

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, MAY 13, 2019
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

The Chairman, Council President Craig Witherspoon, called the meeting to order and led the Pledge of Allegiance.

PRESENT

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

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, APRIL 15, 2019

A motion was made by Mr. McBride and seconded by Mrs. Holtzmeier to dispense with the reading of the minutes of the Work Session of Council held Monday, April 15, 2019, and to approve said minutes as published, and the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “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 22, 2019

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, April 22, 2019, and to approve said minutes as published, and the vote was: Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “yes”.

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

ORDINANCE NO. 25-19 – AUTHORIZING A SPECIAL USE PERMIT TO THE RUFF CARLTON, LLC TO AUTHORIZE THE USE OF ANIMAL BOARDING FOR THE PROPOSED LUXURY DOG HOTEL AND DAYCARE TO BE LOCATED AT 1290 CENTER ROAD

The Clerk read Ordinance No. 25-19 by title only, entitled:

AN ORDINANCE AUTHORIZING A SPECIAL USE PERMIT FOR PROPERTY OWNED BY EXCHANGERIGHT NET LEASED PORTFOLIO 9 DST, AND THEIR LESSEE, (THE RUFF CARLTON, LLC), LOCATED AT 1290 CENTER ROAD TO ALLOW CONSTRUCTION AND OPERATION OF A LUXURY DOG HOTEL AND DAY CARE AND DECLARING AN EMERGENCY

The Chairman declared this to be the third of three readings of Ordinance No. 25-19.

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 25-19, and the discussion was: Mr. Gasiar advised that Council received a copy of the letter from Advance Auto Parts that was addressed to Exchangeright and signed by Exchangeright's Manager, Warren Thomas and they did permit the use under the terms of the lease. He said so there is no impediment in that regard any longer and it is up to Council to decide.

And the vote was: Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Butkowski, "yes"; Mr. Fischer, "yes"; Mr. Witherspoon, "yes".

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

ORDINANCE NO. 39-19 – REAPPROPRIATIONS

The Clerk read Ordinance No. 39-19 by title only, entitled:

AN ORDINANCE TO AMEND AND SUPPLEMENT APPROPRIATIONS ORDINANCE NO. 93-18 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. 39-19, and the vote was: Mr. McBride, "yes"; Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Butkowski, "yes"; Mr. Fischer, "yes"; Mrs. Holtzmeier, "yes"; Mr. Witherspoon, "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. 39-19, and the discussion was: Mr. Logan explained one item was added as discussed last week and we are asking to increase appropriations in the General Fund \$70,000 for 10 new solar powered radar speed signs.

And the vote was: Mr. Moore, "yes"; Mr. Radcliffe, "yes"; Mr. Butkowski, "yes"; Mr. Fischer, "yes"; Mrs. Holtzmeier, "yes"; Mr. McBride, "yes"; Mr. Witherspoon, "yes".

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

ORDINANCE NO. 40-19 – REZONING THE 6.18 ACRE REMAINDER OF THE 10.53 ACRE PARCEL OF LAND LOCATED AT 37520 COLORADO AVENUE FROM R-2 TWO-FAMILY RESIDENTIAL DISTRICT TO C-4 GENERAL BUSINESS/GENERAL BUSINESS DISTRICT OVERLAY

The Clerk read Ordinance No. 40-19 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, OHIO, AS AMENDED, REZONING THE 6.18 ACRE REMAINDER OF THE 10.53 ACRE PARCEL OF LAND LOCATED AT 37520 COLORADO AVENUE, PERMANENT PARCEL NO. 10-04-00-010-111-096 FROM R-2 TWO-FAMILY RESIDENTIAL DISTRICT TO C-4 GENERAL BUSINESS/ GENERAL BUSINESS DISTRICT OVERLAY

The Chairman declared this to be the first of three readings of Ordinance No. 40-19 and advised a Public Hearing would be held at 7:20 p.m. on Monday, June 10, 2019.

ORDINANCE NO. 41-19 – TO AMEND SECTIONS 1270.03(b)(11) AND 1280.05(gg) OF THE CODIFIED ORDINANCES OF THE CITY TO INCLUDE VETERINARY OFFICES ON THE SCHEDULE OF PERMITTED AND SPECIAL USES IN C-2 CENTRAL BUSINESS/FRENCH CREEK DISTRICTS

The Clerk read Ordinance No. 41-19 by title only, entitled:

AN ORDINANCE TO AMEND SECTIONS 1270.03(b)(11) AND 1280.05(gg) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO INCLUDE VETERINARY OFFICES ON THE SCHEDULE OF PERMITTED AND SPECIAL USES IN THE C-2 CENTRAL BUSINESS/FRENCH CREEK DISTRICTS

The Chairman declared this to be the first of three readings of Ordinance No. 41-19 and advised a Public Hearing would be held at 7:25 p.m. on Monday, June 10, 2019.

ORDINANCE NO. 42-19 – TO AUTHORIZE A DEVELOPER’S AGREEMENT WITH JAF ACQUISITIONS, LLC AND CONCORD VILLAGE PHASE TWO, LLC FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS

The Clerk read Ordinance No. 42-19 by title only, entitled:

AN ORDINANCE TO AUTHORIZE A DEVELOPER’S AGREEMENT WITH JAF ACQUISITIONS, LLC AND CONCORD VILLAGE PHASE TWO, LLC FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS AND DECLARING AN EMERGENCY

A motion was made by Mrs. Holtzmeier and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 42-19, and the vote was: Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Witherspoon, “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. 42-19, and the discussion was: Mr. Logan advised all the required deposits have been received for the authorization of the Developer’s Agreement.

And the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”.

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

ORDINANCE NO. 43-19 – AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE REAL ESTATE LOCATED AT 35616 MILLS ROAD, FROM MICHAEL H. AND LISA L. VO

The Clerk read Ordinance No. 43-19 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE REAL ESTATE LOCATED AT 35616 MILLS ROAD, PARCEL NO. 04-00-013-000-125 FROM MICHAEL H. AND LISA L. VO, (fka MICHAEL H. AND LISA L. LANGENDORFER) 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. 43-19, and the vote was: Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “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. Fischer to adopt Ordinance No. 43-19, and the discussion was:

Mr. Radcliffe stated he noticed the last name is Vo, but the County Auditor’s website has the name Langendorfer. He asked if that is all being worked out.

Mr. Gasior advised the property is always referred to as Vo formerly known as Langendorfer or Langendorfer now known as Vo. He said all the documents that have been prepared cover both names. Mr. Gasior stated there is not going to be a problem, but this is an unusual transaction. He advised this purchase agreement that Council is authorizing the Mayor to enter into is very simple because the primary documents are FEMA documents and other key documents that will be attached to the purchase agreement such as a Statement of Voluntary Participation for the Acquisition of Property for Purposes of Open Space. Mr. Gasior advised the rest of the transaction will flow as any other real estate purchase transaction. He said the City will be paying \$160,000 plus closing costs and then everything is reimbursable under the grant that Mr. Cummins was involved in obtaining.

And the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. Witherspoon, “yes”.

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

ORDINANCE NO. 44-19 – TO REJECT THE BIDS FOR THE IMPROVEMENT OF CHESTER ROAD BETWEEN STATE ROUTE 83 AND AMERICAN WAY

The Clerk read Ordinance No. 44-19 by title only, entitled:

AN ORDINANCE TO REJECT THE BIDS FOR THE IMPROVEMENT OF CHESTER ROAD BETWEEN STATE ROUTE 83 AND AMERICAN WAY 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. 44-19, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe,

“yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. Witherspoon, “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. Butkowski to adopt Ordinance No. 44-19, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Witherspoon, “yes”.

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

RESOLUTION NO. R-11-19 – TO ADVERTISE FOR BIDS FOR THE IMPROVEMENT OF NAGEL ROAD BETWEEN MIDDLETON ROAD AND DETROIT ROAD

The Clerk read Resolution No. R-11-19 by title only, entitled:

A RESOLUTION TO ADVERTISE FOR BIDS FOR THE IMPROVEMENT OF NAGEL ROAD BETWEEN MIDDLETON ROAD AND DETROIT ROAD AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Fischer to suspend the rules and act on Resolution No. R-11-19, and the vote was: Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Witherspoon, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-11-19, and the vote was: Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”.

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

RESOLUTION NO. R-12-19 – TO RE-ADVERTISE FOR BIDS FOR THE IMPROVEMENT OF CHESTER ROAD BETWEEN STATE ROUTE 83 AND AMERICAN WAY

The Clerk read Resolution No. R-12-19 by title only, entitled:

A RESOLUTION TO RE-ADVERTISE FOR BIDS FOR THE IMPROVEMENT OF CHESTER ROAD BETWEEN STATE ROUTE 83 AND AMERICAN WAY AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Resolution No. R-12-19, and the vote was: Mr. Fischer, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Witherspoon, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-12-19, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”; Mr. Witherspoon, “yes”.

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

REPORTS AND COMMENTS

Mayor Jensen advised the work on Kinzel Road is scheduled to start this Wednesday. He said with how busy all the contractors are right now, they did not want to risk waiting until school was out to start that project. Mayor Jensen understands it is going to be an inconvenience, but he does not believe it is going to be as big of an issue as people are thinking it is going to be. He said it is impossible to plan a project when there would be less traffic, but they try to do the best they can.

Mayor Jensen stated Meijer’s grand opening is tomorrow and he reminded Council they were invited to attend the ribbon cutting if their schedule permits and there are a lot of people who are excited that Meijer will be open in Avon.

COUNCIL MEMBERS:

Mr. Butkowski, Ward 1, had no comments.

Mr. Fischer, At Large, stated it was an unfortunate mishap with Republic Services and the mix-up with their billing. He asked if there was anything else that people needed to know about the situation.

Mr. Logan advised he received a recorded phone call from Republic Services explaining the issue. He said Republic Services has said they were going to re-bill or for customers to pay the lower of the two amounts invoiced.

Mr. McBride confirmed he also received a call from Republic Services. He felt it was more of the same from Republic Services and they were not going to change their business practices. Mr. McBride stated that hopefully trash pickups were going to go well as we move forward.

Ms. Brooks confirmed she received no calls of any missed pickups in Avon today.

Mayor Jensen advised last week with bulk pickup Republic Services sent an email out stating they were working later than 6:00 pm in an effort to collect everything set out. He said more compliments were received because of the decision Council made with Republic Services and the terms of the agreement.

Mrs. Holtzmeier, At Large, thanked Mr. Cummins and his group for the job well done securing grants for the City so Council could authorize that Mills Road purchase.

Mr. McBride, Ward 2, said to follow-up with Mr. Fischer’s comments regarding Republic Services, he feels sorry for the local employees who do a great job and have had to handle the hundreds of phone calls as he assumes the billing comes out of corporate.

Mr. Moore, Ward 3, had no comments.

Mr. Radcliffe, Ward 4, had no comments.

Mr. Witherspoon, Council President, thanked Ms. Brooks for her efforts in preparing for the upcoming Pride Day this Saturday, May 18th as it was a lot of work and coordination.

DIRECTORS/ADMINISTRATION:

Mr. Cummins, City Engineer, had no additional comments.

Mr. Farmer, Service Director, had no comments.

Ms. Fechter, Economic Development/Planning Coordinator, had no comments.

Mr. Gasior, Law Director, had no comments.

Mr. Logan, Finance Director, had no comments.

AUDIENCE:

No comments were made from the audience.

ADJOURN: 7:45 p.m.

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

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