

**PUBLIC HEARING
MONDAY, APRIL 25, 2022**

7:25 P.M. – Council President Brian Fischer opened the Public Hearing for Ordinance No. 42-22.

ORDINANCE NO. 42-22 – AN ORDINANCE 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

There being no comments, the Public Hearing for Ordinance No. 42-22 was closed at 7:26 p.m.

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, APRIL 25, 2022
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

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

PRESENT:

Council Members: 1st Ward – Jennifer Demaline; Council-at-Large – Tammy Holtzmeier; 2nd Ward – Dennis McBride; 3rd Ward – Anthony Moore; 4th Ward – Scott Radcliffe; Council-at-Large – Craig Witherspoon; Council-at-Large and Council President – Brian Fischer; Mayor - Bryan Jensen; City Engineer – Ryan Cummins; Law Director – John Gasior; Finance Director - William Logan; Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

ABSENT:

Planning and Economic Development Coordinator – Pam Fechter

ADDITIONS AND DELETIONS TO THE AGENDA

A motion was made by Mr. McBride and seconded by Mr. Moore to amend the agenda by removing Item No. 10 – Ordinance No. 47-22 – To Reconcile Receipts and Disbursements with Blue Dog Baseball, LLC for the 2021 Season, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to accept the agenda as amended, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

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

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, APRIL 4, 2022

A motion was made by Mr. McBride and seconded by Mrs. Demaline to dispense with the reading of the minutes of the Work Session of Council held Monday, April 4, 2022, and to approve said minutes as published, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes” Mr. Fischer, “yes”.

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

MINUTES OF THE SERVICE/FINANCE COMMITTEES OF COUNCIL HELD MONDAY, APRIL 11, 2022

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Meeting of the Service/Finance Committees of Council held Monday, April 11, 2022, and to approve said minutes as published, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes” Mr. McBride, “yes”; Mr. Fischer, “yes”.

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

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, APRIL 11, 2022

A motion was made by Mr. Mc Bride and seconded by Mr. Moore to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, April 11, 2022, and to approve said minutes as published, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

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

ORDINANCE NO. 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

The Clerk read Ordinance No. 42-22 by title only, entitled:

**AN ORDINANCE TO AMEND ORDINANCE NO. 413-68, PASSED JANUARY 15, 1969
COMMONLY KNOWN AS THE ZONING ORDINANCE OF THE CITY OF AVON,
OHO, 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**

The Chairman declared this to be the third of three readings of Ordinance No. 42-22.

Mr. Gasior stated that he was going to recommend to Council that they make a motion to amend Ordinance No. 42-22 because we had various renditions of this Development Agreement before Council at an earlier date and just to be safe, he thinks it is important to amend it to the version that we have tonight. So if someone could make a motion to amend Ordinance No. 42-22, they can then adopt it as amended.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to amend Ordinance No. 42-22, and the vote was: Mr. Witherspoon, "yes"; Mrs. Demaline, "yes"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Fischer, "yes".

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 42-22 as amended, and the discussion was:

Mr. McBride asked, since he has been out, if someone could bring him up to date on this? Supposedly we have a deal worked out and things are going to be corrected. Mr. Gasior responded that the focus of attention was on the topcoat of asphalt on the private street of Chenin Run and a few of the other little side streets there in Concord Village Phase 2. The folks that came to the meeting last week indicated that they had serious issues with ponding when it rained and in the wintertime it was ice, so the developer has promised to put the topcoat down within 90 days from today, the date of passage of this legislation. That deadline could be extended up to 60 days in the event of what would be called a "force majeure" event. The City has also indicated that we will not issue any building permits for anything in Phase 3 if that does not take place. Once the rezoning takes effect, he imagined the first thing the developer is going to want to do is install their infrastructure which will consist of a public waterline and that is it but it is still a public utility and there will be a Developers Agreement for that that will come before Council probably in June or July. So certainly we will see what the progress is at that point on putting in that topcoat.

Mr. McBride noted that the developer, Jason Friedman, was present and he asked Mr. Friedman why it takes 90 days to get those streets paved? Asphalt plants are open and they could have that done in 30 days. Mr. Friedman said that they have too much going on right now and Mr. McBride said that was not his problem. The developer has been letting it go; they chose to save money by not putting that topcoat on, letting the water sit and now there are angry residents because the developers have been dragging their feet. He does not understand why it has to take so long.

Mr. Gasior said there was also an issue with stabilization, about putting the grass in. He thought that was another one of the complaints and they wanted to get that taken care of before they actually put the topcoat on. Mr. Gasior said this is certainly not a perfect solution for the residents there but it is better than just simply allowing the developers to go forward in Phase 3 without any stipulation so he thought the 90 days was a good compromise. It still forces the developer to put the blacktop down and hopefully the grass will start to grow in the areas that are now dirt so by July or August the place will start to look like what the folks actually bargained for. But again, City Council did not make any of those promises to the residents there. It is a typical situation that he has seen numerous times over the years where people are sold properties by real estate developers or contractors and when those people fail to meet the demands of the folks who buy the properties, they have nowhere to go but to the City but we as a City were not involved in those discussions over the purchase of properties or the conditions of the properties after they are purchased. We find out about them after the fact and we just do the best we can and that is what we have tried to do here.

Mayor Jensen said to Mr. McBride that he has to remember that before the City came in here, the developers really did not have any obligation to finish anything. They were hoping to continue to work on that next Phase and so this is a big compromise for Council to push to make sure that the work in Phase 2 was done before they could proceed with the next Phase of that development. It was important for Council and for himself to make sure that this was going to get addressed as soon as it could. He suggested that Mr. Friedman come forward just to let Council know that their hope is to do the work as soon as they can.

Jason Friedman, 3401 Enterprise Parkway, Beachwood, Ohio, stated that 90 days is an outside date. Since they met last week, they have made arrangements with the builder to cut sod and install sod on some of the unfinished buildings. There was a lot of cleanup to do and they have machines that are going to come in and clean up around the pond, and these are things that need to be done before they put a topcoat of asphalt in. As a developer, whenever we have a phase development, the topcoat of asphalt goes in at the end. It is not necessarily the most favorable thing for residents but this has been told to them despite what they may say. He said that his development company is going to be here for years to come now and they want to be good neighbors and he will make every effort to get the work done as soon as possible.

Mr. McBride stated that Mr. Friedman does enough development and has enough connections in the community with other related businesses that he should be able to get this done very quickly. He commends Mr. Friedman for having the builder do the sod as it will act as a filter to keep some of that soil from washing out but why does he have to do work around the pond first before doing the topcoat? That is not typical of development in this town, not to do the topcoat. Typically it is all concrete, even on the private streets. Unfortunately, the way the catch basins are set up, they are not taking the storm water in as they should. If Mr. Friedman can figure out how to drain that water without destroying those inlets, then the topcoat could wait until later but right now the water is ponding. It is a nuisance for these residents and it could be a hazard. Mr. McBride said he does not mean to sit there and lecture, but he has residents that are dissatisfied so as soon as Mr. Friedman can get it done, the better.

Debbie Kraft, 1481 Caymus Court, said that yesterday when she was outside working, a gentleman stopped by and asked her why the sales office was closed. Ms. Kraft told him that she did not know; it had not been open for months. He then said to her that he was there earlier

in the day to buy one of the new houses that have not been built yet. So her question to Mr. Friedman is, is he selling those houses before he has approval to do that?

Mr. Friedman responded that first of all, he was not the builder. Ms. Kraft said, but he is the applicant that is responsible for what is going to go on in the back of their lots. Mr. Friedman said, yes, but she is asking about the homes and he does not build the homes. Ryan Homes is the builder and he is 99.9% sure they are not selling because there is nothing to sell yet. But he cannot answer for them because he is not the builder. He knows that they are working there because he was there the other day meeting with the landscapers, etc. and he knows some workmen were there but he is almost certain that the sales office is not open.

Ms. Kraft agreed with that, but her point is that this gentleman asked why the sales office was closed when it had been open. He was wondering why he could not go back and finish his discussion about his purchase of the new properties that have not yet been built. He was talking about the new property in Phase 3. She just assumed that this all flows together but a permit has to be given before they start selling although she does not know the process. She has been coming to most meetings just to understand this whole process, and she added that she cares that she walks outside her house and has 5 ft. swimming pools there.

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

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

ORDINANCE NO. 46-22 – TO AUTHORIZE THE MAYOR TO ENTER INTO A SETTLEMENT AGREEMENT AND RELEASE WITH THE CITY OF NORTH RIDGEVILLE FOR PAYMENT OF UNPAID INFILTRATION COSTS

The Clerk read Ordinance No. 46-22 by title only, entitled:

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO A SETTLEMENT AGREEMENT AND RELEASE WITH THE CITY OF NORTH RIDGEVILLE FOR PAYMENT OF UNPAID INFILTRATION COSTS AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 46-22, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 46-22, and the discussion was:

Mr. Gasior stated that he changed the Ordinance and eliminated the reference to the years of the mid 1990’s to 2010, so that it covers the entire period and then in the agreement itself, he inserted

the word “all” which is what Mr. Radcliffe was driving at. Hopefully, everyone saw the changes and is satisfied with them and he would be happy to answer any questions.

Mr. McBride noted, so there is no going back. Mr. Gasior said that was correct, there is no going back; we are settled with the figure of \$43,329.

Barbara DeChant, 36877 Chester Road, came forward and stated that they live right down the street from where this new Ordinance No. 42-22 was changed and would like to know exactly where this new parcel is going to be. Mr. Gasior clarified that was the Ordinance that was just acted on, the rezoning Ordinance. Ms. DeChant said, yes, but they do not know the location. Mr. Gasior explained that it was just behind Phase 2 of Concord Village, just to the east of the Hadgis property. And on the north end, it is just to the west of the apartments. Ms. DeChant said, yes, that is catty-corner to where they live; she just wanted to know where it is going to be because everybody is wanting to know. She thanked Mr. Gasior.

Mr. McBride stated that he just had a comment on Ordinance No. 46-22. What if North Ridgeville tries to come back for another settlement payment next year or the year after? Mr. Gasior said that he thought we are putting this to rest for past years. He stated that Mr. Logan did an extensive research job on our check registers going back many years. Initially they asked for \$80,000, he thought. Mr. Logan stated that they wanted to split roughly \$160,000. Mr. Gasior said, so he and Mr. Logan thought this was a fair and reasonable compromise of a disputed debt.

Mr. McBride said he thought that we settled this once before and here they are back how many years later. Mayor Jensen said that this has been open for a long time; it was never really settled. There has always been a question of whether there was an outstanding balance or not and he thinks this puts everything to rest. And it is an infiltration issue so they cannot come back and say there was another issue; this was the only one that was outstanding. It has always been in the billing so now it will be a zero in terms of that balance. Mr. Logan said that we have always shown this arrears dating back to 2005 or further. That number was over \$230,000 and we knew we did not owe that and they could not show us that we did owe that. He said that his numbers support a little over \$30,000 that looks like it was never paid from 2005 to 2010. Mr. Gasior said that the bottom line is, though, that we have not had any issues with North Ridgeville for 12 years now. Mr. Logan said, yes, and this settles things with their current Administration and their current Utilities Dept. Supervisor.

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

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

ORDINANCE No. 48-22 – AMENDING SECTION 256.98 OF THE CODIFIED ORDINANCES OF THE CITY TO REVISE THE CLASSIFICATION SPECIFICATION FOR THE POSITION OF FINANCE CLERK 1

The Clerk read Ordinance No. 48-22 by title only, entitled:

AN ORDINANCE AMENDING SECTION 256.98 OF THE

**CODIFIED ORDINANCES OF THE CITY OF AVON TO REVISE
THE CLASSIFICATION SPECIFICATION FOR THE
POSITION OF FINANCE CLERK 1
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 48-22, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 48-22, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

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

**ORDINANCE NO. 50-22 – TO AWARD A BID FOR THE NORTH EATON DRIVE AND
SHAKESPEARE LANE SEWER REHABILITATION PROJECT**

The Clerk read Ordinance No. 50-22 by title only, entitled:

**AN ORDINANCE TO AWARD A BID FOR THE NORTH EATON DRIVE
AND SHAKESPEARE LANE SEWER REHABILITATION PROJECT
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 50-22, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 50-22, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

**ORDINANCE NO. 51-22 – AUTHORIZING THE MAYOR TO EXECUTE A GRANT AWARD
AGREEMENT TO PARTICIPATE IN THE OHIO DEPARTMENT OF NATURAL
RESOURCES NATUREWORKS GRANT PROGRAM FOR VARIOUS PARK
IMPROVEMENTS WITHIN VETERAN’S MEMORIAL PARK**

The Clerk read Ordinance No. 51-22 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE A

**GRANT AWARD AGREEMENT TO PARTICIPATE IN THE OHIO DEPARTMENT
OF NATURAL RESOURCES NATUREWORKS GRANT PROGRAM
FOR VARIOUS PARK IMPROVEMENTS WITHIN VETERAN’S MEMORIAL PARK
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 51-22, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 51-22, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

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

**ORDINANCE NO. 52-22 – TO AWARD A BID FOR THE JAYCOX ROAD PAVEMENT
RESURFACING PROJECT (SOUTH)**

The Clerk read Ordinance No. 52-22 by title only, entitled:

**AN ORDINANCE TO AWARD A BID FOR THE JAYCOX ROAD
PAVEMENT RESURFACING PROJECT (SOUTH)
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 52-22, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 52-22, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

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

**ORDINANCE NO. 53-22 – TO AWARD A BID FOR THE SHAKESPEARE LANE
PAVEMENT RESURFACING PROJECT**

The Clerk read Ordinance No. 53-22 by title only, entitled:

**AN ORDINANCE TO AWARD A BID FOR THE SHAKESPEARE LANE
PAVEMENT RESURFACING PROJECT
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 53-22, and the vote was: Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 53-22, and the vote was: Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

ORDINANCE NO. 54-22 – AUTHORIZING THE MAYOR TO EXECUTE A GRANT AWARD AGREEMENT TO PARTICIPATE IN THE STATE CAPITAL BUDGET GRANT PROGRAM FOR VARIOUS PARK IMPROVEMENTS WITHIN VETERAN’S MEMORIAL PARK

The Clerk read Ordinance No. 54-22 by title only, entitled:

**AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE
A GRANT AWARD AGREEMENT TO PARTICIPATE IN THE STATE
CAPITAL BUDGET GRANT PROGRAM FOR VARIOUS PARK
IMPROVEMENTS WITHIN VETERAN’S MEMORIAL PARK
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 54-22, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 54-22, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

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

ORDINANCE NO. 55-22 – TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE REAL ESTATE

The Clerk read Ordinance No. 55-22 by title only, entitled:

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER
INTO AN AGREEMENT TO PURCHASE REAL ESTATE
LOCATED AT 37079 DETROIT ROAD (STATE ROUTE 254)
IN THE CITY OF AVON PERMANENT PARCEL
NO. 04-00-010-115-008 FROM JOAN L. BUCK**

AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 55-22, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 55-22, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mrs. Demaline, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

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

REPORTS AND COMMENTS

MAYOR JENSEN had no further comments.

COUNCIL MEMBERS:

MRS. DEMALINE, WARD 1, had no comments.

MRS. HOLTZMEIER, AT LARGE, had no comments.

MR. McBRIDE, WARD 2, said that he just wanted to thank the Administration for pulling all the wayward signs on the public right-of way. A few have sprouted back up but it does not look like a forest out there anymore.

Mr. MOORE, WARD 3, had no comments.

MR. RADCLIFFE, WARD 4, had no comments.

MR. WITHERSPOON, AT LARGE, had no comments.

MR. FISCHER, AT LARGE, had no comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, had no comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR, was absent.

MR. GASIOR, LAW DIRECTOR, stated that he wanted to mention the amendments to the nuisance law that he was hoping the Council President might refer to Legal Committee.

Mr. Fischer, Council President, asked Mr. McBride, Chairman of the Legal Committee, for a date that was good for the Legal Committee to meet. After discussion, the date of Monday, May 16th, at 6:30 P.M., was set for the Legal Committee meeting. Mr. Gasior said that he would try to get everything out to the members of the Committee before the 16th so they can review it.

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

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

AUDIENCE:

Pat Jankowski, 1409 Hollow Wood Lane, said that she does not live in Concord Village but she listened to those people at the last meeting and she was curious if anyone had driven through there since the meeting to see what they were talking about. The roads are flooded; the second phase is ridiculous. The asphalt is terrible and she gets the impression that the City does not have anything to say about it because it does; the City has inspectors and should be inspecting some of this. Or is she confused?

Mr. Gasior said that the streets are private streets; they are not public streets so it is a totally different situation. Mr. McBride noted that it is a big driveway. Mr. Gasior said that we would certainly not accept any improvement if it was a public street but it is a private street and as Mr. McBride points out, it is a driveway. We do inspect but then we also have stormwater requirements. Ms. Jankowski said it should be draining someplace. Mr. Gasior said, again, we are fortunate because the developer wants to do a third phase and he wants to do the rezoning and we can actually put pressure on him to get that topcoat done but if it were not for the rezoning and the third phase, Mr. Gasior does not know what we could do. You are spending the HOA's money; it is a Homeowners Association that is in charge of that money and we cannot spend public money there and he was not familiar with any law that says that we can make an HOA spend the money.

Ms. Jankowski said she did not think that she agreed with that part of it but it still seems that the City should be a little more encouraging to the people. Mr. Gasior said that he thought that Mr. McBride has done a pretty good job of lighting a fire under the developer and hopefully, that will be taken care of before the end of May. Ms. Jankowski said, well, regarding the buildings themselves, that one lady last week remarked about the inside was a piece of junk. Mr. Gasior said that the buildings are inspected and Ms. Jankowski asked who was doing that? Mr. Gasior stated that he thought that our Building Department does a very good job of inspecting but we are not like a private inspector that someone could hire to walk through the house. Everything is up to Code; if it were not up to Code we would not be allowing anybody to occupy. Mr. McBride said that it is a minimum code; he understands the frustrations but that is what they bargained for.

Ms. Jankowski said that she also wanted to say something about Chester Road coming east; it is all caving in on the side. Mayor Jensen asked if Ms. Jankowski was talking about the old section or the new section and Ms. Jankowski answered, past Concord Village, right around there. Mayor Jensen said that is all going to be widened to three lanes this year all the way through to the other entrance of American Way.

Mayor Jensen said, but Ms. Jankowski brings up a good point at Concord Village. He said that we had the same issue over at Rose Senior Living and that went for over three years of sitting

until they finished the last house. So that is one thing that Council is trying to push more is not to allow that. We need to look at it to see if there is a way to change some of that but usually until a development is finished, that topcoat does not go on. Ms. Jankowski noted that it is obvious that the builder at Concord is not rated highly in the Better Business Bureau so she would suggest maybe we should look at it. Mayor Jensen said some of those complaints are cosmetic though; it is like getting cracks in the drywall, etc. People come to expect in higher income homes, that that does not take place. If you start reading the reviews, you will see it is a lot of little things. He said that he does not think that structurally it is a problem and that is what we look at in terms of the City inspections. So whoever you get to finish your house is the one you should be really cautious of. Mr. McBride added, and there is the difference between the developer who was here tonight and the builder, two different entities.

Romolo DeBottis, 37600 Detroit Road, said that he was there to give his side of the story on these sidewalks for that property that has been talked about for about three and a half years. He said that he and his family have pretty much kept quiet but unfortunately, they have endured some things every time these sidewalk issues come up with that property. The property is being vandalized and is that a coincidence? He has never had a problem there in 10 years but in the last 3 years now, things are being stolen, eggs are being thrown at the building and staining the building and it seems like as soon as things are talked about the sidewalks, the building gets vandalized. Now they are leaving notes at the door wanting to know when the cheap people at 37600 are going to put in their sidewalks. He would like to address why those sidewalks have not gone in and give their side of the story.

Mr. DeBottis said that in October, 2017, Rick Schneider, the Zoning Enforcement Officer at the time, sent a letter to their home stating that an Ordinance had been passed and that sidewalks needed to be installed in that corridor there on Detroit Road. He said that we had two options: Option A – hire a contractor and do the work ourselves, or Option B – we could tell the City to hire a contractor and then the property would be assessed. Less than 24 hours after receiving the letter, he contacted Mr. Schneider. He said Mr. DeBottis was one of the first homeowners to contact him regarding the letter. Mr. DeBottis told Mr. Schneider that he had spoken to his wife and they were going to exercise Option B, so go ahead and put the sidewalks in and assess the property, and Mr. Schneider said that is what they would do. Mr. DeBottis asked when the sidewalks were going to go in and Mr. Schneider said they were going to try to get them in that fall. Mr. DeBottis said that was good, they had his permission, so go ahead and put the sidewalk in. They started putting in the sidewalks on Detroit Road and all the sidewalks went in except for his. Mr. DeBottis kept calling and asking when his sidewalks would go in. Finally Mr. Schneider called him back and said they needed an easement. He said that every person that had sidewalks put in had to sign an easement. He said that he would send Mr. DeBottis an easement in the mail, that he should look it over, sign it and send it back in. Mr. DeBottis said, as he was very trusting, that was no problem and he told Mr. Schneider to send the paperwork. About a week later, his wife intercepted a letter from the City outlining an easement for the sidewalk and it was 420 ft. total. His wife called him and told him about the letter and he told her, yes, that Mr. Schneider said that every person on the street had to sign one of those and to go ahead and sign it. After his wife belittled him for two days for being so trusting, she said they were not signing anything and she started doing her research. We do not know of anyone else who has signed an easement that had that sidewalk put in. It was put in under the right-of-way. For some reason, they wanted an easement on our property to put the sidewalk in. No talk of compensation at all, just sign the paperwork and send it back in. So he ignored the letter per his wife's request. She said these

people are not transparent and cannot be trusted; she said they do not sign anything, especially the way that they told him that this needed to be signed.

Mr. DeBottis said, about two weeks later, he got another call from Mr. Schneider asking why he had not signed the easement and sent it back in. Mr. DeBottis told him that they were not signing anything; they do not sign easements. Mr. Schneider then said that the Law Director would be contacting him. Law Director John Gasior called him and wanted to know why he would not sign the easement. Mr. DeBottis told him that he did not understand why they needed an easement; no one else needed an easement. Mr. Gasior would not give him a right answer. Mr. DeBottis said you have the right-of-way, you have our permission, put the sidewalk in, and he said we need an easement. Mr. DeBottis said to him that they were not giving an easement. So then all of a sudden, mysteriously, money started to appear. He said they were offered first \$1,000 for the easement, then \$3,000, then \$8,000 was the last offer for the easement, and they said, no, to every offer. And do you know why he said no? Because they were not transparent with us from the very beginning. They tried to trick him and his family into signing an easement. We have held steadfast. If the sidewalk needs to be put in, go ahead and put it in, you have it, in the right-of-way. His wife printed up other projects that have been done in the City where right-of-way easements needed to take place. Hundreds of thousands of dollars total are given to the homeowners. How come a letter was not sent to them saying just sign and we will put in the sanitary sewer - no money. He would like to know what the response would have been then if the City tried to trick those people.

Mr. DeBottis said he has had about enough of being talked about. He said the City could put in the sidewalks, so put them in. If they had been transparent with him and his family from the beginning, he thinks this would have gone a different way and those sidewalks would have been put in. They do not like to be lied to and they do not like to be taken advantage of. And he might have done it for free if they would have been transparent with him from the beginning instead of trying to trick him. Other people in this City have received large amounts of money for easements but for whatever reason, he and his family are not respected and then they have to endure the pain of having property there with people vandalizing it and leaving notes, looking at them crooked. They are very private people and bother no one.

Mr. DeBottis stated that he maintains the property and has received letters from the City thanking him for maintaining the property prior to what it was before. He said he laid 100 yards of concrete in the front and got rid of the dilapidated blacktop, painted the entire building when it was peeling and deteriorating, and kept up with the roof. He trims and picks weeds, he spent \$10,000 on a shed that was falling apart. He put a new roof on it and new siding, painted it, and redid the inside. He has been a good steward to the City of Avon but he does not think the City of Avon has been a good steward to him and his family. Again, if you want the sidewalks, put them in and assess them, but be transparent. All you have to do is be transparent. And because there was so much frustration with him that he would not cooperate with the easement, there was even a threat to call the County and tell them the taxes should be raised on Mr. DeBottis' property since he thought it was worth so much. So this is what he has to say today. For the record, put your sidewalks in, put them on the right-of-way. If you cannot put them on the right-of-way, get someone to talk to him that will be transparent and answer his questions. They do not need to be harassed anymore. He is upset and has a good reason to be upset. And since he was there, they can ask him any questions on that sidewalk and he will be totally transparent with them.

Mayor Jensen said that, hopefully, we can get this worked out this summer so we can get the sidewalk in, but just so Mr. DeBottis understands in terms of what he is talking about the different amounts of money. That is for roadway right-of-way and the easement for Mr. DeBottis was only to put the sidewalk in. The sidewalk needs to be put in the right-of-way so if he would have given it to the City, the sidewalk just goes in there. That does not allow us to put a road on there. All the other ones that Mr. DeBottis was alluding to were ones that were going to need roadway, and you need to put a sewer through there, which is completely different.

Mr. DeBottis said that he agreed and they talked about this before. The property has one easement from the school and he knew about that when he bought the property. He owns a lot of commercial property and a lot of residential property in different cities. He is familiar with easements and property rights. The more easements you put on the property it starts to devalue the property. He knows that this is just a sidewalk easement but that will be easement number two and then there has been trespass as they have discussed, from other homeowners that that have never gotten an easement to this day and there have been legal issues about that, so he has been pushed around. And then he also brought to Mr. Gasior another problem: If the sidewalks go past the right-of-way and if he wants to sell the property eventually to a developer or he wants to build homes, what happens to his setbacks? He has given the City 20 to 30 ft. to put in their sidewalks; what happens to his setbacks? He has legitimate concerns and he is not going to be ignorant; he wants to protect his family, his investment, and his property. He said that he will be fair, so be transparent with him. Greatness is based on two things: consistency and transparency; that is what he learned. He managed a very large company for many years and never had a problem. He never had anyone sue him. He had to fire over 50 people in his lifetime, all done properly. He did it through transparency and being fair and honest with these people. That is all he asks of the City. If he has legitimate questions, do not blow him off and say he is crazy or they are going to call the County to raise his taxes. And again, he has been a good steward to this City and he wants to continue to be a good steward but he does not want to put up with all this anymore.

Mr. McBride asked if the right-of-way was not wide enough there to get a sidewalk in the right of way? Mayor Jensen said that the right-of-way is closer to the road than it is on the other properties. Mr. McBride asked, but are we trying to push the sidewalk back to get it off the road? Mayor Jensen said, no, it lines up with the other sidewalks. There are some areas that we can work around and that is what he and Mr. DeBottis were going to try to work out.

Mr. DeBottis stated that he also wanted to say that there was a tree on the far west end of the property line. It was a pine tree, probably 50 to 70 years old. He came by one day and it was cut down and the stump was ground out. He was told that it was in the right-of-way of the sidewalk and he accepted that. But now the sidewalk is supposedly not going to go in there so why did a 50 to 70 year old pine tree with aesthetics for the property have to be cut down and not a word ever said to him? Then the adjacent property owner said it was her tree but it was not her tree; it was our tree. He had the property staked; every 40 ft. he has property markers on that property. That was our tree and now the tree is gone for no reason and there is not going to be a sidewalk to go where that tree was. He never had anyone say that they would replant a tree for him or that they would compensate him for the tree that they took down.

Mayor Jensen said that the claim from the neighbor on that tree was that it was a family tree that they put in as a memorial. Mr. DeBottis said but the thing is, if someone would have gotten with him before the tree was cut down, right next to that tree there was a metal stake. That

was their tree; he does not care what anyone else says and he never got upset about it because the City said the sidewalk had to go in there but the sidewalk never went in and now you are saying it is not going to go in there so why did the tree have to come down? Mayor Jensen stated that it should have lined up with that other sidewalk. Mr. DeBottis said that he understands but again, these things just keep snowballing with them; who are they supposed to trust or believe? He thanked everyone for their time.

ADJOURN: 8:28 p.m.

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

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