

**PUBLIC HEARINGS
MONDAY, MARCH 14, 2022**

7:10 P.M. – Council President Fischer opened the Public Hearing for Resolution No. R-10-22.

RESOLUTION NO. R-10-22 – A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY LESTER AND MARILYN DEMALINE, TRUSTEES, TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON CENTER ROAD, PERMANENT PARCEL NOS. 10-04-00-013-000-076, 10-04-00-013-000-147, 10-04-00-013-000-191, AND 10-04-00-013-000-036 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 39.01 ACRES AND DECLARING AN EMERGENCY

There being no comments, the Public Hearing for Resolution No. R-10-22 was closed at 7:11 p.m.

7:15 P.M. – Council President Fischer opened the Public Hearing for Resolution No. R-9-22.

RESOLUTION NO. R-9-22 – A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY BARBARA J. DEMALINE, TO HAVE CERTAIN LAND OWNED BY HER LOCATED ON STONEY RIDGE ROAD, PERMANENT PARCEL NO. 10-04-00-012-103-122 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 27.14 ACRES AND DECLARING AN EMERGENCY

There being no comments, the Public Hearing for Resolution No. R-9-22 was closed at 7:16 p.m.

7:20 P.M. – Council President Fischer opened the Public Hearing for Resolution No. R-8-22.

RESOLUTION NO. R-8-22 – A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY THOMAS L. AND BARBARA J. DEMALINE, TRUSTEES, TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON CENTER ROAD, PERMANENT PARCEL NOS. 10-04-00-013-000-149, 10-04-00-013-000-148, 10-04-00-013-000-038, AND 10-04-00-013-000-168 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 35.49 ACRES AND DECLARING AN EMERGENCY

There being no comments, the Public Hearing for Resolution No. R-8-22 was closed at 7:21 p.m.

7:25 P.M. – Council President Fischer opened the Public Hearing for Ordinance No. 14-22.

ORDINANCE NO. 14-22 – AN ORDINANCE TO ADD SECTION 1222.02(b)(44a) AND TO AMEND SECTION 1270.03(b)(3) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON, TO PERMIT DRIVE-THRU BANKING IN THE C-4 GENERAL BUSINESS DISTRICT WHEN NOT ASSOCIATED WITH A PRINCIPAL USE ON THE PROPERTY

There being no comments, the Public Hearing for Ordinance No. 14-22 was closed at 7:26 p.m.

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, MARCH 14, 2022
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 - William Logan; Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, FEBRUARY 21, 2022

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 21, 2022, 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 28, 2022

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 28, 2022, 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. 14-22 – TO ADD SECTION 1222.02(b)(44a) AND TO AMEND SECTION 1270.03(b)(3) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON, TO PERMIT DRIVE-THRU BANKING IN THE C-4 GENERAL BUSINESS DISTRICT WHEN NOT ASSOCIATED WITH A PRINCIPAL USE ON THE PROPERTY

The Clerk read Ordinance No. 14-22 by title only, entitled:

**AN ORDINANCE TO ADD SECTION 1222.02(b)(44a) AND TO AMEND SECTION
1270.03(b)(3) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON, TO PERMIT
DRIVE-THRU BANKING IN THE C-4 GENERAL BUSINESS DISTRICT WHEN NOT
ASSOCIATED WITH A PRINCIPAL USE ON THE PROPERTY**

The Chairman declared this to be the third of three readings of Ordinance No. 14-22.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 14-22, and the discussion was:

Mr. Fischer asked Ms. Fechter to remind Council of the referral from Planning Commission on this item.

Ms. Fechter reminded Council this request was a referral from City Council to Planning Commission on November 23, 2021. She said it was heard in front of Planning Commission on January 19, 2022 and was given a negative recommendation to move forward.

No further comments were made or questions asked.

And the vote was: Mr. McBride, “no”; Mr. Moore, “no”; Mr. Radcliffe, “no”; Mr. Witherspoon, “no”; Mrs. Demaline, “no”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “no”.

The vote was 1 for and 6 against and the Chairman declared the motion failed.

ORDINANCE NO. 28-22 – AUTHORIZING THE MAYOR TO TAKE ALL ACTIONS NECESSARY TO ACCEPT THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) ENERGIZED COMMUNITY GRANT(S)

The Clerk read Ordinance No. 28-22 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO TAKE ALL ACTIONS NECESSARY TO ACCEPT THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL (NOPEC) ENERGIZED COMMUNITY GRANT(S) 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. 28-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 28-22, 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.

THE CHAIRMAN ANNOUNCED A PUBLIC HEARING ON MONDAY, MARCH 21, 2022 AT 7:25 P.M. – FOR THE EXTENSION OF THE TIF AGREEMENT NO. 6/7 BY ORDINANCE NO. 29-22 – TO AMEND ORDINANCE NO. 38-10 TO EXTEND THE EXEMPTION FROM TAXATION OF IMPROVEMENTS PROVIDED FOR BY OHIO REVISED CODE SECTION 5709.40 FOR CERTAIN PARCELS COMPRISING THE CITY’S TAX INCREMENT FINANCING AGREEMENT NO. 6/7, PURSUANT TO OHIO REVISED CODE SECTION 5709.51

Mr. Fischer announced that a Public Hearing would be held on Monday, March 21, 2022 at 7:25 p.m. for Ordinance No. 29-22.

Mr. Logan advised both the Avon School District and the Lorain County Joint Vocational School were notified in writing. He said the Avon Schools have acknowledged that they received the letter. Mr. Logan stated he spoke with the Treasurer of the Avon Schools, and she indicated their School Board meets on Tuesday evening, March 22, 2022 and the Treasurer plans on speaking with the School Board President some time before that meeting to review this proposed extension, but he does not foresee any problems. He advised the Schools are kept whole in all of the City’s TIF agreements and it would remain the same in this instance.

Mr. Gasior advised the reason for tonight’s announcement is the City Charter Article IV, Section 16 requires the announcement of a Public Hearing at a Regular Meeting of Council with the Public Hearing to take place at a Work Session of Council and then a vote at the following Regular Meeting of Council.

ORDINANCE NO. 30-22 – TO AWARD THE BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 1 (THE BOARD OF EDUCATION SOCCER FIELD COMPLEX, AQUATIC FACILITY GROUNDS, FIRE STATION SITE, POLICE STATION SITE, AND THE AVON POST OFFICE SITE)

The Clerk read Ordinance No. 30-22 by title only, entitled:

AN ORDINANCE TO AWARD THE BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 1 (THE BOARD OF EDUCATION SOCCER FIELD COMPLEX, AQUATIC FACILITY GROUNDS, FIRE STATION SITE, POLICE STATION SITE, AND THE AVON POST OFFICE SITE) 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. 30-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 30-22, 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.

ORDINANCE NO. 31-22 – TO AWARD THE BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 2 (THE AVON ISLE, THE COMMUNITY CENTER, AVON CEMETERY, STATE ROUTE (SR) 83 RIGHT-OF-WAY IN NORTHWEST QUADRANT OF THE SR 83 & SR 254 INTERSECTION, STONEY RIDGE ROAD GAZEBO SITE, OLD VILLAGE HALL, AND THE SENIOR CENTER & LITTLE LEAGUE PARK COMPLEX)

The Clerk read Ordinance No. 31-22 by title only, entitled:

AN ORDINANCE TO AWARD THE BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 2 (THE AVON ISLE, THE COMMUNITY CENTER, AVON CEMETERY, STATE ROUTE (SR) 83 RIGHT-OF-WAY IN NORTHWEST QUADRANT OF THE SR 83 & SR 254 INTERSECTION, STONEY RIDGE ROAD GAZEBO SITE, OLD VILLAGE HALL, AND THE SENIOR CENTER & LITTLE LEAGUE PARK COMPLEX) 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. 31-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 31-22, 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.

ORDINANCE NO. 32-22 – TO AWARD THE BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 3 (SCHWARTZ ROAD PARK)

The Clerk read Ordinance No. 32-22 by title only, entitled:

AN ORDINANCE TO AWARD THE BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 3 (SCHWARTZ ROAD PARK) 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. 32-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 32-22, 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

ORDINANCE NO. 33-22 – TO AWARD THE BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 4 (VETERAN’S MEMORIAL PARK ONLY AND ITS ENTRANCEWAY UP TO DETROIT ROAD)

The Clerk read Ordinance No. 33-22 by title only, entitled:

AN ORDINANCE TO AWARD THE BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 4 (VETERAN’S MEMORIAL PARK ONLY AND ITS ENTRANCEWAY UP TO DETROIT ROAD) 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. 33-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 33-22, 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.

ORDINANCE NO. 34-22 – TO AWARD THE PUBLIC BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 5 (THE AVON CITY HALL COMPLEX INCLUDING THE AREA ADJACENT TO THE MIDDLE ROAD RIGHT-OF-WAY, THE NORTHGATE COMMUNITY CENTER SITE, NORTHGATE PARK, THE OLD COLORADO RIGHT-OF-WAY AT EATON DRIVE, AND THE CRUSHER STADIUM COMPLEX INCLUDING THE RECREATION LANE ENTRANCE UP TO STATE ROUTE 611 (COLORADO AVE.))

The Clerk read Ordinance No. 34-22 by title only, entitled:

AN ORDINANCE TO AWARD THE PUBLIC BID FOR THE 2022 AVON PARKS MOWING CONTRACT NO. 5 (THE AVON CITY HALL COMPLEX INCLUDING THE AREA ADJACENT TO THE MIDDLE ROAD RIGHT-OF-WAY, THE NORTHGATE COMMUNITY CENTER SITE, NORTHGATE PARK, THE OLD COLORADO RIGHT-OF-WAY AT EATON DRIVE, AND THE CRUSHER STADIUM COMPLEX INCLUDING THE RECREATION LANE ENTRANCE UP TO STATE ROUTE 611 (COLORADO AVE.)) 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. 34-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 34-22, and the discussion was:

Mr. Fischer advised to update Council on these mowing contracts he spoke with Mr. Streator and there is rain date information provided to these contractors and that the City has priority on the next allowable day for all five of these mowing contracts.

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

ORDINANCE NO. 35-22 – AUTHORIZING THE MAYOR TO EXTEND THE CONCESSIONS AGREEMENT BETWEEN THE BIG SHOW LTD AND THE CITY OF AVON ENTERED INTO ON MAY 8, 2017 PURSUANT TO ORDINANCE NO. 36-17

The Clerk read Ordinance No. 35-22 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXTEND THE CONCESSIONS AGREEMENT BETWEEN THE BIG SHOW LTD AND THE CITY OF AVON ENTERED INTO ON MAY 8, 2017 PURSUANT TO ORDINANCE NO. 36-17 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. 35-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 35-22, 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

RESOLUTION NO. R-8-22 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY THOMAS L. AND BARBARA J. DEMALINE, TRUSTEES, TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON CENTER ROAD, PERMANENT PARCEL NOS. 10-04-00-013-000-149, 10-04-00-013-000-148, 10-04-00-013-000-038, AND 10-04-00-013-000-168 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 35.49 ACRES

The Clerk read Resolution No. R-8-22 by title only, entitled:

A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY THOMAS L. AND BARBARA J. DEMALINE, TRUSTEES, TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON CENTER ROAD, PERMANENT PARCEL NOS. 10-04-00-013-000-149, 10-04-00-013-000-148, 10-04-00-013-000-038, AND 10-04-00-013-000-168 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 35.49 ACRES 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-8-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-8-22, 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.

RESOLUTION NO. R-9-22 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY BARBARA J. DEMALINE TO HAVE CERTAIN LAND OWNED BY HER LOCATED ON STONEY RIDGE ROAD, PERMANENT PARCEL NO. 10-04-00-012-103-122 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 27.14 ACRES

The Clerk read Resolution No. R-9-22 by title only, entitled:

A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY BARBARA J. DEMALINE TO HAVE CERTAIN LAND OWNED BY HER LOCATED ON STONEY RIDGE ROAD, PERMANENT PARCEL NO. 10-04-00-012-103-122 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 27.14 ACRES 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-9-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Resolution No. R-9-22, and the discussion was:

Mr. Gasior pointed out that for the record Mrs. Jennifer Demaline, Council Member, is not related to the Demalines involved in these agricultural exemption requests being voted on tonight.

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

RESOLUTION NO. R-10-22 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY LESTER AND MARILYN DEMALINE, TRUSTEES, TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON CENTER ROAD, PERMANENT PARCEL NOS. 10-04-00-013-000-076, 10-04-00-013-000-147, 10-04-00-013-000-191, AND 10-04-00-013-000-036 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 39.01 ACRES

The Clerk read Resolution No. R-10-22 by title only, entitled:

A RESOLUTION TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY LESTER AND MARILYN DEMALINE, TRUSTEES, TO HAVE CERTAIN LAND OWNED BY THEM LOCATED ON CENTER ROAD, PERMANENT PARCEL NOS. 10-04-00-013-000-076, 10-04-00-013-000-147, 10-04-00-013-000-191, AND 10-04-00-013-000-036 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 39.01 ACRES 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-10-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Resolution No. R-10-22, 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

RESOLUTION NO. R-11-22 – TO ADVERTISE FOR BIDS FOR THE JAYCOX ROAD SOUTH PAVEMENT RESURFACING PROJECT

The Clerk read Resolution No. R-11-22 by title only, entitled:

**A RESOLUTION TO ADVERTISE FOR BIDS FOR THE JAYCOX
ROAD SOUTH PAVEMENT RESURFACING PROJECT
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-11-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-11-22, 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

**RESOLUTION NO. R-12-22 – TO ADVERTISE FOR BIDS FOR THE SHAKESPEARE LANE
PAVEMENT RESURFACING PROJECT**

The Clerk read Resolution No. R-12-22 by title only, entitled:

**A RESOLUTION TO ADVERTISE FOR BIDS FOR THE SHAKESPEARE
LANE PAVEMENT RESURFACING PROJECT
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-12-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-12-22, 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

**RESOLUTION NO. R-13-22 – TO ADVERTISE FOR BIDS FOR THE NORTH EATON DRIVE AND
SHAKESPEARE LANE SEWER REHABILITATION PROJECT**

The Clerk read Resolution No. R-13-22 by title only, entitled:

**A RESOLUTION TO ADVERTISE FOR BIDS FOR THE NORTH EATON DRIVE AND
SHAKESPEARE LANE SEWER REHABILITATION PROJECT
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-13-22, 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.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-13-22, 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

REPORTS AND COMMENTS

MAYOR JENSEN advised he is requesting a Service/Finance Committee meeting be called next Monday, March 21, 2022, at 6:30 p.m. to discuss sidewalks. He said Mrs. Clements, the Zoning Enforcement Officer, and Mr. Cummins, the City Engineer, will be here to go over what has been done in the past and what changes they are proposing. Mayor Jensen noted that Mr. Gasior will be a part of that discussion as well. He stated he would like to get a consensus from Council as to what direction the City should go moving forward. Mayor Jensen advised he is hearing those concrete prices just increased another \$35 a yard because of the surcharges on fuel and added costs making it over \$150 a yard and last year they were right around \$100 a yard.

Mrs. Demaline, Chair of the Service Committee and Mrs. Holtzmeier, Chair of the Finance Committee each indicated they were available for that meeting along with the other committee members.

Mr. Fischer asked the Clerk to schedule that combined committee meeting.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, advised she is pleased they are going to be talking about sidewalks next week and she thanked Mayor Jensen. She said she is hoping that the overall map of the sidewalks in the City could be sent to Council Members prior to the meeting so they have a chance to review it before the committee meeting.

Mayor Jensen advised that should be no problem. He said he spoke with Mrs. Clements this morning and she is aware that the meeting would be requested tonight. Mayor Jensen stated he also believes that Mr. Cummins has the list of proposed areas in the City that still do not have sidewalks in each Ward. He indicated they would try to send out a whole packet of proposed sidewalk improvement areas to Council.

MRS. HOLTZMEIER, AT LARGE, advised she is also looking forward to the discussion at next week’s committee meeting.

Mrs. Holtzmeier congratulated the City Parks and Recreation Department on a successful basketball season for boys and girls grades 3 thru 12 in the City. She felt that more than ever it was a season that was needed based on what has been going on in the world. Mrs. Holtzmeier stated to give these kids a chance to get out and run around and compete and be a part of a team she felt was really important. She thanked the City for helping to make those memories.

MR. MCBRIDE, WARD 2, had no 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 further comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, had no comments.

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

MR. GASIOR, LAW DIRECTOR, had no further comments.

MR. LOGAN, FINANCE DIRECTOR, had no further comments.

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

AUDIENCE:

Attorney Dennis Rose, partner of Hahn, Loeser & Parks, LLP 200 Public Square, Suite 2800, Cleveland, Ohio advised he was here five weeks ago on the Grande Esplanade development issue. He reminded Council that the issue that he put in front of Council at that time was that this issue was caused by the reserve strip that exists that is in violation of the City Ordinance. Mr. Rose advised there have only been two instances in Avon that an Ordinance has been violated because they had reserve strips. He said one was on North Long Drive, which was resolved and now this one. Mr. Rose stated with every other development in Avon, the Ordinance has been followed. He advised they may recall that they made an offer above fair market value to purchase the reserve strip from Carnegie Management and the response from Carnegie Management was that there were other predicate issues that had to be resolved before they would entertain an offer. Mr. Rose said the offer of \$50,000 still stands. He advised Council has a choice as they can do a take, which H-9 has agreed to indemnify the City and pay the cost of the take, which they feel would move this along to a resolution. Mr. Rose stated, or the City can say, "no" to the take by eminent domain and Grande Esplanade would go by way of Nagel Road. He said they heard about costs going up and that the real estate market may change.

Mr. Rose advised the world has changed since they were last here as there was not a major war going on then that is now. He said H-9 and Grande Esplanade has to go forward and they will go forward as they have the resources. Mr. Rose stated if Council tells them to go up Nagel Road, they will do it but he still believes that does not make any sense for the residents or for the Red Tail subdivision, for the City to shut down Nagel Road for 2-4 months or however long it will take. He said that is a choice that Council is going to have to make right now. Mr. Rose advised his client took a step back at the request of Mayor Jensen and Council President Fischer to see if the parties could resolve the issue. He said they talked separately with the Mayor, and he believes that the Khouris and Carnegie Management talked separately with the Mayor as well. Mr. Rose stated a mediation was suggested and that took place last Thursday and Attorney Dan Urban, who is present tonight, was the mediator and the parties all agreed that Mr. Urban can update Council in Executive Session. He advised the mediation failed as the number of tangential issues many of which have nothing to do with H-9 or have nothing to do with this development, Grande Esplanade. Mr. Rose stated it is unfortunate that the mediation failed, and it is back in the City's lap as he and his client tried to deal with that. He said he would ask Council, as they are in Executive Session

discussing with Mr. Urban and Mr. Gasior, to get an understanding of why this mediation failed and an understanding of what is going on with the ancillary issues that brought this to the City and how this same type of issue was resolved by City Council with North Long Road several years ago. That was resolved by City Council through a decision of a take, but the take never formally took place because the issue was resolved before that action was necessary. Mr. Rose advised they feel that is the avenue that the City is now forced to do, not by his client, but they think the reserve strip should be sold at this reasonable price but if they have to go up Nagel Road they are prepared to do it. He said costs continue to go up, but it has to happen. Mr. Rose stated that he and Mr. Restivo are available to answer any questions that City Council might have before going into Executive Session.

Attorney John Slagter, partner of Tucker Ellis of 950 Main Avenue, Suite 1700, Cleveland, Ohio advised he was representing Carnegie Management and also the Red Tail Development. He thanked Council and Mayor Jensen for their time and consideration this evening. Mr. Slagter said he knows the City does not want to or plan on litigating this dispute before this body. He stated the claim that there was somehow a mistake or that there is a reserve strip here, he believes needs to be clarified. Mr. Slagter advised if there was any mistake that was made it was made by Mr. Restivo, the individual who is coming here asking for relief for his own private development. He said Mr. Restivo was Red Tail Development's consultant working for them and also Euthenics Engineer that is now working for Mr. Restivo was working for Red Tail's Development and apparently created what Mr. Restivo's attorneys are now calling a reserve strip. Mr. Slagter advised that Mr. Restivo and his legal team blame the City for this happening, they blame the City Engineer, they blame the Mayor, the City Law Director for the many occurrences that have happened here. He said the fact is that Mr. Restivo's team has no one else to blame, but themselves. Mr. Slagter stated the other party is asking the City to use eminent domain power, the power of this government, to take property from someone else for their personal purpose. He advised there is not a valid public use here but is a matter of what Mr. Restivo's party believes is a better choice for them and they admit that they have another route to go. Mr. Slagter said the other party has put forth a plan that shows another route down Nagel Road. He stated anytime that developments occur, there is always some delay or other reason that may have to happen when installing a roadway, just like when the Red Tail Subdivision was installed. Mr. Slagter advised the entire sewer system that was developed was developed with the capacity for future development of Red Tail where studies have been done about whether the capacity exists or not. He said there is no reason that this governmental body should use its authority to take private property from someone when there is no legitimate public purpose and the only issue the other party has, the other party created. Mr. Slagter thanked Council for their consideration this evening.

Mr. Rose advised this attack on Mr. Restivo really has to stop. He said the issue is that the reserve strip is there, and it is not a lawful reserve strip. Mr. Rose stated Mr. Slagter's comments tells them that this is a personal issue that the other party has and it is not beneficial to H-9, LLC or the City to allow this personal issue to take control of all of this. He advised the City can do a take, it is for a public purpose and they thanked Council for their consideration and they asked the City to authorize the take.

No further comments were made.

EXECUTIVE SESSION: 8:02 p.m.

A motion was made by Mr. McBride and seconded by Mr. Moore to Enter Into Executive Session for the Purpose of Discussing the Threat of Imminent Litigation and invite the Mayor, the Law Director, Mr. Cummins, Ms. Fechter and Attorney Dan Urban, 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.

RECONVENE 9:06 p.m.

A motion was made by Mr. McBride and seconded by Mrs. Demaline to Reconvene the Regular Meeting of Council, 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.

ADJOURN: 9:07 p.m.

A motion was made by Mr. McBride and seconded by Mrs. Demaline to adjourn the Regular Meeting of Council, 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.