk read Ordinance No. 42-23 by title only, entitled:

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A CONTRACT WITH OES-SCOREBOARDS FOR THE PURCHASE OF A SCOREBOARD MARQUEE SIGN AND APPURTENANCES THERETO FOR THE CITY-OWNED CRUSHER STADIUM AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 42-23, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 42-23, and the discussion was:

Mrs. Demaline advised as she understands it, now that they are approved as part of the purchasing plan that they can move forward with the purchase of the scoreboard marquee sign.

Mr. Streator advised that is correct.

Mrs. Demaline asked if they are still on track to move forward and have this completed by the start of the baseball season.

Mr. Streator advised yes; that is the plan.

And the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-13-23 – DECLARING IT NECESSARY TO IMPROVE CHESTER ROAD BY THE CONSTRUCTION AND RECONSTRUCTION OF APPROXIMATELY 475 LINEAL FEET OF CHESTER ROAD TOGETHER WITH ALL NECESSARY APPURTENANCES AND RELATED IMPROVEMENTS THERETO

The Clerk read Resolution No. R-13-23 by title only, entitled:

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE CHESTER ROAD BY THE CONSTRUCTION AND RECONSTRUCTION OF APPROXIMATELY 475 LINEAL FEET OF CHESTER ROAD TOGETHER WITH ALL NECESSARY APPURTENANCES AND RELATED IMPROVEMENTS THERETO AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Resolution No. R-13-23, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Resolution No. R-13-23, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-14-23 – TO ADVERTISE FOR BIDS FOR THE CHESTER ROAD WIDENING PHASE II PROJECT

The Clerk read Resolution No. R-14-23 by title only, entitled:

A RESOLUTION TO ADVERTISE FOR BIDS FOR THE CHESTER ROAD WIDENING PHASE II PROJECT AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Resolution No. R-14-23, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. Radcliffe and seconded by Mrs. Demaline to adopt Resolution No. R-14-23, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-15-23 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY LESTER L. & MARILYN F. DEMALINE & GINGKO LEAF PROPERTIES, LLC TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON LONG ROAD, PERMANENT PARCEL NOS. 10-04-00-012-101-078 AND 10-04-00-012-101-082 (RESPECTIVELY), DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT

The Clerk read Resolution No. R-15-23 by title only, entitled:

A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY LESTER L. & MARILYN F. DEMALINE & GINGKO LEAF PROPERTIES, LLC TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON LONG ROAD, PERMANENT PARCEL NOS. 10-04-00-012-101-078 AND 10-04-00-012-101-082 (RESPECTIVELY), DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Resolution No. R-15-23, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. Radcliffe and seconded by Mr. McBride to adopt Resolution No. R-15-23, and the discussion was:

Mrs. Demaline advised she would like to state for the record that she has no familial relationship with the Demalines referenced in these Resolutions.

And the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-16-23 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY BARBARA DEMALINE TO HAVE CERTAIN LAND OWNED BY HER LOCATED ON DETROIT ROAD, PERMANENT PARCEL NOS. 10-04-00-001-102-008 AND 10-04-00-001-102-064, AND ON STATE ROUTE 83, PERMANENT PARCEL NO. 10-04-00-013-000-194, DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT

The Clerk read Resolution No. R-16-23 by title only, entitled:

A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY BARBARA DEMALINE TO HAVE CERTAIN LAND OWNED BY HER LOCATED ON DETROIT ROAD, PERMANENT PARCEL NOS. 10-04-00-001-102-008 AND 10-04-00-001-102-064, AND ON STATE ROUTE 83, PERMANENT PARCEL NO. 10-04-00-013-000-194, DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Witherspoon to suspend the rules and act on Resolution No. R-16-23, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Resolution No. R-16-23, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-17-23 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY WILLOWAY PROPERTIES, LLC TO HAVE CERTAIN LAND OWNED BY THEM LOCATED AT 3540 LONG ROAD, PERMANENT PARCEL NOS. 10-04-00-012-101-087, 10-04-00-002-103-011 AND 10-04-00-001-103-046, DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT

The Clerk read Resolution No. R-17-23 by title only, entitled:

A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY WILLOWAY PROPERTIES, LLC TO HAVE CERTAIN LAND OWNED BY THEM LOCATED AT 3540 LONG ROAD, PERMANENT PARCEL NOS. 10-04-00-012-101-087, 10-04-00-002-103-011 AND 10-04-00-001-103-046, DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Resolution No. R-17-23, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Resolution No. R-17-23, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-19-23 – STRONGLY URGING THE OHIO GOVERNOR AND MEMBERS OF THE OHIO GENERAL ASSEMBLY TO RESTORE THE LOCAL GOVERNMENT FUND TO PRE-RECESSION LEVELS

The Clerk read Resolution No. R-19-23 by title only, entitled:

A RESOLUTION STRONGLY URGING THE OHIO GOVERNOR AND MEMBERS OF THE OHIO GENERAL ASSEMBLY TO RESTORE THE LOCAL GOVERNMENT FUND TO PRE-RECESSION LEVELS AND DECLARING AN EMERGENCY

A motion was made by Mr. Radcliffe and seconded by Mr. McBride to suspend the rules and act on Resolution No. R-19-23, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-19-23, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 7 for and 0 against and the Chairman declared the motion passed.

REPORTS AND COMMENTS

MAYOR JENSEN advised the City is fortunate that we have some talented people in our workforce that have some specialized skills. He pointed out that around the parks, the City employees were sealing the roof areas of the pavilions so that birds cannot build nests under the roof like they have in the past. Mayor Jensen said also they may have to come back with re-appropriations because the City hired a person who has a more specialized skill in repairing/replacing catch basins, which will allow the City to hire out some

of the street repairs. He stated it can be difficult to find someone who can do both at the same time especially with the current state of the labor force and cost, so hopefully this will help offset some of the other expenses, but they may have to come back and re-appropriate funds and ask for more money because they want to get more of them repaired where the road is concrete and the seams need repair work. Mayor Jensen advised they are going to focus on getting the concrete seams repaired throughout some of the neighborhoods similar to focusing on the catch basin repairs in the past.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, had no comments.

MRS. HOLTZMEIER, AT LARGE, inquired if the new hire for catch basins was a full-time position.

Mayor Jensen advised this employee can do multiple jobs, but he had done work repairing catch basins for the City through a contractor in the past. He said now he came to work for the City, and we are hoping that he might teach a group of our employees to do that work in-house now. Mayor Jensen stated there will be a cost savings to the City, but also it will free up some of the concrete contractors that would have to repair the catch basins before doing the basic road repairs. He clarified the road repairs will be through another subcontractor that was hired out in the past.

Mrs. Holtzmeier advised she wanted to give a real shout-out to the Parks and Recreation Department. She said they just completed a really great 9 going on 10-week basketball season on Sundays and there are more than 400 children in grades 3 through 12 that are involved in this program. Mrs. Holtzmeier stated that is a lot of families and a lot of organizing and Ms. Harasimchuk and her staff have done a fantastic job. She advised parents want to keep their kids active at all seasons and this is one of those where all talents and all abilities are welcome. Mrs. Holtzmeier said it is nice that the City has this program and they have done a good job.

Mayor Jensen advised Mrs. Harasimchuk is exhausted and he is sure she appreciates the kind words as it is a lot of work. He said as they know, you cannot please everyone and Ms. Harasimchuk does her best to remember the age of the students and try to keep everything appropriate, but it is a challenge every week. Mayor Jensen stated he was there this past weekend, and it went really well, but he is certain she is happy that this season is almost over with.

Mrs. Holtzmeier advised they are lucky in the City that they have good folks in place all around.

MR. MCBRIDE, WARD 2, agreed that the City has a great Parks and Recreation Department, and they do an awesome job and he seconds Mrs. Holtzmeier's comments.

MR. MOORE, WARD 3, had no comments.

MR. RADCLIFFE, WARD 4, had no comments.

MR. WITHERSPOON, AT LARGE, had no comments.

MR. FISCHER, AT LARGE, had no comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, advised he wanted to let Council know that he has been working with the Utilities Department in selecting a consultant to perform a rate study for both the water distribution and the sanitary sewer systems. He said they collected RFQ's and scored those and have

identified a likely consultant and they were going to negotiate out a price out for that work and would be bringing that to City Council to authorize that and get the work going. Mr. Cummins stated he hoped to have that to Council at a Work Session very soon.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR, had no comments.

MR. GASIOR, LAW DIRECTOR, had no comments.

MR. PRESLEY, FINANCE DIRECTOR, had no comments.

MR. STREATOR, SAFETY/PUBLIC SERVICE DIRECTOR, had no comments.

AUDIENCE:

There were no comments from the audience members.

ADJOURN: 8:22 P.M.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adjourn the Regular Meeting of Council, and the vote was: Mr. Radcliffe, "yes"; Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Fischer, "yes".

The vote was 7 for and 0 against and the Chairman declared the motion passed.