

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE  
CITY OF AVON, OHIO HELD MONDAY, JUNE 22, 2020  
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING  
AT 7:04 P.M.**

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

**ABSENT:**

Pam Fechter - Planning and Economic Development Coordinator

1. [ORDINANCE NO. 54-20](#) – ESTABLISHING A TAX BUDGET FOR THE CURRENT EXPENDITURES OF THE CITY OF AVON, LORAIN COUNTY, OHIO, FOR THE FISCAL YEAR ENDING DECEMBER 31, 2021  
Second of Three Readings at Regular Meeting, June 22, 2020

Mr. Logan

Mr. Logan advised he has not made any changes to the preliminary budget since it was first presented a couple of weeks ago. He believes Mr. Butkowski recommended a Finance Committee meeting sometime in July with this preliminary budget being the main topic of discussion. Mr. Logan said they also would like to discuss water and sewer rates as that will play a big role in how the City finishes out this year, but also what they want to have in place for 2021. He stated this Tax Budget must be submitted to the County Budget Commission no later than July 20<sup>th</sup> and he is hopeful Council will pass this preliminary budget on third reading at a Regular Meeting following the Finance Committee Meeting so that it can be submitted by the deadline.

A brief discussion took place as to whether Council wanted to meet on July 6<sup>th</sup> or July 13<sup>th</sup> for a Finance Committee Meeting as it was currently set for July 13<sup>th</sup>. Mr. Logan indicated that either of those dates would be acceptable. Mayor Jensen asked if Council could consider moving that committee meeting to July 6<sup>th</sup> and also hold the Regular Meeting or call a Special Meeting on that night and that would finish it for the month as Mr. Cummins would like to get a bid awarded.

Mr. Gasior advised he would look into it further, but Council was certainly safe in conducting a Work Session or a Special Meeting on July 6<sup>th</sup>. He said they have modified the meeting schedule to hold the Work Sessions and Regular Meetings on the 2<sup>nd</sup> and 4<sup>th</sup> Monday nights during this emergency time due to COVID. Mr. Gasior stated if they wanted to hold the meeting on the first Monday in July and avoid all issues, they could call a Special Meeting. He reminded Council that a Special Meeting agenda cannot be added to once it is less than 24-hours prior to the meeting start time. Mr. Gasior advised beyond that he would like to go back and review the Special Order that was passed in March regarding Council Meetings during this time. He said he can discuss it further with the Council President tomorrow and he believes Mr. Fischer has the authority to make that determination, but he wanted to review the rule first.

Mayor Jensen asked since there are still two weeks before July 6<sup>th</sup> and if there are not a lot of agenda items coming forth, they could hold the meetings on that first Monday in July. Mr. Fischer advised he would discuss it with the Law Director this week and decide.

2. [ORDINANCE NO. 57-20](#) – TO AUTHORIZE THE EXECUTION OF THEN AND NOW CERTIFICATES BY THE FINANCE DIRECTOR AND THE PAYMENT OF AMOUNTS DUE FOR VARIOUS PURCHASE ORDERS

Mr. Logan

Mr. Logan advised this is an audit recommendation where the City cannot have an invoice dated before a purchase order date when the invoice is greater than \$3,000. He indicated when that happens Council has to

approve the execution of a Then and Now Certificate. Mr. Logan said a couple of weeks ago they were waiting for the note monies that were sold for the Elizabeth, Joseph and Puth project and the six property owners needed to be paid for the acquisition of right of way property. He stated once they received the money on June 11<sup>th</sup> he put the purchase orders in and cut the checks that same day and he is asking Council to approve that action based on the exhibit attached to the Ordinance so that there is no issue with the auditors.

3. [ORDINANCE NO. 58-20 – TO ESTABLISH A NEW RANGE OF COMPENSATION FOR THE POSITION OF SUPERINTENDENT-IN-TRAINING/PUBLIC UTILITIES FOR THE CITY OF AVON](#) Mayor Jensen

Mayor Jensen advised the person moving into this position would be at the high end of this pay range making it more of a lateral move and not a promotion. He said Ed McCallie, Superintendent of Utilities is retiring and the employee taking over for him, Brian Bruce will now be the Superintendent-in-training during the interim and then move into the Superintendent's position once Mr. McCallie is no longer on the payroll. Mayor Jensen said he will also be asking Council next month for some other pay ranges to be adjusted as those employees are also at the high end of their ranges. He clarified that Mr. Bruce will not be at the high end of the range once adjusted, but somewhere in the middle.

4. [ORDINANCE NO. 59-20 – ACCEPTING THE INSURANCE PROPOSAL SUBMITTED BY ARTHUR J. GALLAGHER & COMPANY](#) Mr. Logan

Mr. Logan advised hopefully Council had a chance to look at the information he sent out. He said they would like to remain with Arthur J. Gallagher & Company as the City went through this last policy year with them as the City's insurance brokers. Mr. Logan stated prior to that, the City used Custis Insurance for many years. He stated they looked at a few other options in 2018, specifically the Public Entity Pool, and felt that was not the way to go. Mr. Logan advised the City has incurred only one claim on the policy since July 1, 2019 in the amount of approximately \$4,000. He said the insurance premium with keeping the same coverages has gone up a little over 4% and he included the cyber security liability in there as well. Mr. Logan advised the cyber security liability has gone up quite a bit and he felt they would continue to see cyber liability insurance premiums continue to go up. He said the City has not had any instances where a claim had to be filed related to cyber security, but that area is certainly one he felt they wanted to be very cautious. Mr. Logan stated the City has a \$10,000 retention in the policy if they were to file a claim regarding cyber security and that premium alone is a little over \$9,200 for this new premium year. He said all the other coverages they felt were adequate and would like to keep them the same. He advised the total premium, including cyber security, would be \$193,793 and the City is on a July 1<sup>st</sup> through June 30<sup>th</sup> policy year with respect to this insurance.

5. [ORDINANCE NO. 60-20 – GRANTING A SPECIAL USE PERMIT TO NAKOTAI, LLC TO AUTHORIZE THEIR TENANT, BIG TOP BREWING CO., \(dba ZZ's BIG TOP\), TO CONSTRUCT AN 840 SQ. FT. OUTDOOR PATIO SEATING AREA AND FENCE FOR PROPERTY LOCATED AT 35015 DETROIT ROAD](#) Planning Commission Referral

Mr. Cummins, speaking on behalf of the Planning Coordinator who was absent, advised he believes the tenant went through the Planning Commission approval process last week and was approved.

Mr. Gasior advised the conditions were listed in Section 2 and that the hours are going to be 11 am to 1 am every day of the week. He said it stated soft ambient music would be allowed played through an outdoor speaker and the possibility of a one-person acoustic live performance that would be relatively soft music. Mr. Gasior stated there are two parcels and the patio encroaches across the property line onto the second parcel and the legislation stipulates a deed restriction be granted to the City so that if the one parcel is ever sold, as it is a buildable lot, that the patio would be removed. He said that is it other than the boilerplate provisions that are in the 1270 and 1280 sections of the Code. Mr. Gasior advised they wish to install a fence and came to the Zoning Board of Appeals for a variance because the fence will be in the front yard. He believes they originally wanted the fence to be six feet high and the ZBA granted them a one-foot variance to go five feet high.

Mayor Jensen advised bollards are on the site plan in the front of the property.

Mr. Gasior noted the bollards are part of the plan which is why they were not listed as part of the conditions in the legislation. He said section one of the Ordinance states they have to build it per the plans approved by Planning Commission.

Mr. McBride asked if they are paving the parking lot because ZZ's was closed for over a year.

Mayor Jensen advised because of the pandemic they have been granted a one-year extension on the paving of the parking lot. He said next year the parking lot will already need to be paved when they open to full business.

Mr. McBride asked if they would be removing the shrubs that are in the right of way on Jaycox Road.

Mayor Jensen advised they are working with some things with the property owner because the City will be seeking some right of way property when they go to improve that intersection and the City has already had discussions about that with the property owners. He said the City has had no issues with the business owner.

Mr. Moore asked if there would be crosswalks around that whole area as part of that future improvement.

Mayor Jensen advised they would be looking at that with Mr. Cummins. He said they are in the early design stages and they do not have a completed plan.

Mr. Cummins advised they put together an application to ODOT to try and get safety funding to improve that intersection and that would include improving all the pedestrian facilities such as crosswalks, new signals, clearing out the right of way, sidewalks; a full intersection improvement at that location.

Mr. Moore said that improvement is much needed as that is a tough intersection.

Mayor Jensen advised if the intersection improvement plans do not happen as soon as they hope, the City will be going back to these property owners asking them to finish to at least get sidewalks to that area. He said that is why when this request came before Planning Commission, the applicant was asked to move their decking even farther back realizing the City was eventually going to need some of that frontage along Detroit Road.

Mr. Butkowski asked with regards to sidewalks if there is enough room, especially in light of what Envision was talking about in the Parks & Recreation Committee prior to this meeting, that in a commercial district they would have a 10-foot sidewalk in front of a commercial entity. He asked if there is enough space for a 10-foot sidewalk in front with the new layout.

Mr. Cummins stated there is enough space for an appropriate sidewalk to go outside of the current building footprint. He does not believe it needs to be 10 feet but felt it could be 6 feet.

Mr. Butkowski stated he does not know what our Code specifies, but he was going by the recommendation of Mr. Smalley at the Parks & Recreation Committee meeting. He said the Avon Brewing Company on the corner of Detroit Road and Colorado Avenue has no sidewalk and this is the same business owner and vehicles park across the sidewalk area. Mr. Butkowski wondered if the footprint on this property allows for a 6 or 10-foot sidewalk.

Mr. Cummins advised he believes it is laid out so that the sidewalk is not directly adjacent to the edge of the pavement so they could go to a narrower width.

Mr. McBride asked when the City potentially comes in and takes some property if there is going to be enough space. He asked how much parking space would be lost. Mr. McBride believed the inside seating to be very

limited but wondered if the business would be left with enough parking when the City improved that intersection including sidewalks.

Mr. Cummins advised they have applied for funding but have not been approved for funding, so it is a fluid situation. He believes the business has sufficient parking currently and looking at the plan they might be jeopardizing two or three of those spaces.

Mr. McBride clarified those spaces were currently in the right of way.

Mr. Cummins stated he does not foresee that being an issue, but he does not have a specific number to tell them.

Mr. Butkowski felt a fraction of most of the parking lots along Jaycox Road were currently in the right of way.

Mr. Cummins advised there is a good-sized hedge row there currently.

Mr. Butkowski stated thirty feet from the middle of the road would put them in part of those parking spaces that front on Jaycox Road.

Mr. Cummins pointed out that it looked like the right of way was depicted in the drawing by the dashed line. He said the City would need right of way at the intersection where the right of way almost comes up to the current edge of pavement. Mr. Cummins stated to get the pedestrian facilities installed; the striped area, the handicapped spot next to it and the couple of spaces right by the front door might be in jeopardy. Mr. Cummins believes that along the majority of the Jaycox Road frontage, the parking area is setback enough that it would not be impacted. He thinks that the landscaping line in place would probably come out because that is probably centered on where the dashed line is on the site plan. Mr. Cummins clarified they have not formed a hard and fast plan.

Mayor Jensen advised the parcel to the west is owned by this same property owner so, they could make some more parking. He said the City advised the property owner that they should expect the front door will most likely not be accessible as an entrance/exit, but possibly could be used for serving those customers on the deck. Mayor Jensen stated the deck was originally planned for by the walkway and it was moved back so it would not be infringed upon at a later date.

Mr. McBride asked as a follow-up regarding that adjoining parcel to the west, if those two parcels have been consolidated.

Mr. Cummins advised he does not believe they have. He said looking at the Lorain County property lines it is still showing as a valid separate property line.

Mayor Jensen said it was confirmed they are two separate parcels as they checked into it and the reason the deed restriction was added.

Mr. McBride advised typically you cannot build across lot lines.

Mr. Gasior clarified they received a variance for that purpose.

Mr. McBride felt that was not under the authority of the Zoning Board of Appeals but is typically a County property issue.

Mr. Gasior advised they are going to do the deed restriction. He stated they have done it for a couple of residential properties in the past where there were accessory structures that encroached, and the City has allowed it to happen in some residential areas although not many. Mr. Gasior said there are a handful of cases out there where over the last twenty years they have allowed it. He advised the County is difficult to deal with when it

comes to consolidating lots because they will not allow you to take the legal descriptions of the two parcels and accept that but they want the property surveyed and so. Mr. Gasior stated traditionally the City has agreed to do things like this with deed restrictions and they have not had a problem although they are encouraged to consolidate for everyone's benefit.

Mayor Jensen added it is not mandated by the County to consolidate so that makes it difficult to enforce.

Mr. McBride advised when he was the Building Commissioner in Vermilion, the County did not want property owners to consolidate because it is extra work on their part, but it is a City of Vermilion requirement and he felt it was an issue of the County not being set up with enough employees to handle the workload.

Mr. Cummins advised he pulled up the GIS and from the right of way line to the current edge of gravel, it varies a little bit from approximately 9 feet up to 14 feet. He said there is a good amount of space there that is currently occupied by landscaping in case the City needed to gain some width along that Jaycox Road frontage when they start putting plans together and not impact the row of parking.

Mr. Radcliffe asked if the improvements that are potentially coming for that intersection were just stop lights and the like or were there still discussions about a roundabout.

Mayor Jensen advised this would be standard improvements at this point.

Mrs. Holtzmeier asked regarding westbound traffic on Detroit Road if there was any way to prevent a motorist from turning left into this business like the delineators installed by Burger King, so motorists do not try to get through the stack.

Mr. McBride advised there are times of the day where it would not be an issue but agreed it would be an issue during rush hour.

Mrs. Holtzmeier advised it is an issue when the business is popular and they want it to be popular, but they want it to be safe. She asked regarding the patio as to how it will be ADA accessible as she did not see that on the plan.

Mathias Hauck of 35475 Keller Drive, the applicant, advised it is zero entry from the restaurant to the concrete pad out front heading north and the 7-foot walkway is also zero entrance into the patio. He said the patio will be elevated on the west side but not by much. Mr. Hauck stated to enter the green space area out back it was all zero entry as well.

Mrs. Holtzmeier asked where the ambient lighting would be located on that patio.

Mr. Hauck answered he was not 100% sure about the location of the lighting on the patio. He said there are outside lights already affixed to the building at all doors.

Mrs. Holtzmeier suggested they clarify that somewhere because the Ordinance mentions that it is according to a specific plan and the plan does not show the lighting, but only makes sure that he can have that lighting.

Mr. McBride said given the layout of that property he does not know if it matters where the light is on the west side of that building as there is really nothing over there and he did not believe it would be disturbing anyone.

Mr. Hauck advised what they typically look at doing would be running those Edison bulbs string lights similar to what is currently hanging at the Avon Brewing Company and that is also the only lighting inside the ABC restaurant. He added there would be plenty of lighting inside the new business and they would make sure there was proper lighting outside.

Mrs. Holtzmeier added that Mr. Hauck was clearly doing a lot of improvements to the property to its benefit and she knows he wants to run a good operation.

Mr. Hauck thanked her for her kind works and stated nothing was left except grease when he took it over. He said that is now all gone now, and the inside is looking beautiful and he invited everyone to come see it when it re-opens. Mr. Hauck stated they added copper ceilings, and everything has been remodeled and everything is brand new. He said where the old kitchen was located is now the dish room and where the old pool room was is now a brand new kitchen with state of the art vent hoods and fixtures and where the former garage was is now a walk-in cooler and a brewing system and then the outdoor seating.

Mr. Fischer asked as to the opening date.

Mr. Hauck advised they are hoping for the second week in July.

Mr. Moore stated the proposed fencing looks really nice and he asked if there were plans for something in the back grass area.

Mr. Hauck said they have potential plans for a sand volleyball court in the back area. He advised there was one previously in some form. Mr. Hauck stated there is a lot of green space back there and with the fence they are allowed to make that a delineated area where people can sit and drink alcohol outside and bring their own chairs and play yard games.

Mr. Gasior clarified that Mr. Hauck would need to come back for an amended Special Use permit for the volleyball court when the time comes.

## 6. REPORTS AND COMMENTS

MAYOR JENSEN advised there will be fireworks this year on July 4<sup>th</sup> at the Crushers' Stadium. He said there will be meetings over the next week and a half to work on the expected traffic issues and how it was all going to be handled. Mayor Jensen stated he would keep Council informed as to any updates. He said there is enough parking for vehicles in the stadium parking lot and the surrounding area for approximately 2,000 vehicles. Mayor Jensen advised they were also anticipating a lot of traffic around those areas and they have talked to the fireworks company and were told the fireworks would be able to be seen from as far away as a mile. He said he and the Safety Director, the Crushers, and the rest of the security team will be looking into anything that could possibly happen and ways they can make sure that once the fireworks show is over that people will be able to leave in an orderly fashion in both directions. Mayor Jensen advised they are going to anticipate huge crowds, but they are not certain exactly what that may look like because a lot of surrounding communities have canceled their events. He noted the City of Lorain is still planning on having their fireworks display on July 4<sup>th</sup> and the reason the City has decided to have it on the same day as most of the surrounding areas.

### COUNCIL MEMBERS:

MR. BUTKOWSKI, WARD 1 had no comments.

MRS. HOLTZMEIER, AT LARGE advised this year they are going to pivot, and the annual Great Avon Bike Parade event will now be the Great Avon Car Parade for 2020. She said there will be plenty of things for people to do in the community and she hoped Council and the City Administration would be able to attend.

MR. MCBRIDE, WARD 2 had no comments.

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 advised he would update Council as to the meeting schedule for July as soon as it was determined.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER advised they held the pre-construction meeting earlier today for the Elizabeth, Puth and Joseph project and it is starting to move forward. He said it looks like shovels will go in the ground on or about July 20<sup>th</sup>. Mr. Cummins stated they would start seeing some materials coming onto the site in the meantime. He stated the gas company is onsite finishing up as they installed a new gas line and they are doing new home connections from that new line and that work is supposed to be done by the end of July. Mr. Cummins noted the gas company was also in attendance at the pre-construction meeting today. He said they do not anticipate any coordination issues between the contractor and the gas company. Mr. Cummins advised a schedule was provided by the contractor and that will allow his office to put together a letter that will be sent out to the residents later this week or the first part of next week. He stated the letter would also be posted on the City website and social media sites, so people are aware of what is about to come.

Mr. Cummins advised the project mentioned earlier for potential consideration on July 6<sup>th</sup> is the French Creek Resurfacing project, phase 1 as bids were opened last Thursday. He said it is approximately the eastern half of the project through the North Long, Kenwyn intersection. Mr. Cummins stated they received six bids and the low bidder was approximately 11% below the engineer's estimate and he felt it would be a good bid and they would be recommending Council award the bid through legislation at the next meeting.

Mr. McBride asked who the contractor is for the Elizabeth, Joseph, Puth project.

Mr. Cummins advised Underground Utilities Inc.

MR. FARMER, SERVICE DIRECTOR had no comments.

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

MR. GASIOR, LAW DIRECTOR had no comments.

MR. LOGAN, FINANCE DIRECTOR advised they are revisiting the advance refunding issue again as it looks as it makes sense to do it now and they are proceeding with getting the official statement updated. He said the audit would be completed any day now and it should be a good one and the City will have its rating reaffirmed from Moody's as the February rating only lasted for ninety days. Mr. Logan stated interest rates are remaining low and they are looking to refund approximately \$37 million. The first or second week in August would be the sale date. He said YMCA refunding would be an exempt refunding and the rest of the refunding bonds would all be considered taxable refunding because their call dates do not happen until December of 2021. Mr. Logan advised he would like to talk more about that briefly in the upcoming Finance Committee Meeting. He added the City was looking at approximately \$4 million in interest savings on the refunding bonds.

MR. STREATOR, SAFETY DIRECTOR had no comments.

AUDIENCE:

There were no comments from the audience.

7. ADJOURN: 7:40 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