

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, MAY 11, 2020
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:00 P.M.**

PRESENT: Council Members: 1st Ward – Bob Butkowski; Council-at-Large – Brian Fischer; Council-at-Large - Tammy Holtzmeier; 2nd Ward - Dennis McBride; 3rd Ward - Tony Moore; 4th Ward - Scott Radcliffe; Council-at-Large - Craig Witherspoon; Mayor - Bryan Jensen; City Engineer - Ryan Cummins; Service Director - Mike Farmer; Planning and Economic Development Coordinator - Pam Fechter; Law Director - John Gasior; Finance Director – William Logan; Clerk of Council - Barbara Brooks

ABSENT: Safety Director - Duane Streator

Council President Fischer welcomed everyone back and was glad to see that they are remaining healthy. He advised that while wearing a mask may be somewhat annoying, it is going to be the norm for now and they will continue this meeting format through the rest of the month of May and then reevaluate for the month of June. Mr. Fischer emphasized that when speaking tonight, the masks will muffle their voices and he reminded them to speak clearly. He asked those who approach the podium to please use the provided Clorox wipes to clean the microphone when finished speaking and there is hand sanitizer available if needed.

1. **DISCUSSION OF TREX TRANSFERS (LIQUOR LICENSING)**

Kristin Havanas, Owner/Operator of Pinspiration and Attorney Tom Jeffcott

Kristin Havanas of North Ridgeville said that she and her husband Michael Havanas are new small business owners that chose Avon as the place to open their new business, Pinspiration, to be located at 34970 Detroit Road, Suite 240, Avon. She stated that their business will be a place that encourages inspiration and creativity through do it yourself projects as well as team building exercises. They offer a huge variety of projects and events such as baby showers, bridal showers, date nights and they also showcase local artists to teach others their gifts and talents. Ms. Havanas advised they also bring in different local artists goods to sell and showcase them in the studio. She said they support the local schools and are huge with fundraising and community and being a big part of the City. She said they are a Pinterest inspired studio so anything that is trending on Pinterest is what they try to bring in, so their projects are ever changing, and they do adapt. Ms. Havanas advised they also bring that adaptability to corporations and companies so they do not just target someone coming into the studio, but they can bring the studio to them as well. She said they went through an extensive interview process with the franchise and out of 7,000 applicants they were chosen to be the first in Ohio and they are backed by the FDA and is a proven business model; however, she and her husband are funding this venture solely and they have invested their livelihood into this company. Ms. Havanas stated her business is not a bar but is part of the experience from the event standpoint on why they offer wine along with mimosas and champagne because it is a celebratory place. She said she did her research and knew that Avon had reached their liquor permit quota and she is first on the waiting list, but because of the business model and their projected revenue she needs to get that wine permit, which took her down the path of a TREX transfer to make sure their projected revenue for the company was on target.

Tom Jeffcott advised he is an attorney based in the Columbus area, but he represents clients that work in the hospitality industry all over the State of Ohio. He said he is here primarily to answer questions Council may have regarding this TREX transfer process. Mr. Jeffcott stated normally liquor permits are on a quota as there are a finite number of permits in every City and in Avon there are twelve D2 wine permits available and all twelve are

currently issued. He advised Ms. Havanas is first on the waiting list; however, with her business being ready to open she is interested in a TREX transfer meaning that they would take a permit from a different City and move it into Avon. Mr. Jeffcott explained this is something the City has allowed before; however, it is his understanding that in the past the City signed off on TREX transfers for larger projects. He said the State allows for any TREX transfer if the City determines it is an economic development project and that is what they are here to discuss. Mr. Jeffcott stated if the City agrees then they will be able to transfer this permit to Ms. Havanas' business in Avon and she will be able to serve wine to her customers.

Ms. Havanas advised people are very excited and very receptive of her business and it is a place for all ages. She said they have projected sales in mind and during this difficult time COVID-19 is negatively impacting small business owners. Ms. Havanas stated they were supposed to open at the end of April and have lost money already by not opening. She said when it comes to the social distancing guidelines and regulations it is definitely going to impact her business. Ms. Havanas stressed it is very important to her to make sure she hits her revenue goals from a financial standpoint. She indicated Martin Construction and Development LLC is the property owner and he has been helpful and encouraging to them and has developed this northeast corner of Detroit Road and Jaycox Road and made something beautiful and it does take small businesses such as hers to come and support that development. Ms. Havanas stated she views her small business along with others in the City as economic development as they bring revenue into the City.

Mr. Fischer asked if there was a threshold the State has as to what qualifies as an economic development project and how does Ms. Havanas' business fall under that threshold.

Mr. Jeffcott advised the State does specifically define economic development. He said when the legislation passed to create this TREX transfer process the State was more hesitant to approve these, but over the years the State just looks at whether the City itself is willing to recognize this as economic development. Mr. Jeffcott stated there is a single form, essentially a TREX transfer addendum, that is submitted to the State of Ohio and they look to see that the City has signed off on the form and that is good enough for the State. He said he has experience in helping clients do TREX transfers. Mr. Jeffcott advised this is a great opportunity to help small businesses or to help stimulate growth in smaller communities recognizing that while populations may be smaller there may be people who want to open a business and issued a liquor permit and this gives them the opportunity to bypass that quota and bring in an extra permit specifically for that location. He explained they would not be adding to the quota as this is a quota exempt process but adding that a TREX permit allows the opportunity for that specific business to utilize that permit.

Mr. Butkowski asked since that liquor permit would only be valid for that specific location, if that business should move where would that liquor permit go.

Mr. Jeffcott answered that would be up to the permit holder, in this case Ms. Havanas, who would have the opportunity to try to sell that permit to move it somewhere else or she could cancel the permit and it would go away.

Mr. Butkowski asked if she could sell it to another business in Avon.

Mr. Jeffcott said the City would have to sign off on that again as another TREX transfer.

Mr. Butkowski asked Ms. Havanas if she considered the option of a bring your own beverage (BYOB) scenario or was that not in the business plan of the franchise.

Ms. Havanas replied it is not in the franchise's business model with the sale of wine and champagne as a part of the entire experience.

Mr. Jeffcott advised BYOB laws in Ohio are kind of a gray area as there is not a specific BYOB license for a business. He said technically if a business has a BYOB option and the business is open to the public then the business is allowing patrons to drink in a public space and those patrons could get in trouble with law enforcement potentially for an open container violation. He added if the business owner then charges any sort of corkage fees or similar fees, they could face criminal charges for violating the specific statute that prohibits that sort of behavior. Mr. Jeffcott cautioned Ms. Havanas that if the TRES transfer does not happen for her he would not encourage her to do a BYOB option.

Mayor Jensen advised the struggle for Painting with a Twist where the patrons brought in their own wine was the fear of people leaving the establishment with open containers and other issues that went along with allowing that kind of activity. He said this business, Pinspiration, is a unique situation as far as what it means to that area of the City with a new commercial building that needs to have tenants especially in light of the issues going on in the world today. Mayor Jensen stated he was not sure there was any harm in allowing this TRES transfer for a wine permit and if the City can help a small business during these times, he felt it was in everyone's best interest to look at it closely. He agreed they did not want to arbitrarily allow just any business a TRES transfer, but he felt this is different because it would not be taking business away from another establishment just because someone had a glass of wine while making a craft, but is enhancing this business. Mayor Jensen felt it helps with the economic development of that area of the City.

Michael Havanas stated they are very excited about their location and the proximity to Olde Avon and the shopping plazas in that area and their relationships with other painters and creativity creators that they will be able to sell and supply materials for their businesses. He said not only are they looking to bring more people into the area that visit the other businesses, they will also be able to promote other artists' work that will bring in revenue and other jobs. Mr. Havanas advised their plan is to continuously grow their employee base and they offer summer camps and a variety of things for children in a safe environment.

Ms. Havanas added their business is not only about art, but anything that provides inspiration on the platform of Pinterest could be translated to their business whether fashion, home décor, cooking or many other kinds of offerings. She said they plan to hold workshops to utilize such a wide spectrum of events to attract groups of people to learn something new and have fun with their friends.

Mr. Fischer felt it is a fantastic idea and said many on Council are small business owners themselves and he does not believe any of them are against the business itself. He advised they were here to consider the issue of the TRES transfer and how that affects the City and if they allow it for this business if that opens the gate for other businesses to do the same or is it something Council can consider on a case by case basis. He felt it was unique in the fact that the business would be located in a new building and he wondered if the City could restrict it to that kind of criteria. Mr. Fischer asked Attorney Jeffcott why every business was not requesting a TRES transfer. He asked if people see this option as jumping the line.

Mr. Jeffcott advised most people do not know this is an option. He said when people learn about liquor permits, they automatically think it is on a quota system. Mr. Jeffcott stated this might open opportunities for other people in Avon to request a TREX transfer and most cities allow them on a case by case basis. They have to ask themselves if this is truly economic development as they are the gatekeepers and it is completely up to the City and the State allows the City to have that power. He encouraged Council and the City to consider them on a case by case basis as it protects the integrity of that power. Mr. Jeffcott advised with this instance they have an opportunity to enhance their business model with this wine permit and they were not asking for a hard liquor permit and it was a not a nightclub situation. He felt approving the TREX transfer was giving Ms. Havanas the best chance for her business to succeed.

Ms. Fechter asked the hours of operation.

Ms. Havanas answered that right now they are a little different because of COVID-19, but they are targeting to open in June. She said the business will be closed on Mondays and the hours are Sundays 12-6, Tuesday, Wednesday, Thursday 10-8 and Friday and Saturday 10-9 with the last reservation being at 8 p.m.

Mr. McBride stated this business is in his Ward and most of the liquor permits were in his Ward and he did not see allowing this TREX transfer as a big issue although this was not economic development in the traditional sense in Avon.

Mrs. Holtzmeier asked what City the original permit is coming from.

Mr. Jeffcott advised the business name is Viva Bene LLC and he could not remember the specific City as he does not represent the seller, but he believes it is a northeast Ohio City.

2. [ORDINANCE NO. 39-20](#) – TO PROVIDE FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$4,000,000 BOND ANTICIPATION NOTES OF THE CITY OF AVON, OHIO IN ANTICIPATION OF THE ISSUANCE OF BONDS TO PAY THE PROPERTY OWNERS' PORTION AND THE CITY'S PORTION OF THE COSTS, IN ANTICIPATION OF THE LEVY AND COLLECTION OF SPECIAL ASSESSMENTS, RELATED TO THE IMPROVEMENT OF ELIZABETH AVENUE, JOSEPH STREET, PUTH DRIVE, AND DETROIT ROAD BETWEEN THE ADDRESSES OF 34008 AND 34901 BY THE CONSTRUCTION OF A SANITARY SEWER, TOGETHER WITH ALL NECESSARY APPURTENANCES AND RELATED IMPROVEMENTS THERETO

Mr. Logan

The third of three readings of Ordinance No. 39-20 will be at the
Regular Meeting of Council on Monday, May 11, 2020

Mr. Logan advised they would be selling the notes once they know when the construction bid is going to be awarded. He said they would like to time the selling, so the City does not take these proceeds too soon. Mr. Logan stated as the awarding of the construction bid gets closer, they will be in line to sell the notes and he did not feel the interest rates were going to move drastically one way or another in the next couple of weeks. He said assuming Council passes this tonight at the Regular Meeting, they would be in good shape.

3. [ORDINANCE NO. 43-20](#) – TO AMEND CHAPTER 838 OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO ADOPT CHANGES TO THE CITY'S REGULATION OF MOBILE FOOD VEHICLES

Lt. Dudziak, Avon Fire Department

The second of three readings of Ordinance No. 43-20 will be at the
Regular Meeting of Council on Monday, May 11, 2020

Lt. Dudziak advised it was about three years ago that he worked with Mr. Gasior on implementing these regulations to get ahead of the game because he knew food trucks were becoming more prevalent and allowing food trucks was new to the City of Avon. He said hopefully our State will get on board and finally adopt an NFPA 96 (standard for ventilation control and fire protection of commercial cooking operations) which is very strict and if they do, this Ordinance would be a moot point because it is much stricter. Lt. Dudziak indicated the City implemented this three years ago as more of a protection from liability as these vendors are out there. He said the first year they went exactly by the Ordinance, but after a year he realized he probably did not need for it to be quite so involved from the City's standpoint because these vendors are responsible to ensure the proper inspections for their vehicles and they are required to comply with Federal, State and Local fire safety statutes, regulations, ordinances, and codes. He explained they would like to change the verbiage from "seasonal special event permit" to "seasonal vendor permit" and reduce the cost from \$125 to \$50 for the calendar year and the fee for the one-time special event would be reduced from \$50 to zero. Lt. Dudziak stated they would like to be business friendly and there are businesses in the City who count on these food trucks for their business and the \$125 fee was too steep as these food truck vendors pay a fee in every City they operate in and to have two different fees for permitting was confusing. He explained the "one-time special event" previously called "application fee" was reduced to zero because they were already waiving that fee as the only one the City currently has is the Duck Tape Festival and these vendors were already paying \$1,000 each to be at this festival. Lt. Dudziak indicated he would recommend changing the 838.04(c) section to remove the language "~~and the Avon Fire Department shall inspect all mobile food vehicles~~" and add the language "**Mobile food vendors are responsible**" to ensure compliance... The last sentence in that same section would be changed as follows: "No food establishment or mobile food vehicle shall operate within the City unless it has a permit from the City and has been approved for operation by the Avon Fire Department". Lt. Dudziak explained they realized over the last few years that these vendors come into town on a Friday night or Saturday and it was not cost effective to pay overtime for his department to inspect these food vehicles on the evenings and weekends. He indicated there are certain requirements that need to be met on the application along with a copy of their drivers license and a copy of liability insurance for the file and the vendor is responsible to ensure compliance. The City accepts a permit stamp from the City of Cleveland stating they have had the required inspections thus putting the responsibility on the food truck vendor and not the City.

Mr. McBride advised based on the vendor presenting the Cleveland permit or other acceptable third party compliance paperwork, he was okay with this recommended change and he felt the nominal fee was not an issue. He said it makes sense that ultimately the responsibility for liability is on the food truck vendors for their vehicles.

4. [ORDINANCE NO. 44-20](#) – REAPPROPRIATIONS

Mr. Logan

Mr. Logan read the re-appropriations per the exhibit to the Ordinance. He said the majority of what is listed on the exhibit in the reduction side of the budget centers around projects that are either being delayed or are being taken out of the budget for this year. Mr. Logan explained the reason for the increase of \$150,000.00 from the General Fund to the Fire Department Fund is because the Fire Department will suffer both income tax reduction and reductions in EMS revenues. He said the City has already seen EMS revenues drop by approximately 25% over the last couple of months. Mr. Logan mentioned the SR83 & SR254 intersection improvement project will be moving forward this year with some additional engineering expenses.

Mr. Butkowski asked Mr. Logan to clarify the increase in appropriations of \$150,000.00 regarding Blue Dog Baseball.

Mr. Logan explained that is revenue the City is more than likely not going to see this year from the team if there are no baseball games. He said the City might receive one or two months of rent, but most likely not more than that. Mr. Logan advised \$250,000 is the annual rent and Blue Dog Baseball pays the City \$50,000.00 each month beginning in May. He said he met with Mr. Kramig the other day and Mr. Kramig applied for the second round of PPP (Payroll Protection Program) loan forgiveness funding. Mr. Logan believes Mr. Kramig received some of that PPP money. He said Mr. Kramig indicated to him that he would pay his May rent, but after that it was dependent on whether there is a baseball season this year. Mr. Logan advised the City has to pay debt service at the end of May for interest on all of the outstanding debt and generally the City would have paid that share out of the \$50,000.00 that would have been received by Mr. Kramig in May and that rent payment has not been received as yet. He said he is also anticipating the debt service the City will be paying in November where the principal amount is paid each year. Mr. Logan explained this appropriation is in anticipation the City would not receive that \$250,000 of rent this year. He said by the same token if the City does not receive that rent, they have in the budget \$600,000 to replace the turf at the stadium that was planned for after the baseball season. Mr. Logan stated if the team does not play baseball and the City does not receive their rent this year, the City is more than likely going to use that \$600,000 out of the budget for this year. He said Mr. Kramig has to meet his payroll with the PPP funds, but it could also cover rent.

Mr. Butkowski advised the PPP funding is based on the annual payroll of the business and he felt that should be more than enough to cover the City's rent obligation for the year.

Mr. Logan speculated that Mr. Kramig was going to receive a little over \$200,000 from the PPP.

Mr. Butkowski stated the amount was based on 2 ½ times the monthly payroll for the business and Mr. Kramig qualifies because he has less than 500 employees. He said his concern is that this is a way that Mr. Kramig is usurping the rent due even though he understands there are external conditions going on. Mr. Butkowski advised if Mr. Kramig is receiving federal funding to offset his rent and payroll, he has a fiduciary responsibility to the residents of Avon to fulfill his obligation.

Mr. Logan stated Mr. Kramig has indicated he would pay the May rent payment.

Mr. Gasior advised when they fill out the PPP application, they are anticipating their costs for the next 8 weeks.

Mr. Moore advised 75% toward payroll.

Mayor Jensen clarified that Mr. Kramig has made no indication that he is not going to fulfill his rent obligation.

Mr. Butkowski advised that is the reason he is asking for clarification with this line item in the appropriations as it was a significant appropriation without knowledge that Mr. Kramig will not meet his obligation.

Mayor Jensen felt they were just being cautious.

Mr. Logan advised this appropriation allows the City to pay that debt service out of Fund 301. He said if the rents come through and everything is fine, they will not pay it out of that fund account but will pay it from the Stadium Lease Fund.

Mrs. Holtzmeier said she understands the gesture to be proactive about the possibility, but she felt it is important that they do not put the cart before the horse. She stated if Mr. Kramig is in a situation where he is in arrears then that is when she would like to approach this situation from a reality standpoint. Mrs. Holtzmeier advised if they need to appropriate funds based upon real delinquency then that is when they should do that.

Mr. Logan advised if there may be no baseball games at that stadium this year; it is still undetermined about Major League baseball let alone Minor League baseball.

Mrs. Holtzmeier said she does not want to make Mr. Kramig's business decisions for him, but she would rather him show the City he is unable to make the payments and then Council and the City as the landlord can make appropriate decisions based on that information.

Mr. Butkowski stated he appreciates Mrs. Holtzmeier's comments because Mr. Kramig is the lessee and he should be coming to the City asking for relief as opposed to the City proactively providing potential relief.

Mr. Logan felt Mr. Kramig will meet his obligation when he has some more definitive answers.

Mr. Butkowski advised he would like to see that PPP funding come through as the Federal Government is already talking about a third round of funding and he felt that they were not done spending money. He said he did not want to preemptively give Mr. Kramig the opportunity for the City to carry him if there is relief coming to help cover his responsibility to the City. Mr. Butkowski suggested any appropriations be held off at this point until they have seen it through to the end.

Mr. Radcliffe advised all this appropriation is doing is allowing the City to cover its obligations if Mr. Kramig does not come through on his end. He said it was just putting the paperwork in place.

Mr. Logan confirmed what Mr. Radcliffe stated is right.

Mayor Jensen asked Mr. Gasior to confirm that this appropriation does not change Mr. Kramig's obligation.

Mr. Gasior confirmed it does not change Mr. Kramig's obligation and Mr. Logan concurred. Mr. Gasior advised Mr. Kramig is still obligated under the lease. He added that there are a lot of things happening at the Federal level. Mr. Gasior suggested asking that the PPP application filed by Mr. Kramig be shared with the City.

Mr. Logan advised he would talk with Mr. Kramig tomorrow.

Mr. Moore clarified that the business submits their payroll for the application process.

Mr. Gasior advised the obligation to pay rent for the stadium lease is there. He wondered if the City could even apply for funding since the stadium is owned by the City and as a result of the COVID-19 the City could potentially lose a tenant. Mr. Gasior said there are a lot of things going to happen over the next few months and as Mr. Radcliffe pointed out, they are just appropriating the money in case the City needs it to pay the debt service.

Mr. Logan advised they are not spending money and they were not relieving Mr. Kramig or anyone of any obligation, but this is just putting in place the ability to pay debt service.

Mr. Radcliffe clarified that the PPP funds were mostly for payroll and not toward rent. He said it is designed for the employer to help pay the employees and not necessarily to cover rent. Mr. Radcliffe advised that is the reason the Federal Government is looking at other avenues to help the retail establishments so businesses that will not be able to pay their rent can do so in a different round of funding, but he doubted it would be with the PPP funding.

Mr. Logan stated that Mr. Kramig seemed to indicate that with this round of PPP funding, which is round 2, that paying rent would be allowable from those funds.

Mr. Radcliffe advised he can, but no more than 25% of what is received can go toward rent, utilities and the like.

Mr. McBride indicated the key topic was whether to appropriate the funds in advance of knowing whether Mr. Kramig would be able to meet his rent obligation. He said the Auditors prefer the appropriation be in place prior to the funds being used and not after the fact and Mr. Logan was just following proper protocol so as not to

receive a “slap on the wrist” from the Auditors if it becomes necessary to pay that debt service in lieu of receiving it from Mr. Kramig.

5. ORDINANCE NO. 45-20 – AMENDING SECTION 1040.04 OF THE CODIFIED ORDINANCES RELATING TO BACKFLOW PREVENTION Mr. Bruce, Assistant Superintendent of Utilities

Mr. Bruce advised back in January they attended a Workshop with the EPA looking at backflow prevention and part of that was looking at each community’s Ordinance regulating backflow devices. He said this Ordinance is to clean up our current section of the Code and tweak some of the language. Mr. Bruce explained the main difference is in subsection (k). He said previously it specified that if the Utilities Department found a consumer without a backflow device in place that needed one that the City would install one for them and place the cost on their water bill and that is not in line with how they should be doing things. Mr. Bruce advised the new language states that the water service will be terminated until it is taken care of properly. He said they can always work with the property owner to ensure compliance, but he did not feel they should handle these situations using the old method by getting involved with a consumers’ internal plumbing. Mr. Bruce stated the other language change was from Director of Public Service to Superintendent of Utilities, which is how the authority is given from the EPA.

Mr. Gasior advised the Superintendent of Utilities holds the certificates that are required.

Mr. Bruce confirmed that to be true and said they are licensed as a certified operator.

Mr. Radcliffe asked if they know of buildings that do not have backflow devices installed.

Mr. Bruce advised it is possible, but not likely as they have conducted audits over the last few years where they found a few.

Mr. Radcliffe stated his concern is if those buildings have sprinklers installed and the City shuts off their water and then that building should have a fire if the City would be liable.

Mr. Bruce advised no, the owner would be notified in writing and would be given a time to comply and the City would work with them. He said typically the owner schedules the work with a plumber and the plumber contacts the City to discuss compliance by a specified date.

Mr. Radcliffe asked what if the owner fails to meet those requirements and they had a sprinkler system and the City shut off their water for failure to comply.

Mr. Bruce advised that property would be placed on fire watch from the Utilities Department to the Avon Fire Department. He said the Fire Department would then determine whether the building could continue to be occupied.

Mr. McBride said depending on the risk factor the Fire Department could issue a Cease Use order of a structure.

Mr. Bruce stated that the Ohio Revised Code is written the way that the City is getting in line with these updates to our Code and it was not something that the City was straying from the path other cities are on. He said he could find no other city that says they would do the work for the owner and place the cost on their water bill.

Mr. McBride explained there are a lot of service lines where the domestic service and the fire service line are two separate lines and they would not be shutting off the fire service line to get this issue resolved.

6. ORDINANCE NO. 46-20 – AUTHORIZING THE MAYOR TO ENTER INTO A MUTUAL AID AGREEMENT WITH OHIO WATER/WASTEWATER AGENCY RESPONSE NETWORK (OHIO WARN)

TO SHARE RESOURCES AND ASSISTANCE IN THE EVENT OF EMERGENCIES THAT DISRUPT UTILITY SERVICES

Mr. Bruce, Assistant Superintendent of Utilities

Mr. Bruce advised this Ordinance allows for a mutual aid agreement with Ohio WARN, an organization that many utilities departments throughout the State are a part of and is an organization to aid should there be a disaster or crisis in the water and/or wastewater area. He said this agency could help provide resources whether manpower, equipment or other during a disaster. Mr. Bruce stated FEMA and the State have made masks available to the water and wastewater sector and Ohio WARN has been given the task of distributing those masks and they are an organization that most communities are a part of and Avon should have been a member of for a while now. They hope to never have to utilize their services, but it is good to have it in place. He said his department would still utilize their local relationships such as Avon Lake and others before reaching out to this larger cooperative, but it is nice to have in place. Mr. Bruce added in light of everything going on today with the pandemic, they felt now was a good time to get this program adopted.

- 6a. ORDINANCE NO. 47-20 – TO ADOPT A MODIFIED WORK WEEK PROGRAM INCLUSIVE OF A VOLUNTARY COST SAVINGS AND LAYOFF AVERSION PLAN Mayor Jensen
Diane Szlempa, HR Specialist

Mayor Jensen advised each week he meets with the local Mayors and Managers to discuss different options each city is looking at implementing related to some cost saving measures during the pandemic. He said this program was brought to his attention by the Mayor of the City of Lorain who will be implementing this program. Mayor Jensen stated he asked Ms. Szlempa to look into the program to see how there would be a savings and how the program works, and Mr. Logan also looked into it with him as well. He advised he was not saying this program would be implemented right away, if at all, but to be able to present it to the unions they needed to have this Ordinance in place first.

Ms. Szlempa advised for the SharedWork Ohio Program, which is a longstanding program, but is particularly unique right now because under the CARES Act through the Federal Government, any employer who participates in the SharedWork Ohio program gets reimbursed by the State 50% of their unemployment. She said because the City is a reimbursing employer, because we are a public employer, the City is required to pay 100% of how much an employee applies for unemployment. Ms. Szlempa stated this program is available for public employers and the State will reimburse the City with Federal dollars for 50% of any unemployment through December 31, 2020.

Mr. Logan stated one thing to keep in mind with this program is that it is voluntary layoffs. He said the employee, and there has to be at least 2 participating, would voluntarily agree to reduced hours and they could collect unemployment of which the City, as the employer, would be reimbursed half of that furloughed amount. Mr. Logan added the employee would also receive the \$600 a week additional from the Federal Government by the CARES Act.

Ms. Szlempa stated the employer has to group everyone by their jobs, either jobs that are similar or jobs that affect other jobs. She said once everyone is grouped then the City can apply for the SharedWork Ohio and it takes 30 days for a response to be received from SharedWork Ohio. Ms. Szlempa advised the additional \$600 that Mr. Logan mentioned only lasts through July 25, 2020. She said if City employees decide to participate, in order to receive the extra \$600, the paperwork needs to begin soon so that the City can get into the program.

Mr. Fischer asked if the program only goes through July.

Ms. Szlempa clarified the SharedWork Ohio goes through December 31, 2020, but the \$600 additional per week per employee ends July 25, 2020.

Mr. Logan said anyone receiving unemployment right now can receive \$600 per week additional from the Federal Government through July 25, 2020.

Ms. Szlempa advised any individual who qualifies for at least \$1 in unemployment income can receive the additional \$600 per week.

Mr. Fischer asked what happens for the employee after that additional \$600 a week stops. He asked as to how long they should expect to be laid off. Mr. Fischer asked if the employee can decide when they can come back to work and leave the program.

Ms. Szlempa advised the employee would have to give the employer a 14-day notice that they would like to return to full hours at their job. She said the City would then need to verify that the employee can come back for all the hours.

Mr. Butkowski asked if an employee is collecting unemployment, were they still eligible to receive their healthcare benefit.

Ms. Szlempa stated it is written in the Ordinance that it does not affect the employee's healthcare benefits or their OPERS or OP&F benefits, but the City is not asking anyone in the safety forces to participate. She said the most they are considering reducing the employee's hours is a 32-hour work week for full-time employees, which is one whole work day and they would still qualify under Federal regulations for OPERS.

Mr. Gasior indicated Exhibit A to the Ordinance, that was sent out to Council this afternoon by email, includes the addendum that outlines that benefits such as healthcare and OPERS would continue to accrue.

Mr. Radcliffe asked if they had calculations on the number of employees who want to participate and what it would look like.

Ms. Szlempa advised they have looked at at all the non-exempt employees as to how many employees could participate and that includes the full-time non-bargaining unit employees and the permanent part-time employees. She said in order for them to have a clear picture of what the program might look like they have to present it to the bargaining units, which is AFSCME and Teamsters to see if they are willing to volunteer to participate, but they cannot present to the unions without having this Ordinance in place.

Mr. McBride said there have been instances of people already taking advantage of this program and avoiding the risk of exposure to the virus.

Mayor Jensen advised if the City should move forward with this program, that \$600 a week is more than some are earning now, but it would be with the understanding that if the employee took a voluntary layoff it was not for how long the employee wants to be laid off, but the City would have to agree on how long they would allow the employee to be on a reduced work week. He said the employee could ask to come back sooner, but the City is looking at it as a way to offset the budget losses. Mayor Jensen indicated if the layoff should go for months, the employee would have to save while they were receiving the extra \$600 weekly for when they were still on a reduced work week and no longer receiving those extra funds. He said this is a tool for the City to utilize and he was not sure it was going to be necessary to implement the program, but in order for it to be considered, the Ordinance has to be in place. Mayor Jensen advised because there was the 30-day waiting period, there was not a lot of time for employees to take advantage of these additional monies. He reiterated that it would be with the understanding that whoever volunteers for a reduced work week would have to budget accordingly as the layoff may go as long as through December 31, 2020. Mayor Jensen stated they will not be forcing anyone to participate in this program, but if the City has to lay off employees that may be a forced issue at some point.

Mr. Butkowski asked if this program will have to be bargained with the unions because it is a change.

Ms. Szlempa advised they will have to bargain it because it would be considered an MOU since the unions have specific language about how their layoffs work in their contracts. She said a benefit would be if they decide to go

with this as an MOU, it keeps their bargaining unit intact and the employees would all share responsibility of having time off instead of having one person not only lose their position in a layoff, but also their health insurance and their retirement and the like.

Mr. Butkowski asked if it would have to be equal across that entire bargaining unit, meaning the employees would all have the same number of days off.

Ms. Szlempa advised it would be a voluntary program so it would be for the participating employees. She said if they all choose to volunteer it would be wonderful because all the employees in that group would share in the burden. Ms. Szlempa said they need at least two participants to be able to report to SharedWork Ohio.

Mr. Gasior advised there was an article in yesterday's Chronicle Telegram about the City of Lorain operation and how it was implemented. He believes it was mentioned in the article that there were about 240 employees that were impacted, and the City was probably going to save approximately \$700,000. Mr. Gasior added it is not something Mayor Jensen intends to do right now, but it is another one of those tools in the arsenal because it could save the City money.

7. REPORTS AND COMMENTS

MAYOR JENSEN reported the signs thanking the healthcare workers would be distributed throughout the City at all the nursing homes and healthcare facilities. He provided a list to City Council of all the facilities where a sign would be located and if they knew of a place not listed that should be recognized to please let him know. Mayor Jensen said the sign includes the elected officials and department heads on behalf of all the City employees, thanking the healthcare service workers including the nursing homes.

Mayor Jensen advised there are emotions on both sides of the issue regarding the pool being closed for the season and he was sure that would go on for some time.

COUNCIL MEMBERS:

MR. BUTKOWSKI, WARD 1 had no further comments.

MRS. HOLTZMEIER, AT LARGE advised regarding some of the re-appropriation comments, it was mentioned that EMS revenue was down 25%.

Mr. Logan advised that is a small sample size right now, but it is and it is what the billing and collection company, Great Lakes Billing, is projecting for the rest of this year. He said it happened to be what the City projected before seeing their projections. Mr. Logan stated when the April figures came in, they were down about 25%.

Mrs. Holtzmeier asked if that was a fair correlation to runs also being down the same percentage.

Mr. Logan answered more than likely, but with the re-openings of different entities/establishments, the runs will pick up and the revenue might even pick up again as well.

Mrs. Holtzmeier said Mr. Cummins disclosed to everyone last meeting about the NOACA grant and they have had a good conversation this past week through emails about some questions in that grant and some decisions City Council has coming up regarding the French Creek Trail. She stated in anticipation of that grant/trail discussion she wanted to bring up some of the planning process and how it is defined where is an appropriate place within the City for a trail versus where is an appropriate place for a sidewalk and whether it should be asphalt versus concrete. Mrs. Holtzmeier asked Mr. Cummins to provide some clarity to that issue, but she did not think it was very well spelled out in language as to whether a trail should go in front of a private residence for example and was it appropriate in our language to have something 10' wide in asphalt in front of residential driveways. She said in looking throughout the City, generally they have trails that run parallel to a lot of neighborhoods, the Red Tail area being one of them, and near other subdivisions there are trails and of course there are sidewalks everywhere. Mrs. Holtzmeier advised she wanted to bring that up and it is a bit of a domino effect that they may want to discuss as a group or have Planning Commission discuss as to the appropriateness

of trails versus sidewalks within specific residential areas especially driveways and to look at some design standards that include the size of the sidewalks regarding their width as it varies based on the area.

Ms. Fechter added before the pandemic shut things down, Mr. Witherspoon mentioned convening a meeting to discuss that topic within the Parks and Recreation Committee of Council. She said the consultant, Envision, that was hired to do our City Master Plan is on notice that we want to discuss all the particulars and the consultant is ready whenever the City is able to hold Committee meetings once again to share his knowledge of what he has worked on in various cities.

Mr. Witherspoon agreed that he and Ms. Fechter discussed it should go before the Parks and Recreation Committee to begin those conversations.

Mrs. Holtzmeier felt that was appropriate and it was the right vetting for this topic.

Mr. Cummins advised the trail location was determined through the Envision Group as there was about a year long planning process, multiple public hearings, multiple opportunities for the public to weigh-in with what they wanted to see as far as community access and a path as well as looking at destination points within the City, schools, community buildings, parks and commercial areas. The result of that was the tentative Master Plan that Envision produced last fall. He said the consultants are more than happy to come back in and talk further about that, but there was a pretty substantial year long process in determining those locations. Mr. Cummins stated as far as the width goes, if they will be seeking funding to build those area, by and large they need to have something at least ten feet wide as that is what has been determined to be a multi-purpose path. He said to receive funding from NOACA, that ten feet is the width that is required. Mr. Cummins stated if they were to reduce the width they would more than likely lose that funding. He said they could certainly have a discussion about it in Committee meetings and go through all of those details, but he wanted to provide a little bit of the background.

Mrs. Holtzmeier asked if there was a timeframe that there needs to be a decision to NOACA about the acceptance of that grant money.

Mr. Cummins advised he is waiting to hear from the representative of NOACA regarding those funds and he does not have a timeframe. He said they are required to submit a Project Scope document to ODOT by June 1st so they have to do some amount of work to get that document prepared and he felt that was wise to do and it was not a lot of effort and it keeps their options open. Mr. Cummins stated the City will have great input on setting the schedule from that point and they could choose whether they want to wait until next year and see how the funding plays out and the like. He said he would pass along the information as soon as he hears from NOACA.

MR. MCBRIDE, WARD 2 advised he does not need an answer tonight, but approximately 6 weeks ago he met with Mr. Cummins and Mr. Farmer and they looked at the sidewalk on Nagel Road and it is definitely in need of attention. He said Mr. Cummins and Mr. Farmer will be discussing the situation with the Mayor and the Red Tail Developers.

Mr. Cummins advised they do not have an update yet, but it is something that will probably require some more discussion both with Mr. McBride and the Administration.

MR. MOORE, WARD 3 had no further comments.

MR. RADCLIFFE, WARD 4 had no further comments.

MR. WITHERSPOON, AT LARGE had no further comments.

MR. FISCHER, AT LARGE reminded Council that the next time they will meet will be Tuesday, May 26th after Memorial Day.

Mr. Fischer reminded everyone this is Police Week and last week was Nurse's Week and he wanted to mention that now more than ever we realize how important our healthcare workers and our Safety Forces really are to a community especially during a crisis.

Mr. Fischer advised there will not be a Memorial Day parade held this year, which is sad, but people are finding other ways to memorialize those who made the ultimate sacrifice and he asked people to remember them this week.

Mr. Fischer advised regarding the TREX transfer and the presentation tonight, he was waiting to hear if there was any dissent or objections with allowing it to go forward. He said it was really not something that Council votes on, but is something that someone from the City has to sign off on the request. Mr. Fischer stated he would give Mr. McBride the right of first refusal since the business will be located within his Ward. He said he considered referring it to the Economic Development Committee, but he did not want to make the applicants wait unless someone had good reason that it should go to Committee.

Mr. Witherspoon felt they should be allowed to serve wine.

Mr. Fischer advised he knows Mr. Gasior had some concerns and his concern was to not open the flood gates by setting a precedent, but he had no problem with their presentation and after speaking with the Mayor about this topic he did not see an issue with allowing it. He said unless there were other concerns, he was not going to send it to Economic Development Committee.

Mr. Gasior advised he is glad the applicants came before Council. He said the reason this could be a problem is because TREX transfers are relatively new, about ten years, and they have the potential of circumventing the quota system. Mr. Gasior stated this is a C2 license, which is just a wine license, and when you get into the D5 licenses or those licenses for beer or hard liquor and you have people on a quota system who are on a waiting list and then they TREX transfer a license in, they are creating a precedent that the City may not want to create. He said it is very easy to do because it only takes a signature from one Council Member or the Mayor and have them sign the application and it is done. Mr. Gasior advised six months later the Economic Development Coordinator is contacted about a TREX transfer and the City does not know if anyone has signed off on a previous TREX transfer and they tell them they must have an economic development component to it. He said it is good that when a TREX transfer comes in, the guidelines should be that they are required to come present before City Council. Mr. Gasior cautioned against any single Member of Council signing an application for a TREX transfer without the applicant first coming before the whole Council for discussion. He said the City previously approved Beerhead for a TREX transfer in the shopping center next to Levin Furniture on Nagel Road across the street from Meijer for a full D5 license. Mr. Gasior felt that could be argued as an economic development TREX transfer because that business was going into a new building. He said there will be more TREX transfer requests that are going to be more problematic when it comes to that economic development component and Council should be careful. Mr. Gasior reminded them if the business closes that owner can sell her liquor license because it is a commodity. He said he was glad they came before Council and that they could make a decision based on the presentation.

Mr. McBride advised he and several other officials spoke with the applicant prior to tonight and he told her he was not opposed to it, but he felt there needed to be some type of economic development and he suggested they come before Council and present their case so all of Council could hear their claim. He felt it was not as big of a deal since it is only a wine permit. Mr. McBride agreed they should be cautious about what is done with D5 permits especially in this climate.

Mr. Gasior advised it is helpful for Ms. Fechter and him to be able to tell an applicant that they have to come before Council as a whole with a TREX transfer.

Mr. McBride agreed and said he told the applicant he wanted to speak with the Council President, the Mayor and the Law Director about this first and he made no promises and he felt that should be standard procedure.

Ms. Fechter added there was another business asking for a TREX transfer from a business that was trying to be sold and they wanted the City to give them the ability to do the TREX transfer so they would have a better opportunity to sell. She said that was a definite no and they are not even going to bring it before Council, and she was letting them know they try to take a look at the whole picture. Ms. Fechter advised while Ms. Havanas will not have a lot of employees per se, it still is helping that area of the City and giving a resource for the residents who are looking for something unique to do. She thanked Council for their consideration.

Mr. Gasior advised TREX transfers came about because owners were holding onto them trying to get as much money as they could in a sale, and it is in the State's interest to sell those licenses and allow businesses to sell liquor because that generates revenue for the State, but at the same time give some local control and try to be cognizant of the people on waiting lists.

Mr. Fischer agreed it was good to establish a policy and for everyone to be on the same page.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no further comments.

MR. FARMER, SERVICE DIRECTOR had no further comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR gave an update on COVID HEROES-HEALTHCARE WORKERS that the City was doing in conjunction with Avon Lake. She said the program closed today and she was happy to report that she received nearly \$1,000 in gift cards to distribute amongst the three healthcare facilities. Ms. Fechter stated people really stepped up and donated and she thanked them all for their support.

MR. GASIOR, LAW DIRECTOR advised regarding the appropriation of that section of Detroit Road where the City needs to run the sewer, a lot is dependent upon the City obtaining the rights on three more parcels of land before the City can advertise for bids and then sell the notes. He said he is dealing directly with those last three property owners and at the very least will try to get a right of entry from them if not settle. Mr. Gasior stated he is hoping they can get something accomplished over the next ten days so that Council will be in a position to award the bid on Tuesday, May 26th.

MR. LOGAN, FINANCE DIRECTOR had no further comments.

Mr. STREATOR, SAFETY DIRECTOR was absent.

AUDIENCE:

No comments were made from the audience.

8. ADJOURN: 8:33 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