

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE  
CITY OF AVON, OHIO HELD MONDAY, APRIL 6, 2020  
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING  
AT 7:30 P.M.**

**PRESENT:** Council Members: 1<sup>st</sup> Ward – Bob Butkowski; Council-at-Large – Brian Fischer; Council-at-Large – Tammy Holtzmeier; 2<sup>nd</sup> Ward - Dennis McBride; 3<sup>rd</sup> Ward-Tony Moore; 4<sup>th</sup> Ward — Scott Radcliffe; Council-at-Large – Craig Witherspoon; Mayor – Bryan Jensen; Law Director – John Gasior; Finance Director – William Logan; Safety Director, Duane Streater; Clerk of Council – Barbara Brooks

**ABSENT:**

City Engineer – Ryan Cummins; Service Director – Mike Farmer; Planning and Economic Development Coordinator – Pam Fechter

1. [ORDINANCE NO. 28-20](#) – ADOPTING THE JANUARY 14, 2020 REVISION TO THE STANDARD CONSTRUCTION DRAWINGS FOR THE CITY Planning Commission Referral  
A Public Hearing will be held at 7:25 p.m. on Monday, April 13, 2020  
Third of Three Readings on Monday, April 13, 2020

No comments were made.

2. [ORDINANCE NO. 29-20](#) – TO AMEND SECTIONS 1222.02, 1278.03, 1280.05 AND 1280.06 OF THE CODIFIED ORDINANCES OF THE CITY TO INCLUDE GARDEN CENTER ON THE SCHEDULE OF PERMITTED AND SPECIAL USES IN THE M-1 GENERAL INDUSTRIAL AND M-2 LIGHT INDUSTRIAL DISTRICTS Planning Commission Referral  
A Public Hearing will be held at 7:20 p.m. on Monday, April 13, 2020  
Third of Three Readings on Monday, April 13, 2020

No comments were made.

3. [ORDINANCE NO. 34-20](#) – TO AWARD THE BID FOR THE DOOVYS STREET, JULIA AVENUE AND MIRIAM AVENUE PAVEMENT RESURFACING PROJECT Mr. Cummins

Mr. Gasior advised from reading the bid tabulation the issue was whether they were doing the alternate bid.

Mayor Jensen advised they are not doing the alternate. He said he sent something out to Council that they were looking for every way to save on funding right now because they do not know what the coming months are going to bring as far as loss of revenue due to the COVID-19 crisis. Mayor Jensen stated he and Mr. Logan have gone through what they think are going to be some of the losses the City will incur. He advised the awarding of the bid for the French Creek Road resurfacing is going to wait as they have ninety days in which to award that bid giving the City a little leeway with regards to the budget. Mayor Jensen stated they have done a lot of work on Doovys Street already as they replaced the storm sewer and some of the pavement was disturbed and cannot wait another year to be resurfaced. He said regarding the bid award for the storm sewer project at Veterans Memorial Park (Ordinance No. 35-20) the City has promised the Fathers of St. Joseph that they the City would get that work completed almost two years ago and they want to try to get those necessary projects awarded and completed this year. Mayor Jensen advised in the next coming months if the impact of the coronavirus is not as bad as they are predicting then they will come back to Council asking for the bid to be awarded for the French Creek Road resurfacing project. He reminded Council the Elizabeth Avenue, Joseph Street and Puth Drive project was also coming up soon.

4. ORDINANCE NO. 35-20 – TO AWARD THE BID FOR THE VETERANS MEMORIAL PARK STORM SEWER IMPROVEMENT PROJECT, PHASE I Mr. Cummins

Comments were made in the previous agenda item that include this agenda item.

Mr. Logan advised they plan to use funding out of Fund No. 273 Storm Water Management Fund to fund that storm sewer work at the Veterans Park. He said the previous project (Ordinance No. 34-20) was a part of the 2020 Road Program and is coming out of Fund No. 410.

5. ORDINANCE NO. 36-20 – ADOPTING THE EMERGENCY FAMILY MEDICAL LEAVE EXPANSION ACT AND EMERGENCY PAID SICK LEAVE ACT FROM THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT FOR THE CITY OF AVON Mr. Gasior

Mr. Gasior advised this is a policy which is consistent with the Family Medical Leave Expansion Act and the Emergency Paid Sick Leave Act that was recently passed by Congress on March 18<sup>th</sup>. He said he could try to answer questions, but Diane Szlempa, the Human Resources Specialist, has been over this with Sandy Conley from Clemens Nelson. Mr. Gasior stated from reviewing the information this policy is consistent with the Federal law. That law being Public Law 116-127 passed March 18, 2020, Families First Coronavirus Response Act (FFCRA) and Division C of that Act is the Emergency Family Medical Leave Expansion Act, Section 3102 et al. Division E is the Emergency Paid Sick Leave Act beginning with Section 5102. He said everything that is in this policy is essentially found in this Federal law, which is under the main title of the Families First Coronavirus Response Act. Mr. Gasior advised they had to tailor the policy toward our City, and it is a policy they are required to adopt as it is Federal law and it applies to both private and public employers. He said there is a bit of a twist because public employers have a lot of first responders, the police and fire department employees. Mr. Gasior said they have carved out a section for that specific group, police and fire, as allowed by the Federal law and that group will be handled differently. He said Congress could not include that group in this policy because if they did the potential existed for any City to be left without any first responders and Avon's policy states that they will be treated on a case by case basis.

Mayor Jensen advised the only thing the policy does not describe is how the municipalities will be reimbursed. He said the law says they must abide by this policy and in the private sector the Federal government will reimburse them, but there is not provision for reimbursement for municipalities unless over a certain population. He stated they are hoping that at some point that issue will be addressed by the Federal government and that they will decide to reimburse municipalities. Mayor Jensen explained it is like an unemployment claim and the City pays its own, but it does not say the City will be reimbursed like other small businesses will be.

Mr. Gasior advised this policy takes effect the first day of April. He said certain criteria allows for ten paid workdays (2 weeks) and those employees are treated as one group. He stated then there is a separate group that goes for the next ten weeks for those employees with children under a certain age at home who have no way of caring for the children during this time and there are requirements that have to be met to qualify. Mr. Gasior advised the City is going to do the best they can to apply common sense to the implementation of the policy.

Mayor Jensen noted there are a few employees who have fallen under this policy. He said there are almost 800 pages to the formal policy passed by Congress, and they tried to narrow it down to the portions that applies to municipalities, specifically City of Avon employees. He mentioned Congress tried to clarify it again recently, which seemed to confuse it further.

Mr. Gasior clarified that after Congress passed the law on the 18<sup>th</sup> of March that on the 20<sup>th</sup> the City received their first batch of Labor Department rules and regulations that try to interpret that law. He said some time after that, around the 23<sup>rd</sup> or 24<sup>th</sup>, they received another batch of Labor Department rules and regulations and since then the City has been inundated with varying interpretations of the Department of Labor rules and regulations. Mr. Gasior stated he has received a lot of information from the Ohio Municipal League as well as the Ohio

Municipal Attorneys Association. He advised after looking at everything they have been bombarded with that those are the only two organizations that he is going to look to for interpretations as interpretations can come from many different forms. Mr. Gasior believes the OML has done a great job at providing information with helpful links. He said Clemens Nelson did a great job in interpreting the rules and regulations to put together the policy in conjunction with the Mayor and Ms. Szlempa to understand it and apply it to practical situations.

6. [ORDINANCE NO. 37-20](#) – ADOPTING EMERGENCY RULES FOR CITY COUNCIL DURING THE COVID-19 CRISIS Mr. Gasior

Mr. Gasior advised they are going to have to prepare for the inevitable meaning that Council may not all be able to meet in person at some point during this crisis. He said in order to transact the business of Council they need six Council Members to be able to pass anything by emergency, which is 99% of how our business is done. Mr. Gasior stated the Ordinance, in discussions with Council President Fischer, is an order amending substitute House Bill 197, Section 12. He said Section 12 is essentially the portion of that bill that has suspended the Sunshine Law to some extent during this crisis. He felt that what they were trying to say is that Avon City Council would like to conduct their business here in person as they always have as long as possible. Mr. Gasior advised he believes all of Council feels relatively safe meeting at this point and have maintained their spacing and they do not have more than ten people in the audience. Mr. Gasior said overall, they want to try to continue to conduct Council meetings as they are now by maintaining social distance and only allowing up to ten people in the audience, giving priority to the reporters because they can get the word out to more people. He stated if during a meeting they should end up with more than ten people trying to attend, the Council President will have the authority to make any reasonable decisions in the course of a meeting to protect everyone from exposure.

Mr. Gasior said it was discussed that the City of Avon Lake has decided to go to two meeting days a month, and that Avon could conduct their Council Work Sessions prior to the Regular Meetings on the same evening with the Work Session beginning at 7:00 p.m. and then the Regular Meeting would begin at 7:30 p.m. like usual. He advised they want to make sure the public has plenty of time to provide any input, so they are encouraging letting the public know what we plan on doing and still limiting the number present at meetings. Mr. Gasior stated sending an email up to one hour prior to a meeting is a great way for the public to communicate with Council, but also they could look at the City website to see what is on the agenda and contact the Mayor or any administrator or any Council Member and let them know their comments and/or concerns. Mr. Gasior said one question he had was what Council would want to do should this state of emergency carry into July and August as there is only one Regular Meeting each of those two months. Mr. Gasior advised they could just go with the one meeting day on the second Monday and have the Work Session prior to the Regular Meeting each of those two months. He indicated if it is not specified in this Ordinance, they would fall back on Council rules in the 220 Chapter of the Codified Ordinances. Mr. Gasior stated subsection c. of this Ordinance addresses if City Council cannot meet in person as at least some might need to meet through some sort of a platform that will be explained later in the meeting by Mr. Jenkins from the IT Department. Subsection d. addresses attendance at those meetings through a streaming platform and the rules and regulations that would need to be followed which mirror HB 197. Subsection e. addresses how to contact Council or the Administration via email or phone. He said the main thing was not to close the public out, but to try to give the public every opportunity to comment. Subsection f. addresses that all emails will become a permanent part of the record and the public can see and hear the meeting. Subsection g. addresses if the President of Council or President Pro Tem are unable to fulfill their obligations or duties and those are remedied in the Avon Codified Ordinance section 220.04(b) stating that whoever makes up the quorum can select a Chairman among those attending to be able to conduct a meeting. Mr. Gasior advised subsection h. addresses the Council President having the authority to implement other reasonable rules and procedures to effectuate the spirit and purpose of these emergency rules. He believed the spirit and purpose is to protect everyone's health, safety and welfare and secondly to ensure the public has a voice in these meetings by doing everything they can to make ourselves available to the public. Subsection i. addresses any section of Chapter 220 of the Codified Ordinances of the City of Avon in conflict with the Temporary Emergency Order are hereby suspended until further notice. Mr. Gasior noted this Ordinance was on the Special Meeting tonight for Council's consideration.

Mr. Fischer agreed these things are changing daily. He said it is hard to make that call at this time regarding the July and August meetings.

Mr. Gasior stated they could take that part out and then Council could meet one time in July and August and then if the workload is such that a second meeting needs to be called then they could always address that at that time.

Mr. Butkowski asked if they could tie it to whether the sequestering is taking place throughout the State at that time.

Mr. Gasior said they could, but HB197 gave an end date of December 1, 2020 and if the period of emergency continues beyond that date then Congress would have to decide to amend HB197.

Mr. Butkowski added that nothing prevents this Council from saying otherwise under our Home Rule.

Mr. Radcliffe agreed and said once the emergency is lifted that is currently until May 1<sup>st</sup>...

Mr. Gasior clarified the May 1<sup>st</sup> deadline is the Stay at Home rule. He said the State of Emergency was adopted on March 9<sup>th</sup> when Governor DeWine declared a State of Emergency. It was not until March 23<sup>rd</sup> the Ohio Director of Health issued the Stay at Home order. Mr. Gasior confirmed this Ordinance is based on the State of Emergency for Ohio and these rules will be in effect until the Governor lifts the State of Emergency in answer to a question from Mr. Radcliffe. He advised in subsection (B) of HB197 it says during the period of emergency declared by Executive Order 2020-01D, which is the March 9<sup>th</sup> date of the Governor's order, but not beyond December 1, 2020, if the period of the emergency continues beyond that date, members of the public body may hold and attend meetings and may conduct and attend hearings by means of teleconference, etc. ... Mr. Gasior said in HB197 they are assuming the State of Emergency is going to carry on as long as December 1<sup>st</sup>. He stated we have to assume that we are in a State of Emergency for the foreseeable future and that we are going to need this emergency rule. Mr. Gasior advised Council can always meet and declare the temporary emergency rules rescinded and go back to normal business. He said the State is giving us the ability to remotely conduct a meeting and that is all that is really happening here and all that is really happening for Avon City Council is that they have to limit the number of people that come into this room because of the social distancing requirement and the ten people gathering rule.

Mr. Radcliffe advised if one of the orders should be lifted that he would like to go back to conducting meetings normally because that is what is best for the public. He asked if it was the Stay at Home order or the State of Emergency.

Mr. Gasior advised originally when the State of Emergency was first declared the Governor said there could be 100 people or less at a gathering and to stay six feet distance from another person. He said it was the Director of Health's order that lowered that number to 10 people at a gathering and put the Stay at Home in place. Mr. Gasior stated they are two separate things, but they are not going to be treated that much differently. He said they might see some relaxation of the Stay at Home order, but he does not think the Governor is going to lift that State of Emergency and it is pretty clear that HB197 will not be rescinded any time soon. Mr. Gasior indicated City Council may never go to a video conferencing platform unless there are voting members who cannot physically be present and there is no other way for them to conduct business. He said the reason that other part is in this Ordinance is because there is the possibility that some on Council could be quarantined at some point and they have to have a way to conduct a meeting and this rule gives the President of Council the authority to set up the virtual platform so that they can conduct meetings remotely. These are all things that have never been allowed under the Sunshine Laws previously. Mr. Gasior said they have to also make sure that the public has meaningful access to the Council while they are participating remotely. He stated the public has to be given the ability to see and hear the meeting and this is just preparing for that if and when and the Council President also has the authority to postpone a meeting.

Mr. Butkowski felt with Home Rule and subsection h. that the Council President would have the authority to decide the meeting schedule for July and August dependent on the climate at that time.

Mayor Jensen felt that holding one meeting in July and August should be sufficient and advised once the regular meeting schedule is reestablished that Council would be inundated with Committee meetings and extra meetings to help alleviate all the backlog that is taking place.

Mr. McBride clarified that by saying one meeting per month they meant to hold the Work Session and Regular Meeting on the same night, the 2<sup>nd</sup> Monday, in July and August. Mr. McBride asked as to what constitutes a quorum to hold a meeting.

Mr. Gasior advised four members of Council and he clarified that a quorum is always a majority of the members of the legislative body.

Mr. McBride added but to act on anything by emergency, suspending the rules, they had to have six affirmative votes to which Mr. Gasior confirmed that to be true. Mr. McBride advised that sort of situation has happened in the past and they had to call a Special Meeting in order to get something passed. He suggested that section of the Charter be amended to eliminate that requirement.

Mr. Fischer advised this legislation provides for remote meetings during this emergency and that should not be an issue unless more than one member should be unable to attend a meeting, even by remote access. He said he is hopeful that they can still conduct meetings in this manner by which they were tonight.

Mr. McBride suggested Zoom or Microsoft Teams platforms as those were easy to use and free or inexpensive. He asked as to the procedure for the public to call-in.

Mr. Gasior advised he does not know if a telephone could be brought into the Council Chambers for the public to call in. He was just pointing out that they may want to provide for a possible number to call in, but he was not sure of the capability to make that happen. Mr. Gasior felt most everyone has the ability to send an email and said that is the easiest way to do it and the Clerk would receive those emails and they can be read into the record if received at least an hour before the start of the meeting or attend the meeting in person. He stated if they end up going to a virtual platform it will be easier for people to access Council as far as listening and viewing the meeting. Mr. Gasior pointed out that Avon's Code does not contemplate public comment in meetings although historically Council has allowed it for as long as he can remember. He advised the Order of Business listed in the 220.17 section of the Codified Ordinances does not address audience comments and thus it is not a requirement.

Mr. McBride advised they do not need public comment to be able to conduct a meeting. He reminded everyone that they are a representative form of government and not a democratic form of government.

Mr. Gasior advised it has been a courtesy for a long time to allow public comment and he was sure they still want to make themselves available for comments, but he wanted to make that point and say that the preferable way to do it is with an email sent at least an hour before the start of the meeting. He said to Mr. McBride's point regarding suspension of the rules under AVO §220.33, that Council could change that rule, but there are parts of the Charter that are problematic and he does not want to jeopardize amending the Charter under an emergency situation. He advised if they have the ability to conduct the meetings properly through a virtual platform or being present in person that would be best. Mr. Gasior felt it would be better to cross that bridge if and when they need to cross it. He said Council could act on this legislation at their Special Meeting following this Work Session if they choose.

Mr. Butkowski asked if they move to a virtual format, what is their mechanism for residents to access the meeting. He asked how the public input is managed if they are on the live meeting along with Council.

Mr. Gasior advised the City's obligation is to stream the live meeting and they do not have to allow comments from the public. He said his understanding is that the public will be able to access the meeting through a link and hear and see the meeting, but they cannot interact unless Council allows it and there is no requirement to allow them to interact during the meeting. Mr. Gasior stated the reason the new rule is being created during this emergency with HB197 is so that business can be conducted.

6a. ORDINANCE NO. 38-20 – TO AUTHORIZE THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH AVON LAKE, SHEFFIELD LAKE, SHEFFIELD VILLAGE AND NORTH RIDGEVILLE FOR THE PURCHASE OF FIRE COMMUNICATIONS EQUIPMENT

Mr. Gasior advised Avon Assistant Fire Chief Emling, Avon Safety Director Streater and Avon Lake Fire Chief Betsa were all present to speak to this issue tonight. He said Council did not have the Ordinance in front of them tonight because there were some issues that Mr. Logan and the Mayor as well as the officials from these two fire departments would like to speak to. Mr. Gasior stated at the meeting on March 23<sup>rd</sup> Council passed a Resolution in support of seeking a grant for some of this communication equipment. He pointed out that in that Resolution it was not quite clear that it was for some of the equipment, but it was a million dollar grant that was being sought and if that grant were to be obtained it would cover some of the purchase of the equipment. Mr. Gasior said once they had the Ordinance prepared it would be to enter into a Memorandum of Understanding with four other communities: Sheffield Lake, Sheffield Village, North Ridgeville and Avon Lake along with the City of Avon for a five community MOU. A board would be established consisting of the Fire Chiefs from the five communities and they would oversee the operation of this fire communication apparatus consisting of mobile phones, base stations, antennas, and the like. He said these gentlemen were here tonight to explain some of the means of funding some of the equipment and then Mr. Logan and the Mayor would discuss budgeting.

Mr. Emling advised when they came to Council back in March for the Aid to Firefighters Grant, that was part one in securing the radio portion of this project. He said last week there was a fire at Avon Brewing Company and he could provide the snippets of that radio transmission so that Council and the Administration could hear how bad the radio communications are among the five cities that operated at scene last week. Mr. Emling stated tonight they were asking for an MOU to put the hardware system together to tie-in all the radio equipment. This will be essentially a microwave repeater system on the Avon water tower at Mills Road and SR83, and one on the Avon Lake water tower on Walker Road. He explained the grant is for the radio equipment itself, but to make the radio equipment operational the five cities put together a hardware list through Cleveland Communications that equals approximately \$770,000.00 to be split five ways. Mr. Emling advised the radio communications are poor in this area and there are too many people with this narrow banding now. He said they purchased the last four 700 megahertz of channels slated for Lorain County and those licenses are owned by us. Mr. Emling said they want to move the Fire Department to these channels and the Police Department and schools can join if they wish as they would have the room.

Mr. Witherspoon asked if the grant for the radio equipment has been awarded yet.

Mr. Emling advised no, with the Federal government at a standstill they may not see that grant awarded until 2021.

Mr. Witherspoon asked if it was necessary to go ahead with this MOU at this point.

Mr. Emling felt it is. He said it is going to be broken down into three different parts. Initially it will take about \$38,000 to get everything running and the second part will be when they start buying and assembling equipment and that is going to be \$76,772.16 from each city.

Mr. Betsa advised the third and final payment, which is a repeat of the first payment, \$38,358.58 from each city, will be due upon successful completion, implementation and acceptance testing by the fire departments.

Mr. Emling advised Avon is owed \$5,000 from each of the four other cities as Avon paid for the channels upfront. He said since all five cities work in close proximity, this will benefit all cities with 300 channels available.

Mr. Gasior advised his understanding is that there is hardware, which is the physical equipment, and they need this hardware throughout all five communities although the bulk of it was probably going to be in Avon Lake. He said the hardware component comes out to \$767,171.00 and essentially it will be divided among all five communities and Avon's share will be \$153,434.00. The first payment due in the near future would be \$38,358.00. The second component is six mobiles, twenty-six portables and a base station.

Mr. Betsa confirmed that to be true and said that second component is the AFG grant.

Mr. Gasior advised those six mobiles and twenty-six portables and a base station is for one community. He said for five communities they are going to need equipment like this or they will not be able to use that hardware and the City of Avon portion is about \$200,000 worth of equipment. Five cities times \$200,000 is a million dollars and the grant that is hoped for is one million dollars. Mr. Gasior stated if the grant is awarded then a lot of this cost will be covered by that grant and then Avon's only obligation would be the hardware and that would be one-fifth of that \$767,000. He said if Council commits to this MOU, Avon Lake is to consider it next Monday, and pass it next Monday as well. The MOU is going to authorize Avon Lake to contract with Cleveland Communications Inc. and they will begin the hardware installation for \$767,000 and perform that contract. If all the communities agree to the MOU the contract will be signed on April 14<sup>th</sup> and Avon will pay \$38,000, which is the first installment and the work can begin. Once the work is complete and the equipment is installed, the City cannot use that hardware until it spends \$200,000 on these mobile devices. They do not know if the million-dollar grant will be awarded to cover Avon's \$200,000 portion of that equipment. Mr. Gasior advised they should all understand that Avon could be out \$353,000 and that applies to all five cities. He felt Mr. Witherspoon was asking if they were putting the cart before the horse by entering into this MOU before the grant is awarded.

Mr. Logan advised financially this would not be a problem in a year where they did not already have a fire training tower encumbered for \$280,000, a fire engine on order for \$630,000 of which the City paid a 50% down payment last year. He said there is no more capital money budgeted this year for the Fire Department. Mr. Logan stated when the second half property tax payments come in, they could appropriate some money at that time toward this project. Mr. Logan stated there is only \$4,000 left in that fund currently. He said if they are going to move forward now and have to set aside \$153,000, of which only \$38,000 would be due in the next few weeks, they are going to have to advance some funds either from the General Fund or from the Operating Fund for the Fire Department, but more than likely it would have to come from the General Fund. Mr. Logan explained an advance means they would pay themselves back when that property tax money comes in in August, but that is the only way to finance this project at this time. He said it is almost a million dollars between the two capital items already being purchased in the Fire Department this year. Mr. Logan advised on top of that, revenue projections for the rest of this year, like for every municipality right now, are not going to be good.

Mr. Moore asked if they know the timeline for when the grant will be awarded.

Mr. Emling answered they do not know. He said with AFG grants, municipalities are at the mercy of the Federal Government. Mr. Emling stated the last AFG grants were from 2018 and were awarded in 2019 and they wrote it at the end of March, and he could not say if they will see the funds this year. He said agencies give more credence to a weighted average of a regional grant that will benefit several communities and will often give preference to those kinds of applications.

Mr. Moore asked if the grant is not successful were all five cities still going to be a part of this effort or would some withdraw because they could not afford it.

Mr. Betsa advised, yes, there is a real possibility they will not be awarded this grant. He said in Avon Lake he started buying radios that will be able to be utilized on this new system. Mr. Betsa stated they have been talking about this collaboration for over a year now and every purchase his department makes from that point on has

been whether it will work on that system in mind. The grant writer hired has a 98% success rate and is willing to write the grant a second year if it is not awarded this first year. He said if the grant is not awarded this year, they will slowly buy equipment each year to prepare for when it will happen.

Mr. Butkowski said realizing where they are economically as a City, this MOU has no binding capacity to the other communities that might be involved. He said if we make this commitment and some of the other communities do not make that same commitment due to the economic situation they are facing, Avon could be on the hook for up to \$350,000 worth of equipment alone because the MOU was not binding for anyone else involved and he is concerned about that. Mr. Butkowski said he cannot bank on being awarded the million-dollar grant, but he has to look at worst case scenario when making these decisions. His concern is that he does not know if this is the right timing for doing this. Additionally, item 22 on the MOU says that founders will be responsible for all programming, maintenance and/or repair costs to any radio equipment owned by the founders; the founders are all the cities involved. He asked how those maintenance and repair costs were shared amongst the five cities, as he does not see how it is broken down in the MOU.

Mr. Betsa advised the founders' equipment is what is being considered for installation on the water towers. He said that will be the equipment owned by all five cities and would be equally split among the five cities for the maintenance and repair.

Mr. Butkowski advised under Special Requirements in Section 7, it states that the City of Avon Lake will manage any revenues and expenses related to the five city radio system; all funds requiring annual maintenance on the five city radio system will be equally divided among the founders, but there was no discussion about where those revenues might be going.

Mr. Betsa said he thought it was stated in the MOU that any additional revenues would be utilized to maintain equipment for future purposes or purchasing of replacement of equipment and those would be shared costs.

Mr. Butkowski said he would like for that to be called out if there is going to be any revenue from this so that they know exactly where it is going and there is no question.

Mr. Betsa clarified when they say revenue it is not collectively edging money to the five cities. He said the intent of this program is to operate several sites. When they replace a core to run a radio system, which is the brains of the operation, it can bring up 56 different sites. Their intention with this system is 2, so there are 54 more sites that core can handle. Mr. Betsa said there have already been discussions in the southwest and northwest end of the County of them installing their own systems, but taking the cost of core off them and us charging them to use the core, so this becomes a revenue avenue for all of us and then the cost to maintain it becomes manageable and might even become a positive revenue stream in that way.

Mr. Butkowski said he loves that idea especially trying to leverage it, but they needed to clearly define in the MOU where that revenue could be spent so they know exactly where it is going, whether it is buying new equipment or maintaining the existing. He said his major concern is how do they get that commitment from all these communities involved.

Mr. Betsa advised obviously with Avon there is a funding issue, but he spoke with all the other Fire Chiefs and each community has been funding for this project in their capital budgets and it is in the capital line item this year for the Avon Lake Fire Department to spend this money. He said regarding how the money is going to be spent, the contract will be signed solely through Avon Lake, but it will be enforceable in all five municipalities through the MOU. Mr. Betsa stated Avon Lake will not sign a contract until all the other communities have signed the MOU to bind the contract and that is their reassurance.

Mr. Butkowski stated that can be budgeted, but things are changing as they are sitting here as to what can come through versus what is budgeted. He is wondering how they manage this thing and how do they leverage it and is now the right time or do they wait a year.

Mr. Betsa said that is a decision that Avon has to make, but he knows the other four cities are willing to put the money out for this project and are ready to move forward.

Mr. Logan asked if those other four communities bought a \$600,000 fire truck this year.

Mr. Betsa felt it was unfair to say this is strictly on the Fire Department because this system has the capability of being utilized by the Police Department, Service Department and Utilities Department.

Mr. Logan said he understood and felt it is a great idea, but it is very bad timing right now.

Mr. Emling said unfortunately he felt he was somewhat to blame because when he came in on this project during Chief Root's absence, he picked it up and started to run with it and it ran away from him. He advised Mr. Logan tried to rein him in, but the fire engine is going to be delivered the 27<sup>th</sup> of April and the training tower is currently on hold and that might not happen until the end of 2020.

Mr. Logan advised he knows at least one of these other communities is going for a re-appropriations as well, which is basically dipping into a revolving line of credit. He said it is not as if everyone has budgeted this project directly. He said Avon would have budgeted for this had the funds been there. Mr. Logan clarified he felt it is a great idea and would be great for the future, but in his opinion the timing is not right.

Mr. McBride felt at this point it would be nice to drag this out a little bit. He said if we have to borrow from the General Fund then they will, but they certainly need to "sharpen the pencil" on revenue projections. Mr. McBride stated Avon should be the healthiest of all five cities in theory because Avon has been very fortunate. He asked how bad the radio traffic is as there was an issue at Avon Brewing Company recently.

Mr. Emling said it is embarrassing.

Mr. McBride advised there is embarrassing and then there is whether they are jeopardizing someone's life.

Mr. Emling rhetorically asked what the price of a life is worth.

Mr. McBride said if it is jeopardizing lives then they most likely need to move forward cautioning his statement with what the Finance Director is advising them regarding the state of the budget. He advised he is all for buying the needed equipment and they have good reasons for doing it all but thinks if there is a way to slow this process down for a couple of months...

Mr. Betsa advised Avon bought the FCC license last year so when this MOU is executed by all five communities, the City of Avon will be invoicing four other communities for \$5,000 each and the City of Avon will be receiving \$20,000 and that is more than half of the cost of that first payment. He said secondly, they have to drag their feet anyway because in order to spend any money on this project, they have to have this MOU and contract signed and then they have to get engineering studies done on the towers and then they have to go through Avon's Planning Commission and Avon Lake's Planning Commission processes. Mr. Betsa speculated that if this MOU and contract are magically signed by May 1<sup>st</sup>, they probably were not going to have the equipment installed until the fall of 2020 and maybe even later.

Mr. McBride asked Mr. Logan if they can legally enter this MOU from a legislative standpoint if they do not have the money appropriated right now.

Mr. Logan advised yes of course. He said they would have to advance some funds into that equipment fund, which is not a problem and the City is owed \$20,000 from the other communities. Mr. Logan stated but if there is a chance that they would be paying out this entire \$153,000 this year, then they may need to advance a little bit more funds. He said they will have a second half property tax distribution from the Fire Department levy

coming sometime later this year, which is about \$140,000 and \$20,000 from the other communities. In the meantime, if that \$38,000 payment needs to be made upon the signing of the MOU, they could do that; they will just have to word the legislation so that the General Fund advances that money but will be repaid from that Fire Equipment Fund sometime later this year. Mr. Logan advised he is not against this project it is just that they are talking about spending money that we do not have as the current funds in the Fire Equipment Fund have all been committed.

Mayor Jensen advised the Police can use this as well and because everything happened so quickly, they were not able to get the Police involved this year because they are replacing the roof at the Police Station. He suggested they ask the Training Tower company if they can hold off until the end of the year to see where we are financially. He agreed there are not good radio communications with the current equipment in the Fire Department right now and possibly the Police Department budget will allow them to pay a portion next year since this will also benefit the Police Department. Mayor Jensen stated they are very concerned with the financial losses for the remainder of this year into next year as a City. He said the State of Ohio is telling them there could be a 40% loss in revenue this year and that will trickle down to the municipalities and they are going to have to be overly cautious because this is a place Avon has never been. He said even during the recession of 2008 when other communities were struggling, Avon was still booming, but they do not know at this point what that is going to look like. Mayor Jensen advised this proposal caught everyone off-guard to ask for this money before they even know if they will be awarded that grant. He asked how they were going to make sure this project is financed if the grant is not awarded. Mayor Jensen said he just wanted Council to be aware of the risks before deciding to move forward even though in the long run it is going to be what is best for the City because the communications will be better for both Fire and Police.

Mrs. Holtzmeier advised Chief Betsa mentioned that this project for Avon Lake was a part of the Fire Capital Budget for 2020 and that the other cities have been working on it for more than a year.

Mr. Betsa said they have been hopeful for a regional system to replace what they currently have. Mr. Betsa advised they thought the County was going to do something to upgrade their radio systems and the County spent over \$80,000 a couple years ago to study the radio system and it revealed that it is worse than they originally thought. He said it is an old VHF system and has a very small bandwidth, the same bandwidth as some of our computers and lights use and there is a lot of interference and they can hear Canadian radio traffic. Mr. Betsa advised the problem is they cannot communicate correctly and they thought the County was going to move forward with upgrading this system and the response he received was that it is not the County's responsibility or accountability to have anything to do with the radio system in these communities. He said he realized they have a problem that no one is going to fix but them and they have to do something about it. Mr. Betsa said that was late spring early summer of last year and he started to investigate what it would cost to provide a new system to these five communities and found it would be around \$767,000 and that sounded doable to him. He said in Avon Lake it was discussed at their capital budget meeting in November or December of last year and it was agreed upon to put it in the budget for this year.

Mrs. Holtzmeier asked if the other communities have confirmed with Mr. Betsa that this project is already in their capital budget expenses to which Mr. Betsa replied yes. Mrs. Holtzmeier advised as Council considers this proposal, she asked Mr. Logan if he could confirm with the other communities that this is indeed a part of each of their capital budgets.

Mr. Logan confirmed he would.

Mrs. Holtzmeier advised to have that verified would be part of the overall communal decision making. She said for us in Avon this was not a part of the 2020 capital budget and it was not talked about at the end of the year. Mrs. Holtzmeier asked Mr. Emling how he would rank the three major projects, the radio system, the fire tower, and the fire engine in order of their importance.

Mr. Emling answered truck, radio and tower.

Mrs. Holtzmeier felt this radio system, based on his ranking of importance, should then have been a part of the capital budget process. She said they cannot go back and change it, but they have to include it in the conversations going forward. Mrs. Holtzmeier advised she appreciated Mayor Jensen's suggested solution to reevaluate the situation with the training tower by looking into whether the City can take a step back from that project at this time. She said going forward these kinds of projects have to be a part of the capital budget process for review. Mrs. Holtzmeier advised she is still trying to discern whether it is an embarrassment or a detriment to public safety issue.

Mr. Betsa answered he believes it is both. He said when he can hear a dispatch call from Canada on their radio channel that is embarrassing, but when a firefighter is inside a building that is on fire and they cannot communicate properly that is detrimental to life and health. Mr. Betsa advised they are not just putting people at risk, but they are bringing themselves into liability by not fixing something they know is a problem. He said when they are sent into a structure fire communication is the lifeline.

Mrs. Holtzmeier said she likes to see these things through from A to Z. She indicated technology keeps advancing and asked if at some point, this becomes old technology and they would need to terminate this contract, how that would be done as she did not see any termination language in the MOU. Mrs. Holtzmeier stated she would be interested to see how they would move on as well as the moving on ownership of those channels that they had the foresight to get for our City. She asked how that ownership would transfer out.

Mr. Betsa advised FCC licenses are granted for 5 years. He said if this ever goes away and they decide not to continue it, they would just not renew their license. Mr. Betsa explained there is a clause in the MOU that allows any community to opt-out with a 120-day notice to the other founders and the remaining founders would have the ability to purchase that said community's equity in the radio system.

Mr. McBride asked Assistant Fire Chief Emling if these radios will work inside the Jacob's Family Health Center and the Avon Hospital as that has been an issue in the past.

Mr. Emling indicated they installed the proper equipment to program the new radio system to the proper frequency. He said the problem with these new buildings is that the windows have aluminum chips in them, but they are now requiring new commercial buildings to install the BDA's (Bi-Directional Amplifier).

Mr. Butkowski asked because this system can be used across multiple departments if there was more funding available through the Police Department Equipment Fund to help augment some of this cost and maybe from the Service Department as well since they would also be on this system.

Mr. Logan advised they could, but he felt they could get into a bit of an issue with the grant. He said if the grant is awarded it can only be used for Fire operations.

Mr. Betsa stated the radio equipment has nothing to do with the grant itself so he felt they could use whatever funds they choose for the radio system.

Mr. Logan answered there probably are enough funds available among those departments.

Mr. Butkowski felt the Administration could work out how that funding would be reimbursed to those departments. He explained he was just trying to come up with a creative way to move forward with this project in light of our current economic situation.

Mayor Jensen advised he is struggling tonight because he felt as if the City of Avon was almost being accused of neglecting to budget properly and yet they would be liable if something tragic should happen. He introduced Duane Streater, Safety Director, and asked him to speak to this issue based on his knowledge and expertise as he has been an active part of the discussions with the County. Mayor Jensen stated this is the first time that it

has been brought up to him that there is this stigma that Elyria and Lorain were using this issue to claim that these five communities were putting everyone's life in danger. He added the City of Avon has always spent whatever money they have needed to make certain that our Police and Fire Departments have everything they could possibly need, and it bothers him that accusation was made.

Mr. Streator advised one of the things that has been a problem is the communications system throughout the County. He said law enforcement is further ahead because they changed to the digital P25 format and fire has not done that Countywide. Mr. Streator stated the County looked at law enforcement and fire throughout the County and basically the result of that study was to create a system such as what is being discussed tonight, but it would be Countywide, and that never went forward. He said there are two costs: the cost of the system and the cost of the radios and who can afford it is the question. Mr. Streator advised these five communities break it down to the northeastern section of the County starting with the Fire Departments. He said the Police Departments are ahead because they went to a digital format about five years ago through a grant with Avon Lake, Avon and Sheffield Lake because they shared a frequency and they were able to replace their repeater equipment, not the trunk system like is being discussed tonight. Mr. Streator advised there was a lot of hope that the Countywide study would have led to a solution. He said this system would allow them the opportunity to bring Fire up about even with the Police and create a trunk system and Police and these other entities can utilize at some point. Mr. Streator agreed this is a great opportunity, but obviously the cost is a factor. He said the ability to say a radio is going to work 100% of the time in varying situations will not happen in his estimation; the best they would get is about 98% coverage. Mr. Streator stated that a 700-megahertz system will work much better than the UHF and VHF system because they do not work well in rural areas. He said here in Avon it would work well and within the Clinic and the Schools in a much better situation and that is what they are aiming for. Mr. Streator stated he has worked with Chief Betsa and where he is headed with this program, but he was new to finding out where we are headed in the City of Avon. He said he is looking in the next week to have major discussions of how they can do this under the level of importance mentioned; they need to go back and best make decisions to benefit everyone. Mr. Streator advised Mr. Gasior pointed out there are two different things here with the hardware system and the radios and he would be working to help decide how much can be accomplished within a reasonable time frame.

Mr. Radcliffe advised it was mentioned that the Fire communication system had not been updated the way the Police was a few years back and he asked if there was a second option. He said it does not sound like the Police have this trunk system and he asked if there is a different system the Fire Department could use that would not require so much capital outlay and would still improve the current communications.

Mr. Streator felt that would be throwing good money after bad. He said to digitize what they are currently operating under would not work as all the cities are not working on the same radio frequencies. Mr. Streator felt the best way to get everyone on the same system is with this trunk system. He stated the Police are on the State's system, the MARCS (Multi-Agency Radio Communication System) and this system is basically a smaller version of the MARCS. Mr. Streator advised the current radios that the Police Department are operating on could work off this proposed system without any new equipment. He said one of the biggest costs is the equipment, the portables and the radios in the vehicles.

Mr. McBride asked if this new system would be equivalent to MARCS.

Mr. Streator confirmed that would be the same thing with the difference being that the five communities would own this system and there is a revenue sharing option.

Mr. Witherspoon asked if Mr. Streator would require the Police Department to tie into this new system if this all comes to pass.

Mr. Streator advised it would only make sense to look at bringing the Police Department over to this system after proper testing since they could get the same service without paying the MARCS fees.

Mr. McBride stated the problem is that once they go into Cuyahoga County it was all MARCS.

Mr. Streator advised the current Police radios have the ability to talk on all the platforms.

Mr. Betsa advised with MARCS there is a subscriber fee for each radio. He said MARCS is considering exceptions for systems where there is only occasional use of MARCS and they are not a burden to the system and that is to pay one monthly user fee around \$10.

6b. RESOLUTION NO. R-14-20 – TO AUTHORIZE THE MAYOR TO PARTICIPATE IN A COOPERATIVE PURCHASING PROGRAM WITH THE OHIO DEPARTMENT OF TRANSPORTATION, WINTER CONTRACT FOR ROAD SALT

Mr. Gasior advised this is the annual contract to purchase road salt through ODOT through the cooperative purchasing program.

Mr. Radcliffe asked if there is a good supply of salt from this last season to which Mayor Jensen confirmed that there was and that the City now has the salt storage shed purchased last year.

7. REPORTS AND COMMENTS

MAYOR JENSEN advised the City buildings were still locked down to the public. The cleaning company is disinfecting and sterilizing some of the buildings three times a week and City Hall twice a week. He reassured Council that the Chambers are being disinfected and sterilized weekly and they were the only body that is currently meeting in here and they are not allowing anyone to use Council Chambers during this emergency time. Mayor Jensen stated they were still trying to operate City Departments as normally as possible to keep the City running smoothly and they were taking every precaution possible to keep the employees safe. He said he is working with Mr. Streator to acquire masks for the employees to start wearing, but supply is limited, and they are looking for N95 masks for the Police and Fire Departments. Mayor Jensen advised there will be an ozone generator used to kill germs at different buildings and the squads and police vehicles.

COUNCIL MEMBERS:

MR. BUTKOWSKI, WARD 1 had no further comments.

MRS. HOLTZMEIER, AT LARGE advised with the Stay at Home Order issued on March 22nd that closed playgrounds they understand why that was put in place because playgrounds are a place of congregation and they wanted to stop that kind of gathering. She said looking at our skatepark and that it is still open to the public and yet it is a heavy place of congregation and people were not exercising the 6' social distancing orders.

Mayor Jensen advised they have not seen that happen yet, but they could look at it again as there is a video camera on that area. He said each time the Police have been called to the skatepark due to a report, they have not witnessed any congregating. Mayor Jensen stated if congregating takes place the City will absolutely close it down.

Mrs. Holtzmeier advised she had pictures she took herself and she would share those and what she witnessed over the weekend, which was heavy congregation.

Mayor Jensen advised if she has photos proving otherwise, he would close the skatepark.

Mrs. Holtzmeier asked if they were noticing that the signs are working as far as people not using the playgrounds or does it need to be taped off.

Mayor Jensen advised they looked at taping the areas off and felt the children might get tangled in the tape. He said they have not seen too much on playground equipment and on the occasion there has been, the police have asked them to disperse. Mayor Jensen stated the call at Schwartz Road Park was found that the football team was running drills, but were maintaining the six feet minimum distance from each other running

sprints, but if it becomes a problem they will rope it off, but parents have been good about obeying the signs. He said they will continue to watch it and do whatever they need to do.

Mrs. Holtzmeier advised it is going to become a matter of repeat, repeat and repeat and this is our new normal. She said she would forward the pictures to Mayor Jensen and she thanked him for looking into it.

MR. MCBRIDE, WARD 2 concurred with Mrs. Holtzmeier that he has seen groups congregating at the skatepark. He did not know if roping it off would stop the unwanted activity as they may congregate somewhere else and said the cure may be worse than the disease. Mr. McBride stated he has seen groups of teenagers hanging around the area of Burger King on their bikes with a few feet in between, but not six feet, but the police cannot be everywhere.

MR. MOORE, WARD 3 advised recently during the windstorm he was one of the properties that lost power on his street for 24 hours. He thanked Mayor Jensen for all the calls he made trying to get it restored as quickly as possible. Mr. Moore thanked Mr. Farmer as well and said everyone appreciated being informed of the situation and doing the best they could to rectify the situation.

MR. RADCLIFFE, WARD 4 advised regarding the utility pole that fell across Jaycox Road causing the power to go out due to a car accident that he was thankful no one was hurt. He said most power was restored fairly quickly that night and while some were not, those he heard from in his Ward were appreciative of the issue getting resolved for them quickly. He stated he knows the sidewalk still needs to be repaired in that area affected by the accident.

MR. WITHERSPOON, AT LARGE had no further comments.

MR. FISCHER, AT LARGE had no further comments.

#### DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER was absent

MR. FARMER, SERVICE DIRECTOR was absent

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR was absent

MR. GASIOR, LAW DIRECTOR had no further comments.

MR. LOGAN, FINANCE DIRECTOR advised he would have Ordinance No. 39-20 next week to borrow money for the Elizabeth, Joseph, Puth project which is ongoing. He said he would like the full three readings of that Ordinance and they plan to borrow no more than \$4,000,000. Mr. Logan recommended Council pass it on third reading on May 11<sup>th</sup> and said they would still be good with the timing of the awarding of the contract, but he would update them further next week.

Mr. Logan advised he looked at the revenue for the rest of the year and it is still early to understand how much of an income tax hit they are going to get, but in about a month they would know a lot better. He said RITA is going to provide them with some data from some of the larger companies throughout all the cities they cover. Mr. Logan stated we know we have lost retail and restaurants and banks are drive-thru only and the like. He said they are not sure yet about the industry in Avon as he does not know who had laid off and who had not laid off or if people are all still coming in to work. Mr. Logan advised they were probably looking at in excess of \$4,000,000 in loss in total, with the biggest chunk being income tax. He said gas tax and other State agencies were looking at reducing their revenue projections by 40%. Mr. Logan advised he knocked the Aquatic Facility revenue down quite a bit as he is assuming the best they could do this year would be to open around July 1<sup>st</sup>. He said while they are still going to keep billing for utilities, they will not be charging late fees and will not be shutting anyone off as that was part of HB197 and will be giving people plenty of time to pay their bills so that effect will carry into next year as there are 10 million people out of work. He said he will have better projections

in about a month and they will be meeting by phone with the different department heads to go through their budgets to see where they can delay some projects and purchases. Mr. Logan advised the City is in very good financial shape and has ended the last few years with a much higher General Fund balance and they just met with Moody's a month ago before all of this hit and Moody's is very impressed and the City ended 2019 very well and will end 2020 well, but we are going to have to make some adjustments and look at where we are spending.

Mr. McBride felt with lawn irrigation season coming up, those accounts should not be treated the same as people could choose to not water their lawns if they are experiencing a hardship financially right now. The no shut off order was not meant for golf courses or homeowners watering lawns.

Mr. Logan indicated they could make calls to homeowners if they see large usage bills and someone might be taking advantage of the situation.

**AUDIENCE:**

There were no comments from the audience.

8. **RECESS:** 9:29 p.m.

The Chair Recessed the April 6, 2020 Work Session of Council to be resumed after tonight's Special Meeting of Council

9. **RECONVENE:** 10:15 p.m.

The Chair Reconvened the April 6, 2020 Work Session of Council

10. **DISCUSSION OF HOUSE BILL 197 AND CONFERENCING**

Mr. Jenkins

Mr. Gasior advised Council needs to be prepared to do what Mr. Jenkins is going to explain and obviously this is not something they want to do or were ready to do next week unless something catastrophic happens due to the COVID-19 outbreak, but they need to be prepared.

Aaron Jenkins, IT Technician gave a brief overview of platforms that were available to Council including Zoom, Microsoft Teams, WebEx and the like. He said there are two separate things: there is broadcasting the meeting out and not allowing public comment and then there is allowing public comment during the meeting. Mr. Jenkins said Zoom allows for that in a better way than Microsoft Teams.

Mr. Fischer advised Mr. Jenkins to describe what it would look like if it was decided that Council can no longer meet in person due to this health crisis and the Zoom platform had to be used.

Mr. Jenkins advised they would be using the webinar portion of Zoom and it would be scheduled through the Clerk and a link will be emailed to each member of Council and the Directors and the Mayor. There will be a link posted on the City website for the public to see and hear the meeting. He said Council will use their iPad or other device they choose that has a webcam installed and it will allow the audio and video to come across. On the attendees side, it will automatically mute them when they join the meeting although it does have the capability for them to virtually raise their hand if Council wants to allow public comment. The Clerk will be able see that side of the platform if it will be utilized. Mr. Jenkins said Zoom allows for 100 attendees currently and that number can be increased for additional costs. He stated the City has one Zoom license with the webinar feature for approximately \$55/month.

After some brief discussions it was decided that Council would do a practice training test of the Zoom webinar platform as well as test the equipment on Thursday, April 9<sup>th</sup> at 1:00 p.m.

11. **ADJOURN:** 10:30 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