

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, APRIL 4, 2022
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

PRESENT: Council Members: 1st Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2nd Ward - Dennis McBride; 3rd Ward -Tony 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/Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director– William Logan; Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

1. ORDINANCE NO. 42-22 – TO AMEND ORDINANCE NO. 413-68, PASSED JANUARY 15, 1969, COMMONLY KNOWN AS THE ZONING ORDINANCE OF THE CITY OF AVON, OHIO, AS AMENDED, REZONING A PORTION OF LAND (7.89 ACRE PARCEL) LOCATED ON THE NORTH SIDE OF CHESTER ROAD, PERMANENT PARCEL NO. 10-04-00-009-000-181 FROM M-1 GENERAL INDUSTRIAL DISTRICT TO R-3 MULTI-FAMILY RESIDENTIAL DISTRICT AND SUBJECT TO THE TERMS OF THE PARTIES DEVELOPMENT AGREEMENT Planning Referral

The Second of Three Readings will be on Monday, April 11, 2022
A Public Hearing will be held on Monday, April 25, 2022 at 7:25 p.m.

Ms. Fechter advised she had no additional comments.

Mr. Gasior advised last Monday Council heard from a resident who lives in Concord Village Phase 2 and Mr. Berns was here tonight to address some of those concerns.

Jordan Berns of 3733 Park East Drive, Beachwood advised Mr. Gasior was kind enough to alert him to some concerns that were raised by a resident of Concord Village Phase 2. He said he understands that some similar concerns were raised at the last Work Session of Council as well, primarily centering around the condition of the existing private road. Mr. Berns stated he wanted to share with Council that while they might take issue with the connection between that and the rezoning that is before Council now, they understand the concerns that the residents have. He advised they are looking at a few different alternatives on how to address those concerns and he believes that at the next Work Session they will have some more clear information for the Council and for the residents about what they can do to address those concerns. Mr. Berns said he wanted to note that Concord Village Phase 2 is a separate condominium association, separate from Phase 1 and separate from what is being proposed now. He stated the ability of the developer of Phase 2 to conduct work there, to make improvements, to require that Association to maintain any improvements that they may choose to make are things that would have to be worked out; it is not simply the developer's right to impose on the Association such changes as the material of the drive for instance. Mr. Berns advised but those are things that they are looking at and hope to have some specifics of what they propose to do to satisfy the concerns of the residents for the next Work Session.

Mr. McBride advised he wanted to be clear and direct, that they should bring the pavement elevation up. He said if their client is responsible for paving it, then get it done. Mr. McBride stated he understands that no one wants to spend the money and put the final surface course on. He advised that if they have to lay it in and then strip it off and pave it again later then that was on them as they chose to develop it in that manner. Mr. McBride said he personally feels that there is not enough parking there given the square footage of those homes and someone was to host a party there was no place to park 30 cars and that was unacceptable and needs to be taken care of. He stated the asphalt plant should be operational now so their client can get that paved.

Mr. Berns advised he believes they can come up with both interim and permanent solutions and they will be in a position to share that at a subsequent meeting.

Mr. McBride advised his driveway and road no not flood and hold water theirs should not either.
Mr. Berns advised he understood.

Mr. Gasior advised Mr. Freidman is out of town and could not be here tonight and Attorney Coyne was out of town as well, but he expects both to be here at the next Work Session on April 18th. He said hopefully in the interim they can address some of those issues that Mr. McBride has raised and finalize the agreement and be in a position for Council to act hopefully on April 25th.

Mr. Radcliffe advised from the residents' standpoint, they do not see a difference between Phase 2 and Phase 3, from developers to Home Owner Associations. He said working to help the Association make the necessary changes to keep those residents happy was the best thing they could do.

Mr. Berns said he understood and that is their plan.

Mr. McBride advised once construction starts, and vehicles are going in and out then that would include cleaning the access road. He suggested they invest in a sweeper truck now.

2. ORDINANCE NO. 44-22 – SUBMITTING TO THE ELECTORS OF THE CITY OF AVON THE QUESTION OF REZONING A PARCEL OF LAND CURRENTLY OWNED BY LIG LAND, LLC, AND CONSISTING OF APPROXIMATELY 8.58 ACRES LOCATED ON THE SOUTHWEST CORNER OF MIDDLETON ROAD AND NAGEL ROAD, PERMANENT PARCEL NO. 04-00-022-102-150 FROM R-1 SINGLE FAMILY RESIDENTIAL DISTRICT TO C-4 GENERAL BUSINESS DISTRICT PURSUANT TO ARTICLE VII, SECTION 2, SUBSECTION (e) OF THE CHARTER OF THE CITY OF AVON Mr. Gasior

Mr. Gasior advised Council may recall that it was about the middle of February of 2022 when Council acted on Mr. Jaram's request to rezone that parcel of land at the southwest corner of Nagel Road and Middleton Road. He said since that Ordinance has now taken effect, thirty days have passed, the next step is to place it in front of the voters in November. He said this is the vehicle to get that rezoning in front of the voters.

Ms. Fechter advised Mr. Jaram could not be here tonight, but he could be here next week if needed.

Mr. Gasior advised he felt the legislation was straightforward. He pointed out some of the attachments and said that there is no development agreement for this item. He said Mr. Jaram submitted a couple of those drawings to the Planning Commission and they carried forward through to Council and will probably carry forward through to the ballot, but it is just a general concept plan. Mr. Gasior stated they would clarify that with Mr. Jaram should he be at next week's meeting. He advised he does not believe the plan is finalized by any stretch of the imagination. Mr. Gasior said if the property does get rezoned in November, then Mr. Jaram will probably be asking Planning Commission to develop in early 2023 and Mr. Jaram will have to deal with all of those issues at that time.

Mr. Fischer asked for clarification that when this issue is submitted to the electors asking that the property be rezoned from Single Family to General Business District, that it will be presented to all the electors of Avon and not just the ones located in that ward.

Mr. Gasior confirmed Mr. Fischer's comment to be accurate.

3. RESOLUTION NO. R-15-22 – TO APPROVE WITH MODIFICATION THE RENEWAL APPLICATION MADE BY SCHOBER MUSIAL LAND HOLDINGS, LLC (fka PARTNERSHIP EDWARD J. SCHOBER, JR. AND MUSIAL LAND HOLDINGS, LLC) TO HAVE CERTAIN LAND OWNED BY THEM LOCATED AT 34402 CHESTER ROAD, PERMANENT PARCEL NOS. 10-04-00-021-000-023 AND 10-04-00-021-000-024 DESIGNATED AS BEING LOCATED WITHIN AN AGRICULTURAL DISTRICT, CONSISTING OF 48.72 ACRES Mr. Gasior

A Public Hearing will be held on Monday, April 11, 2022 at 7:25 p.m.

Mr. Gasior advised this Resolution is like the last few that have been done this year. He said every year they will see a number of these come up before Council. He said they are landowners that have applied for and received the agricultural exemption and this one is a renewal. Mr. Gasior stated if Council had any specific

questions he could be reached in his office this week and he would be happy to answer them, but the whereas clauses give a good explanation of what is going on.

Mr. McBride advised this request may be one that they want to challenge as he believes the property is not being used entirely for agricultural purposes. He said typically he is all for granting these requests and he understands they can be somewhat automatic, but if he is not mistaken, he believes this is the property where there is some commercial roadwork vehicles that have been stored on that property. Mr. McBride stated they are not agricultural trucks or units.

Mr. Gasior advised the property is just to the east of City Hall along Chester Road across from Petiti's Garden Center.

Mr. McBride said if he has the correct parcel, he believes it is a bit further west from Petiti's Garden Center across the old golf driving range and there are construction vehicles parked there. He stated he believes that Mr. Schober was the one complaining about the property around him being developed commercially and he sold his property and then cried foul and he finds that disingenuous at best.

Mr. Gasior advised the County Auditor is the party responsible for determining whether the applicant meets the qualifications of the statute. He said and he could make a phone call and ask them to visit the property and make sure it still qualifies for this designation because it does have to meet certain statutory requirements. Mr. Gasior clarified that determination is generally made by County Auditor's Office and all the City Council is doing is essentially granting it locally with the qualification that if there is a waterline or a sewer line assessment that has to come through there that these property owners would have to pay it because there is not enough money in a certain State fund to reimburse the City those costs. He stated that is what all of those whereas clauses basically say.

Mayor Jensen advised this designation is different from the CAUV and it is his understanding that there is no money available. He said so if the City were to widen Chester Road in that area, those property owners would be assessed for that widening. Mayor Jensen stated if there were funds available this would protect the property owner from that assessment. He clarified that he believes this property was an ongoing issue even before the previous Zoning Enforcement Officer retired and now Ms. Clements is working with the property owners as those vehicles are not supposed to be stored at that location.

Mr. McBride advised this is possibly the third year that those vehicles have been stored on that property. He said it appears to him that the property owners do not care so why should the City do anything to help them. Mr. McBride stated the City is not a dumping ground.

Mayor Jensen suggested that Mr. Streator meet with the Zoning Enforcement Officer, Ms. Clements, tomorrow and talk about that property and see what comes out of that meeting and whether they have some sort of solution.

Mr. Gasior reiterated that he would be checking with the County Auditor's Office as well.

4. REPORTS AND COMMENTS

MAYOR JENSEN advised he has been in discussions with Dave Kidder of Republic Services trying to come up with ways to benefit the residents and keep everything on task. He said Mr. Kidder indicated the big issue for Republic Services has been trying to get all the monthly bulk items collected in one day. Mayor Jensen stated that Republic Services is requesting the City allow bulk collection weekly instead of once a month and Republic Services is recommending that residents put no more than 4 items out to the curb since it will now be a weekly service. He advised there would also be unlimited yard waste collection and yard waste would be collected weekly year-round, meaning there was no start or end date for yard waste collection. Mayor Jensen said Republic Services is facing challenges with the current bulk collection once a month because of trying to schedule employees to work late. He stated if Council agrees then Republic Services would like to start the program in the next few weeks that bulk will be collected every week. Mayor Jensen clarified that Republic would

still pick up if a household placed more than four items curbside. He said in the past, the City has held dumpster days during spring cleanup to help residents clear out those large unwanted items and that may become unnecessary.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1 advised she is looking forward to the joint Service and Finance Committees meeting next Monday night. She said she had a great meeting with the Mayor and Mr. Cummins and Ms. Clements about the sidewalk areas in Ward One. Mrs. Demaline said she hopes each of the Council Members takes the opportunity to meet with them regarding sidewalk improvement areas in their respective Wards and she looks forward to a productive discussion on Monday.

MRS. HOLTZMEIER, AT LARGE advised she is looking for some additional clarity on the proposed announcement from Republic Services. She asked if this change is proposed through the term of the current Memorandum of Understanding to which Mayor Jensen confirmed it is. Mrs. Holtzmeier inquired if Republic Services will be amending that in writing to the City.

Mayor Jensen advised Republic Services said that whatever the City needs for them to do that they will do. He said he told them he would present the idea to Council first to make sure there was not any objection to it and Mr. Kidder indicated he could come in and discuss it with Council if they wanted him to.

Mr. Gasior advised he made a note that he would check with Mr. Kidder about an amendment to the MOU and then bring it to Council next week for a vote since they are discussing it tonight. He said he is sure the amendment to the MOU would be very minimal to deal with the change for bulk and yard waste collection. Mr. Gasior stated if it is not ready for Monday night, they could have it ready to be voted on for the April 25, 2022 meeting.

Mrs. Holtzmeier said she agreed that it should be minimal language to clarify that mutual understanding between both parties and that it maintains the current pricing schematic as well.

MR. MCBRIDE, WARD 2 said he believes the proposed changes by Mr. Kidder will benefit the residents. He advised other than the questions regarding the Schober property, he was good. Mr. McBride added that the swamp dredging has not begun yet at UH, but he noticed they are staging materials.

Mr. Cummins added that he believes both of those are true regarding UH.

MR. MOORE, WARD 3 advised the tour of the Cahoon House was outstanding and he wanted to thank all the people there involved in getting that ready and he hoped that the residents would come to the open house and see what has been accomplished.

Mr. Moore advised regarding the change in the bulk collection he is going to be in the minority as he is not in favor of bulk pickup weekly. He said there are already enough people driving through Avon with trailers collecting items from the curb and he felt week after week would be too much. Mr. Moore stated he would rather talk it out instead of passing something next week. He suggested going back to Mr. Kidder to see if two days such as Monday and Tuesday are an option for bulk collection opposed to every week. Mr. Moore advised he does not want to see couches and tv's sitting on tree lawns week after week after week as he felt that devalues what Avon wants to portray. He said he felt that bulk collection once a month was sufficient and if it needs to be spread out over a couple of days, that was better than week after week after week of people coming into Avon and taking items from the curb and trying to resell them.

MR. RADCLIFFE, WARD 4 had no comments.

MR. WITHERSPOON, AT LARGE had no comments.

MR. FISCHER, AT LARGE thanked Ms. Seroka for the tour of the Cahoon House and he agrees with Mr. Moore that hopefully the residents get a chance to go through the house and see the history.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR thanked Council and the City Administration for coming out to see the completed Cahoon House. She said she would like to give a great shout out to Ms. Seroka as she spent a lot of time, effort and energy working on the house. Ms. Fechter reminded everyone that this Saturday, April 9, 2022 from 11:00 am to 2:00 pm the Cahoon House will be open to the public and they will be having an official ribbon cutting at 11:30 am and she hoped they could all attend.

MR. GASIOR, LAW DIRECTOR had no further comments.

MR. LOGAN, FINANCE DIRECTOR advised he wanted to update Council on a couple of local income tax issues. He reminded Council that there will be an income tax increase on the May 3, 2022, primary ballot, Issue #8.

Mr. Logan advised something happened this last week from a legal standpoint. They might recall that the Buckeye Institute was suing for a local income tax situation in the Columbus area dating back to the year 2020 right after Covid hit the Country and the idea of where the employees' income tax should be withheld as many were now working from home instead of in the physical office. He said that the Buckeye Institute lost their appeal and in this case Franklin County in the City of Columbus got to keep that income tax as it should be.

Mr. Logan advised thirdly he wanted to mention something else regarding the work from home issue. He said in 2021 those who have worked from home rather than the location of the business, such as if the employee had income tax withheld from Cleveland where the business is located but they live and worked in Avon all through 2021, or a portion of 2021; those employees all have a right to file for a refund for 2021. Mr. Logan stated the one person he spoke with about this issue is going to be one of thousands, not just in Avon, that will be filing for these income tax refunds from the City of Cleveland whose income tax is handled by CCA. He advised the Central Collection Agency will have a difficult time keeping up with these refund requests. Mr. Logan said he wanted to let Council know that Avon is not going to be the only community where this is going to happen because it happened all over the Country. He stated Cleveland's income tax rate is 2.5% and Avon's is 1.75% and other Cleveland suburbs, very few of which were anywhere close to Cleveland's income tax rate. Mr. Logan advised there are going to be a lot of refunds, not going through RITA necessarily although they would have some. He said CCA and Columbus and Dayton and other large cities are going to get inundated with individual income tax refund requests. Mr. Logan stated the filing deadline for income tax is two weeks from today and he was happy to speak with anyone, residents, or businesses that had any questions.

Mayor Jensen inquired if someone files for that refund request if the City of Avon would be reimbursed.

Mr. Logan said as an example, a resident could have Cleveland income tax withheld, but they live in Avon and worked from home in Avon all year in 2021. He stated that resident will file their Avon income tax through RITA and currently RITA is showing that they worked and paid Cleveland so when they file for 2021 in Avon that resident will have to pay the City of Avon the full 1.75%. Mr. Logan advised once CCA processes that requested refund for what was paid erroneously to Cleveland then the Avon resident will be reimbursed in full for what they paid Cleveland. He reiterated that the City of Avon will receive the 1.75% when the resident files with RITA and the refund will come from CCA or the Cleveland employer. Mr. Logan said he would know soon enough of any refunds that come out of Avon's coffers filed for Avon income tax where someone paid Avon in 2021 but worked from home outside of Avon. He stated with the CCA situation, the Avon resident who works in another City and is filing for a refund in those other cities that Avon will not necessarily know about. Mr. Logan clarified the Avon residents will be required to file for Avon through RITA because you always file where you live and they will pay what is due Avon to RITA and then any refund will have to be requested from the City they worked in if it was withheld incorrectly. He said the employer should be withholding where the employee works, which in 2021 was complicated as so many were working from home.

Mayor Jensen had some concerns that it could be somewhat on the honor system for people to pay Avon what is due Avon if the City could not track it in some way.

Mr. Logan felt that Avon will not be hurt too badly financially and said Avon is middle of the road regarding income tax rates and other than one or two businesses in Avon, the City does not have a lot of Avon businesses where their employees are working from home in other cities. He advised the bigger cities such as Cleveland are going to have a problem and it is a good thing those bigger cities received a large amount of ARPA funds to deal with this kind of situation.

Mr. McBride advised in the past he has known of a couple individuals who have gone after CCA because while out of town on business he should not be paying Cleveland municipal income tax and CCA's position was

that in order for CCA to validate that he worked in these different locations he had to prove that he paid income tax to those other entities and then they will issue a credit.

Mr. Logan advised these larger employers that are in Cleveland and these other large cities are going to have to step up and take some responsibility and try to work these out with their employees. He said he does not feel like Avon is going to have a huge drop in its income tax revenue, but he is bringing it to their attention because Council may receive some phone calls from residents who paid Cleveland and are being told they now also owe Avon. Mr. Logan stated it could be very confusing for a lot of people where he knows that local income tax issues are already confusing before any of this happened and this is going to make it worse.

Mr. McBride advised he sent a message to Mr. Gasior and Mayor Jensen regarding short-term rentals and there is currently a House Bill where they are trying to strip local government of any ability to do much regulation at all, which was somewhat related to this topic.

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

AUDIENCE:

Attorney Dennis Rose of 200 Public Square, Suite 20800, Cleveland, advised he is representing H-9 LLC and he understands that the City has made a decision that Nagel Road will be the route to connect sanitary sewers for the Grande Esplanade Subdivision and they are ready to do that, and they have in fact submitted their plan. He said they have been working with the engineer and they are surprised they have not received the Developer's Agreement, Subdivider's Agreement, or an Ordinance. Mr. Rose stated they are here to ask City Council to direct Mr. Gasior to give them that even if it is not in final form so they can start figuring out with Mr. Restivo what exactly the contours of that are so that this can move along. He advised they believe that there is nothing there to stop this from going forward. Mr. Rose said he believes there are two issues that the engineers have been working on; one is maintenance of traffic plan because Nagel Road will be closed. He stated because it is a single closing of the entire roadway where are the detour signs going to be located and where is the traffic going to be rerouted and the addition of a traffic light to be located on Jaycox Road?

Mr. Cummins confirmed a traffic light at the intersection of Jaycox Road and Mills Road will likely be added.

Mr. Rose advised the other issue is one that was brought before Council previously which is the stormwater issue. He said they may recall that it was mentioned that Council was made aware in October of 2020 of the blocking of the inlets on St. Theresa Blvd. that they believe took all of that water out of the Grande Esplanade property through their system and dumped it off on the other side of the 9th fairway in Red Tail and if that was not blocked there would not be the stormwater issue. Mr. Rose stated there is a plan that has been considered and it is with Mr. Cummins, which is installing another system although they do not think it is as sufficient of a system and he believes it is basically a pipe going along the north edge of the property and Mr. Cummins wants it to turn and go up Nagel Road about 250 feet.

Mr. Cummins advised there is nothing before him on that issue currently. He said Mr. Rose's client made a submission and he responded back with some alternate ideas for them to consider and was basically told that was not going to be something that they were going to be doing so it was up to them to figure out a way to address those issues.

Mr. Rose advised he will say right now if that is what they have to do then that is what they will do although they do not think it is the right approach. He said they believe they should be allowed to fix that problem during construction, meaning the inlets, and they still think City Council could direct that those inlets be unblocked. Mr. Rose stated that issue is an issue that is either going to be the proposal that Mr. Cummins made, or it is going to be this proposal that they are making, but it is going to be resolved. He advised they think those two things are somewhat minor and that they should be provided with a Subdivider's Agreement so that they can get on a Council agenda and have the readings and move forward. Mr. Rose said the cost of materials have gone up 20% and this is a long lead time and this developer needs to start ordering materials so that they can start working on this project. He stated this market is fine right now and these lots have to be sold and this cannot be delayed any longer. Mr. Rose advised he understands that the bid was sent in, and he asked Mr. Cummins if he received a bid today.

Mr. Cummins advised no; he did not receive anything today.

Mr. Rose advised it is coming either today or tomorrow. He said it was sent out for a bid and the engineers have a bid for the road for approximately \$802,000 and he felt all the ducks were getting in a row, but they need a Subdivider's Agreement. Mr. Rose stated that the Subdivider's Agreement allows them to get funding to get this project moving and they are pleading with Council and Mr. Gasior to get them that agreement so that they can negotiate the final details and get this approved by City Council. He clarified he was referring to the Nagel Road route and said they know the other ship has sailed and that Council made that decision, and they still feel that is not the right decision, but that was fine.

Mr. Cummins advised out of clarity he would like to say that the Nagel Road option plans were submitted, and they were reviewed and provided back to the applicant and his engineer. He said he has not received a response to those comments as of yet. Mr. Cummins stated he knows that is still in process because he spoke with the applicant's engineer today about the options and the questions.

Mr. Rose inquired if the stormwater is still the open issue.

Mr. Cummins said no; the applicant's engineer had a question about the traffic signal, and he spoke with him this afternoon. He stated that he answered the engineer's question.

Mr. Rose advised he felt that was a minor issue because there is going to be a traffic signal necessary because the road will have to be closed. He said it seems to him that is not a very complicated issue to resolve.

Mr. Cummins advised he is not saying that it is a complicated issue, but he is saying that plans have been submitted and plans have been reviewed and they were sent back to the applicant to make the changes and those have not come back to him as of yet. He said there is letter and quite a list of comments to work through and he is not saying that they are insurmountable, even the north property line drainage issue, but it has to be dealt with.

Mr. Rose advised delay, delay, delay and they feel this developer has been disfavored for some reason and he does not know why, and he knows that Council does not agree, but that is how they see it. He said every dot has to be filled in, every detail before they are given a plan and to him that is not the way it should work. Mr. Rose stated they should be able to get these minor details worked out and they have a bid in so they can get back in front of City Council on Nagel Road and so they can move forward.

Mr. Radcliffe asked if Mr. Rose felt the City/Council should go around engineering and not dot the I's and not cross the T's and just release to the applicant to build.

Mr. Rose advised he did not say that.

Mr. Radcliffe stated that Mr. Cummins just said he is waiting for things to come back to him and they are here begging Council to go around the City Engineer.

Mr. Rose stated that is not what he said.

Mr. Radcliffe stated that is what it seems right now.

Mr. McBride advised let us talk to the applicant's engineer.

Al Piatak, Engineer from Euthenics of 8235 Mohawk Drive, Strongsville, advised it is his understanding that these are very minor issues. He said they will comply with the comments that Mr. Cummins has and they will submit the plans in a timely fashion. Mr. Piatak said tonight they are asking that a draft of the Subdivider's Agreement be given to the developer so that they can begin their review of it.

Mr. Rose advised they are only asking for a draft of the Subdivider's Agreement. He said they know there might be a few holes, but they felt it should not be that difficult to get a draft, so they are not going to be held up any further. Mr. Rose stated they are not trying to go around the City Engineer as they are working through it as he could see Mr. Radcliffe's frustration, but they are just wanting a draft and he does not see why that is so hard. He advised they already have an Ordinance prepared, at least they had one for the St. Theresa Blvd. option and he assumed it would not be that difficult to tweak and they would like to see a draft Subdivider's Agreement. Mr. Rose asked if there is an issue with providing a draft Subdivider's Agreement over the next day or so.

Mr. Gasior answered no.

Mr. Rose thanked him and asked if he would do that so that they can at least start a dialogue.

Mr. Gasior answered yes.

Mr. McBride advised if the engineering issues are that minor, he asked if they would have it completed and turned into Mr. Cummins by the end of the week.

Mr. Rose advised he is hoping by the end of the week.

Mr. Gasior advised the Subdivider's Agreement is an agreement that is entered into between the property owner and the City to install public improvements, that is all it is. He stated it is not to build houses or anything else, but to install public improvements. Mr. Gasior said it is a contract with the City, the City is agreeing to have

the developer install public improvements which when all the improvements have been completed and inspected then they come back to City Council and the improvements are accepted and then they become public streets and public utilities, etc. He advised he believes the second paragraph of that contract says that plans and specifications have been approved by Planning Commission, contingently in this case, and then approved by the City Engineer. Mr. Gasior said until all those plans are in, and they have finality, and they have the final engineering numbers, which get incorporated into the agreement, the Subdivider's Agreement was not final. He stated he does not have a problem giving the applicant a draft of a Subdivider Agreement, but the City will not be able to finalize it with the actual numbers until all the engineering has been completed and Mr. Cummins stamps it and approves those engineer's estimates for all those public improvements that are going to be constructed. Mr. Gasior advised he is happy to provide a draft of an agreement, but the City requires deposits to be made for the development to get on a Work Session of Council agenda and he has been saying that to the applicant since January when the first draft came in to allow them to come before Council and make their case. He said it was the hope at that time that they were going to have final numbers on the Red Tail connection at St. Theresa Blvd and then that was abandoned, and the City tried to help mediate that and here we are with the Nagel Road connection and as soon as those engineering numbers are finalized, this should move forward without any issues.

Mr. Rose advised they appreciate that, and the Red Tail sanitary connection is the one Mayor Jensen attempted to find a way to make work and they understand now that is not going to work and getting the draft Subdivider's Agreement is going to help and if there are other details that the lawyers need to work out then they can deal with that and the engineering. He appreciated the time he was given tonight and thanked Council.

5. ADJOURN: 8:16 p.m.

There being no further business, the Work Session of Council was adjourned.

PASSED: _____

SIGNED BY: _____

Brian Fischer, Council President

ATTEST: _____

Barbara Brooks, Clerk of Council