

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, JULY 13, 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; Safety Director – Duane Streator; Clerk of Council - Barbara Brooks

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](#) Third of Three Readings at Regular Meeting, July 13, 2020 Mr. Logan

Mr. Logan advised this was discussed with the Finance Committee earlier tonight. He said this budget is due at the County Budget Commission office by July 20, 2020 and is very preliminary and the 2021 budget would be fine-tuned in the fall.

2. [ORDINANCE NO. 62-20 – REAPPROPRIATIONS](#) Mr. Logan

Mr. Logan explained the reappropriations as follows:

General Fund No. 101

Increase appropriations \$35,000.00 for 5 new solar powered radar speed signs.

Appropriate \$220,000.00 for the purchase of the residence at 3535 Jaycox Road through the FEMA Hazardous Mitigation Grant Program, and per Ordinance No. 102-19 passed by Council November 2019. The City will be reimbursed up to 87.5% from this grant for all expenses incurred. The project total cost estimate is \$275,164.00.

Total General Fund Re-appropriations	\$255,000.00
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Special Revenue Funds

Economic Development & Tourism Fund No. 285

Appropriate \$29,395.00 for an observation deck with a handicap accessible ramp and railings at the Cahoon Home. This will be reimbursed to the City through the Lorain County Solid Waste Management District 2020 Community Incentive Grant.

Total Special Revenue Funds Re-appropriations	\$29,395.00
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Debt Service Funds

Capital Improvements – Water Fund No. 303

Increase appropriations \$5,000.00 for construction inspection and other project close-out expenses relating to the Avon Road Waterline project.

Total Debt Service Funds Re-appropriations	\$5,000.00
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Capital Project Funds

Chester Road/American Way Improvements Fund No. 486

Increase appropriations \$15,597.24 for construction inspection and other project close-out expenses.

City-wide Bike Trails Fund No. 488

Increase appropriations \$50,000.00 for engineering associated with the grant application as per Resolution No. 29-19 passed by Council October 2019, through the Transportation for Livable Communities Initiative (TLCI), NOACA.

Total Capital Project Fund Re-appropriations	\$65,597.24
Total Re-appropriations All Funds	\$354,992.24

3. ORDINANCE NO. 63-20 – TO AMEND SECTION 1040.01(a) OF THE CODIFIED ORDINANCES TO INCREASE THE RATES CHARGED FOR WATER SERVICE FOR THE CITY Mr. Logan

Mr. Logan advised as the Finance Committee discussed earlier this evening, they approved increasing the water rate by 4%, which would increase it from \$5.00 per thousand gallons to \$5.20 per thousand gallons used. He said this encompasses a 3.15% rate increase that Avon Lake Regional Water is passing on to Avon. Mr. Logan stated increasing the rate \$.20 equals about \$19.20 of additional water costs over the course of a year for a household that uses 96,000 gallons of water, which is what the OEPA says is an average household usage. He advised the amount for usage over 25,000 gallons is going up to \$4.39 per thousand gallons.

Mr. Gasior noted that he indicated in the Ordinance that Finance Committee approved that increase 3-0 although he was not certain there was an actual vote, but there did not appear to be any dissent.

Mr. Butkowski, Chair of the Finance Committee, confirmed there were three verbal approvals from the committee members; Mrs. Holtzmeier, Mr. McBride and himself.

4. ORDINANCE NO. 64-20 – TO AMEND SECTION 1042.02(i) OF THE CODIFIED ORDINANCES OF THE CITY TO INCREASE SANITARY SEWER RATES Mr. Logan

Mr. Logan advised as the Finance Committee discussed earlier this evening, they approved increasing the sanitary sewer rate by 3%. He said the rate was currently \$7.38 per thousand gallons of usage and would go to \$7.60 per thousand gallons. Mr. Logan stated a household using approximately 96,000 gallons of water per year would pay an additional \$21.12 for sewer. He advised there is no tiered pricing on the sanitary sewer rates as every 1,000 gallons would be at that same rate.

It should be noted the Finance Committee gave three verbal approvals at the Finance Committee meeting for this rate change.

5. ORDINANCE NO. 65-20 – TO AMEND THE RANGE OF COMPENSATION FOR THE POSITION OF SUPERINTENDENT OF UTILITIES Mayor Jensen

Mayor Jensen advised as he mentioned at a previous meeting items #5 through #10 were all adjusting the pay ranges of the respective positions. He said the Superintendent of Utilities and the Assistant Superintendent of Utilities will have new employees in those positions and their ranges need to be adjusted to reflect the current wage range. Mayor Jensen indicated the employees in the subsequent positions listed were at or near the top of their current range and the ranges would need adjusting prior to considering any future pay increases.

No further comments were made, or questions asked.

6. ORDINANCE NO. 66-20 – TO AMEND THE RANGE OF COMPENSATION FOR THE POSITION OF ASSISTANT SUPERINTENDENT OF UTILITIES Mayor Jensen

This item was addressed in item #5. No questions were asked.

7. [ORDINANCE NO. 67-20 – TO AMEND THE RANGE OF COMPENSATION FOR THE POSITION OF RECREATION COORDINATOR](#) Mayor Jensen

This item was addressed in item #5. No questions were asked.

8. [ORDINANCE NO. 68-20 – TO AMEND THE RANGE OF COMPENSATION FOR THE POSITION OF SENIOR COORDINATOR](#) Mayor Jensen

This item was addressed in item #5. No questions were asked.

9. [ORDINANCE NO. 69-20 – TO AMEND THE RANGE OF COMPENSATION FOR THE CLASSIFIED, FULL-TIME POSITION OF INFORMATION TECHNOLOGY TECHNICIAN](#) Mayor Jensen

This item was addressed in item #5. No questions were asked.

10. [ORDINANCE NO. 70-20 – TO AMEND THE RANGE OF COMPENSATION FOR THE FULL-TIME, UNCLASSIFIED POSITION OF SUPERINTENDENT OF STREETS](#) Mayor Jensen

This item was addressed in item #5. No questions were asked.

11. [ORDINANCE NO. 71-20 – TO AWARD A BID FOR THE FRENCH CREEK ROAD PAVEMENT RESURFACING PROJECT, PHASE 1](#) Mr. Cummins

Mr. Cummins advised on June 18, 2020 public bids were opened for the resurfacing of French Creek Road from Detroit Road through the Kenwyn Boulevard intersection. He said the City received six bids and the lowest bid was approximately 11% less than the engineer's estimate of the project. Mr. Cummins stated the low bid was Barbicas Construction Company Inc. out of Akron and he recommends the bid be awarded to Barbicas Construction Company and that the project be allowed to move forward.

12. [ORDINANCE NO. 72-20 – TO PROVIDE FOR THE ISSUANCE AND SALE OF MUNICIPAL RECREATION FACILITY NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS OF THE CITY IN A PRINCIPAL AMOUNT NOT TO EXCEED \\$6,750,000 FOR THE PURPOSE OF PAYING THE COST OF CONSTRUCTING, RENOVATING, FURNISHING AND EQUIPPING MUNICIPAL RECREATION FACILITIES](#) First of Three Readings at Regular Meeting July 13, 2020 Mr. Logan

Mr. Logan advised these are the notes for the pool and the infrastructure around the pool at the aquatic facility. He said these notes were originated in 2015 and they try to pay them down some each year. Mr. Logan stated the notes mature September 3, 2020 and he would like the first reading tonight during the Regular Meeting. He indicated it would be very similar to the notes that were sold a few weeks ago for the Elizabeth, Joseph, Puth Sanitary Sewer project. Mr. Logan advised the \$6,750,000 is the current outstanding amount and they hoped to pay it down, but he did not know by what amount yet. He said the City will receive the TIF monies in August sometime and property tax and recreation income tax. He said whatever they can pay it down by they would like to try and do, keeping in mind that they hope to end this year with as good of fund balances as possible.

13. [ORDINANCE NO. 73-20 – AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT TO PURCHASE REAL ESTATE LOCATED AT 3535 JAYCOX ROAD, PARCEL NO. 04-00-023-108-073 FROM AMY M. MURIELLO and JOHN M. MURIELLO](#) Mayor Jensen

Mayor Jensen reminded Council there were two properties in the City of Avon that continue to flood every time there was a heavy rain and they were able to purchase the one on Mills Road last year with some grant funds. He said they put in an application for grant funding to purchase this property on Jaycox Road.

Mr. Cummins confirmed that only 12.5% of the total project budget will be the City's responsibility to pay and all the rest would be outside grant funds.

Mayor Jensen advised there is a neighbor next door interested in purchasing the lot once it is cleared, but it would have to come back to Council for that to happen as there would have to be restrictions on the lot. He said this same neighbor is also willing to maintain the lot even though the City would own it. Mayor Jensen stated the City has no interest in allowing anything to be built on the property, but they have some ideas for landscaping and ways to hold more water when there is a heavy rain to alleviate other problem areas. He advised purchasing this property will allow the owners to move and there are funds the City will receive after the home is demolished. Mayor Jensen stated he does not know of any properties that have come before Council more than these two and he does not anticipate any other property owners coming forward asking for this kind of assistance.

14. ORDINANCE NO. 74-20 – AUTHORIZING THE DEVELOPMENT OF ENGINEERING PLANS AND SPECIFICATIONS FOR THE INSTALLATION OF AN ASPHALT MULTI-USE TRAIL ALONG THE ENTIRETY OF FRENCH CREEK ROAD IN CONJUNCTION WITH A TRANSPORTATION FOR LIVABLE COMMUNITIES INITIATIVE (TLCI) IMPLEMENTATION GRANT Mr. Cummins

Mr. Cummins advised this legislation asks for City Council's authorization to move forward with this project. He said the City received a \$250,000 grant through the TLCI program that is administered by NOACA. Mr. Cummins stated they have been working closely with Lorain County Metroparks and the Village of Sheffield to create a regional network and connection points and this is a key component of that overall initiative. He advised the money that they are asking for this evening will just get them started in the engineering process and allow the project to begin and they would come back in next year's budget for the remainder of the engineering funds needed.

Mr. Butkowski asked if the engineering component of the overall costs for the project was a preliminary step to understand what this project will look like.

Mr. Cummins advised yes and no; it is starting the initial steps of the ODOT engineering process. He said this would cover surveying, some preliminary plan development, starting to interact with ODOT to generate a specific schedule and interacting with Lorain County Metroparks and coordinating with their connection points in Sheffield Village. Mr. Cummins clarified it is the beginning of the process, but not a specific deliverable per se; meaning at the end of this year, the City will not have a set of plans, but were working toward that and this allotment of funds will get them started in that realm.

Mr. Butkowski stated that is what he is trying to understand because they were talking about a \$1.4 million project to install this multi-use trail.

Mr. Cummins confirmed that to be correct.

Mr. Butkowski said it is his understanding that this Council has not vetted out where they want to go with this project.

Mr. Cummins advised Council held a Parks & Recreation Committee meeting to discuss it and he believes there was the idea to get this matter before City Council to see about moving forward and this would be the first step in doing that. He said they have put together a preliminary concept plan of where the trail could be located; they have developed a preliminary cost estimate and made application and were able to secure the grant funding to help pay a cost of the project. Mr. Cummins speculated that they would be making future applications for other grant programs as the engineering process nears completion. He said at this time the project has been defined, the cost has been defined and they have secured just under a quarter of the cost of the grant funding. Mr. Cummins advised to actually move the project forward they have to begin the engineering process and that is what approving these funds would help do.

Mr. McBride advised essentially the City has completed the schematic.

Mr. Cummins confirmed that to be correct.

Mr. McBride said this is the preliminary design, and this will bring the project to 25% of the cost paid.

Mr. Cummins stated yes, in that ballpark is probably a good generalization.

Mr. Fischer clarified it was only for the French Creek Road section of the proposed trail.

Mr. Cummins confirmed this project goes from Detroit Road to Sheffield Village all along French Creek Road. He said there are other portions of the overall spine that were in the presentation at the committee meeting and those would be future initiatives, future grant applications etc. Mr. Cummins clarified this is a very specific piece of that overall spine.

Mr. McBride advised right now these multi-purpose trails are the “in thing” as it is something that NOACA has been encouraging.

Mr. Cummins advised every opportunity that he has seen where Avon residents have been given a chance to weigh-in whether this is an amenity that they would like to see in their community, the response has been very favorable to that. He said it was shown in previous park surveys and then he believes it was reinforced with the planning effort and the public outreach that occurred with the overall master plan in 2019.

Mr. McBride clarified that when he says it is the “in thing” for NOACA, he means that it is part of the whole livable cities concept.

Mr. Cummins advised over the past five to ten years, he would say it has become a priority with NOACA because it became a priority with the Federal Highway Administration that pedestrian and bike aspects be highlighted and put forth as part of federally funded projects.

Mr. McBride agreed, and felt most non-profit organizations were pushing for them.

Mr. Cummins agreed and said an example of that is the reason there is a bike lane on the SR 611 bridge. He stated there might not be connection points to that lane on the bridge today, but the Federal Highway Administration made sure those pieces were constructed so that in the future it could be added to and utilized.

Mr. Moore asked since the plan is to go into Sheffield Village if they were working in conjunction with the same plan.

Mr. Cummins said yes, Sheffield Village is actively working to get from Avon into the Metroparks. He stated this plan would connect into the entire Metroparks system.

Mr. Moore asked if the plan was for it all to open at the same time.

Mr. Cummins advised all the pieces are in various stages of being constructed or designed. He said that for this particular project they are looking at a 2023 construction time frame to give time to apply for and hopefully receive some more grant funding. Mr. Cummins stated the way it is looking right now, this is likely going to be the last piece to that puzzle.

Mayor Jensen stated Sheffield Village’s push is greater than ours as they have already installed a sidewalk in all along Abbe Road. He said Sheffield Village’s hope is to connect the two communities and they can work together on grant funding to finish the project together.

Mrs. Holtzmeier said while tonight they are really looking at the re-appropriation aspect of this project as far as engineering is concerned, it is really part of a bigger plan that will come to them in multiple stages. She advised this particular section of the project has the trail going in front of residential property. Mrs. Holtzmeier asked if there was anywhere else in the City of Avon where there is a multi-use trail going through residential front yards.

Mr. Cummins advised nothing comes to mind directly although he believes at the Parks & Recreation Committee meeting or following it that there were several examples that were provided in other communities depicting that kind of situation.

Mrs. Holtzmeier advised she could not think of any in Avon either. She asked if installing a multi-use trail in front of residential properties would set a precedent with how that might work in other neighborhoods and other streets within the City based on what happens on French Creek Road with a ten-foot wide asphalt path.

Mr. Cummins advised it would certainly set a precedent on the greenway spine that was discussed. He said they may do something similar in other areas of the community or they may decide to do something less if the City is not receiving outside grant funding for it. Mr. Cummins stated areas where they receive outside funding to construct a multi-purpose trail would have to be ten feet in width.

Mrs. Holtzmeier advised the concern she wants to raise comes from property owners on French Creek Road in Mr. Butkowski's Ward to install a ten-foot wide asphalt trail in front of residential property. She said the fear is where else could that happen within the City, grant funds or not. Mrs. Holtzmeier speculated if it would be setting an unhealthy precedent that it is the "in thing" and there are monies so therefore that might happen in front of someone else's house as well. She stated she would like to share a couple other concerns she has heard from residents as the City goes into this process as she felt it was important to bring it up. Mrs. Holtzmeier advised the residents have been told there is ample right of way for that ten-foot wide trail. She asked if there is ample right of way for that ten-foot wide trail how close to the road would the edge of the trail be and how wide would the tree lawn be.

Mr. Cummins stated he believes in the Ordinance that was passed in October 2019 that it included exhibits that showed a typical section and he believes it is listed as six to eight feet off of the current edge of pavement. He said anything less than that would present a danger to the users of the path and it would be more difficult to get the grass to grow consistently.

Mrs. Holtzmeier reiterated it would be a minimum of a six-foot tree lawn.

Mr. Cummins advised yes on the exhibits it is depicted as an eight-foot tree lawn.

Mrs. Holtzmeier asked if the trail on French Creek Road would have curbs all along the trail.

Mr. Cummins advised it will not.

Mrs. Holtzmeier asked if there would be any sort of a concrete curb to stop a car if the driver were not paying attention.

Mr. Cummins stated just as there are no barriers between sidewalks and the edge of the pavement, this would be very similar to that.

Mrs. Holtzmeier advised she brings that up because there is some concern about the width of that trail and the ease of leaning over. She asked if the trail is in front of a residential property then who maintains that trail.

Mr. Cummins believes the City treats it just as they do sidewalks.

Mrs. Holtzmeier said in treating it like the sidewalks she asked if it would be up to the property owner to clear the trail of snow in front of their property in the winter.

Mr. Cummins said he believes that is the current policy.

Mrs. Holtzmeier stated it would be a greater burden to maintain the trail since it will be wider than a typical sidewalk.

Mr. Cummins advised that is true and added that not all communities handle it that way and that might be something that over time the City may want to reevaluate or confirm, but he believes that would be the case as it stands today.

Mr. Gasior confirmed that to be true and said he believes the Code section is [660.05](#), but whether anyone would have to go out there and shovel snow off of the trail is questionable. He advised there is some Supreme Court case law out there that would probably relieve the property owner of that burden based on the natural accumulation theory of snow removal. Mr. Gasior clarified that the property owner would not have to remove it because they did not put it there. He said on the other hand, if the trail starts to crack and creates a problem, the City holds people responsible for the maintenance of the sidewalk and there could be a liability issue if that asphalt comes into disrepair and someone can show that there is a significant crack and a drop in the grade and someone should trip. Mr. Gasior advised section 660.05 requires the property owner to maintain that area.

Mrs. Holtzmeier said it was brought up to her that it was not just the cracks or the drop in the grade level, but really the edge. She stated because the trail would be located on residential property, mowers could come in contact with those edges quite frequently and there was a perceived expectation that there will be some deprecation of that edge just from wear and tear.

Mr. Cummins advised he has no doubt that those are the concerns, but there are many areas of sidewalks in town that are maintained quite readily.

Mrs. Holtzmeier advised she understands they are at a place where they are looking to re-appropriate funds because budget is a process, but she wanted to bring up some of those preliminary concerns she has heard already to let her colleagues know that those concerns exist and that there are still a lot of questions. She said they are in uncharted territory for Avon by putting a ten-foot wide asphalt trail in front of residential property. Mrs. Holtzmeier stated she thinks accessibility and use is fantastic, but she has some reservations still about the appropriateness of that in front of residential property. She advised as they continue to talk about this she wanted to encourage residents to come to Council meetings and continue to ask their questions, not only for this project, but how these trails might be in effect in other parts of the City and other neighborhoods in the future and help Council to think about those things they should be considering to make this multi-use trail desirable and sustainable for our residents.

Mr. McBride stated to help relieve some of the concerns of the residents, those trails hold up well over a lot of years as long as they are installed correctly. He said the other issue with French Creek Road, if he is not mistaken, is that it is a collector street and not a regular subdivision road, but a main thoroughfare. Mr. McBride advised it would be up to the Mayor and in consultation with the Finance Director as well as the Service Director and the City Engineer, but as this project moves forward possibly the City would assume some responsibility for maintaining a ten-foot wide asphalt trail in a front yard. He indicated if he were one of the affected homeowners, he would be asking for someone else to maintain that trail if he lived there before the trail was installed, but they could discuss that later. Mr. McBride suggested contacting the HOA at Avenbury Lakes, but he does not believe they have had to do that many repairs to their nice ten-foot wide path all through Avenbury. He said he has lived in Avon for twenty years and Avenbury and the Avenbury path was not quite fully complete when he moved here.

Mr. Butkowski advised he gets the sense that there are still some outstanding questions with regards to the bike trail. He said he knows it is on the agenda for a motion to suspend the rules and adopt, but he suggested they

consider doing a first of three readings tonight to allow more time to get answers to these questions prior to moving forward.

Mr. McBride reminded Council this was a preliminary design and that there were a couple steps after this one.

Mr. Butkowski agreed, but felt there were still some legitimate concerns with regards to clearing snow and maintenance. He said it will be an asphalt path and it would need maintenance just like our asphalt roads do as there will be wear and tear. Mr. Butkowski asked if the homeowner would be required to crack seal the asphalt path and do the patch work. He felt they should have answers to those questions so that they could inform the residents and let them know the expectations moving forward. Mr. Butkowski added before spending \$50,000 they should button up some of those questions to be clear of the direction going forward. He said once they spend the \$50,000, they cannot get it back and pausing a week or two or a month was not going to throw this project out the window.

Mr. Fischer asked if there was a time limit on the grant.

Mr. Cummins advised no, a delay of a month would not impact the overall schedule.

Mayor Jensen advised Council met in committee to discuss moving forward with this project and came out in support of it. He said there are no multi-use paths in the City of Avon as every time something has been presented there is always someone in opposition to it whether it would be placed along the high-tension lines or elsewhere. Mayor Jensen felt Council needed to decide to either quit wasting Mr. Cummins' time or move forward with it. He said this is not something new as there are trails all throughout the Metroparks and they are not inventing anything new. Mayor Jensen stated they have discussed some maintenance issues if NOACA should have some grant funding available for that purpose. He asked if this is what the residents want and does Council want to move forward with it as there would be issues no matter where the trail is placed. Mayor Jensen advised the Metroparks are looking to connect areas and everywhere the trails have already been installed have been a positive for those communities. He stated the City either needs to get started on this project or shelve it and let the residents know Council is not interested. Mayor Jensen advised this is the number one thing residents have asked for and we have never gotten it started for whatever reason. He suggested they move forward and do what the residents want, and they would figure out the rest as he knows there are residents unhappy about it being in their front yard. Mayor Jensen stated he can ask Mr. Ziemnik with the Metroparks to come in and discuss the project with City Council, but they need to get started or forget about it all together as they could be wasting a lot of money and it went through the Committee and the Committee recommended it to Council. He said if they do not want it, then throw it out.

Mr. McBride felt they needed to move forward. He said they can work out the issues and the residents would not be required to clear the snow from the path based on the case law Mr. Gasior mentioned. Mr. McBride felt as a Council they could work out how the path is going to be maintained. He said he personally feels it is unfair to stick a resident with the maintenance of a ten-foot wide bike path in their front yard as it would be easier for the City to handle it and coat the path once a year and whatever needs to be done should not be a big deal. Mr. McBride stated he did not believe it would be an issue, but if the City needs to install some type of visual barrier such as reflectors to get the attention of motorists, he felt that was minor at this point. He advised if the asphalt is laid correctly it would have a clean edge and it should last a lot of years.

Mr. Witherspoon advised the majority of the people in Avon have spoken and they are looking forward to having some type of a bike path. He believes they have already put \$100,000 into this project.

Mayor Jensen confirmed that money was spent when they did the study. He said he is not suggesting they vote tonight, but they needed to decide if they were for it or against it and the residents are asking for it to move forward.

Mr. Witherspoon said as Council knows, with anything they decide to do that there are going to be obstacles and there will always be those against it, but this is something that the people of Avon have said they want and we have come a long way already and to slow the process down is going to be a step backwards and he would hate to see that happen.

Mrs. Holtzmeier stated that especially since they are operating the City in times of COVID and people may or may not feel comfortable coming here tonight to weigh in about how they feel that it is important that they recognize that there are questions. She said to have questions does not mean that it is black and white and just because there are questions does not mean that someone is against the trail and if there are no questions then that person is for it, it just means that there are questions. Mrs. Holtzmeier advised as a Council and as an Administration they need to be able to reasonably be able to provide some answers. She said people want to know that undertaking a project like this was thought through and in thinking it through they have thought about what is best for the residents and that starts with just being able to answer what the edge of the path will look like, would there be curbs, how far away is the path from the street and Mr. Cummins has been helpful in providing some of those answers tonight. Mrs. Holtzmeier suggested it would be helpful if he would continue to communicate that out because it is new and that would give people a chance to digest it.

Mr. Cummins advised he noticed the exhibits, which include the three maps, are a part of the legislation and those three maps depict what makes up the proposed trail and that information is available to help answer questions. He stated that as late as today he had discussions with Mr. Ziemnik about different aspects of this trail and where it would be best to put it and those types of things. Mr. Cummins felt going forward those types of questions are all valid and he believes everyone will endeavor to find the best possible answers to those questions. He said all of the aspects Council discussed will be looked at. Mr. Cummins stated as far as the edge of the path goes, it is very common, and it will be part of the project to do delinear grading, grading up to the edge, and they will make sure it is seeded properly etc. He said asphalt is generally much cheaper than concrete and it also has the benefit of not having severe elevation differences because there is not the heaving of one concrete slab versus the other. He said maintenance overall is very low and they are looking at a 2023 construction date so they would have 2 to 2 ½ years to sort out many policy type issues and make those determinations. Mr. Cummins advised as he stated previously this legislation is to get started, but if it has to wait until next month it is not going to impact anything one way or the other.

Mr. Fischer advised he agreed with the Mayor and Mr. Witherspoon that we need to get moving forward but felt there were enough questions that they should just have first reading tonight at the Regular Meeting following this Work Session.

Mrs. Holtzmeier asked as to the date this item might show up for a second of three readings.

Mr. Gasior confirmed Monday, August 10, 2020.

Mrs. Holtzmeier advised maybe they would be in a better position health wise on August 10th that folks who have concerns may be able to come and speak to those concerns.

Mr. Fischer spoke to Mr. Witherspoon, as Chairman of the Parks & Recreation Committee, that if he felt it necessary to have a meeting to clear up some questions before this comes up for a second reading to let him know or they can just discuss it in the next Work Session.

Mr. Witherspoon advised he would think it over and let him know.

15. [RESOLUTION NO. R-17-20](#) – TO ADVERTISE FOR BIDS FOR THE 2020 PAVEMENT MARKING PROGRAM Mr. Cummins

Mr. Cummins advised this is going out to seek public bids to reapply roadway pavement markings throughout the community. He said once the bids are received, they will provide the results to City Council and ask for their consideration in awarding a contract.

16. REPORTS AND COMMENTS

MAYOR JENSEN had no further comments.

COUNCIL MEMBERS:

MR. BUTKOWSKI, WARD 1 had no further comments.

MRS. HOLTZMEIER, AT LARGE advised over the weekend they were able to celebrate Independence Day in the community. She said they honored our healthcare heroes locally and our law enforcement and safety service forces as Grand Marshals. Mrs. Holtzmeier stated the design of the parade allowed our local 100-year old WWII Veteran, Wally Pence, to attend. She said Mr. Pence's family, his children and his grandchildren and his great grandchildren, who have not been able to interact with him and see him and were so sad that they would not be able to celebrate that milestone birthday with him next month due to COVID, were all in attendance in multiple cars and it really gave them a memory that they would never forget. Mrs. Holtzmeier advised from the standpoint of the community it was a good day and from the memory of Mr. Pence and his family it was a great day.

MR. MCBRIDE, WARD 2 advised the parade was great. He said his son launched 500+ water balloons at the cars going by, mostly hitting the tires. He said it was nice to have everyone drive through and it was a great event.

Mr. McBride advised regarding a traffic issue, he has now driven through the intersection at Detroit Road and SR83 where he was in a "geese jam" crossing from the pond over to City Centre. He believes he has driven that stretch a dozen times and he has been stopped at least eight times having to wait for the geese and of course they all come across single file and there were about 30-50 geese.

Mr. McBride suggested that the right-in, right-out only areas be removed except for a few places where we would have to keep them such as on Chester Road and Detroit Road, but they were a nuisance. He said motorists ignore them and they are a disaster. Mr. McBride stated if it means a business needs to widen the road and install some turn lane space then that is what they need to do as he did not know of another solution, but he recommends they do away with them.

MR. MOORE, WARD 3 advised he felt that the texting while driving issue was getting out of hand again. He said he saw a motorcyclist on Detroit Road and SR83 on the phone at the light. Mr. Moore suggested officers issue citations as some of what goes on is unbelievable.

MR. RADCLIFFE, WARD 4 had no comments.

MR. WITHERSPOON, AT LARGE had no comments.

MR. FISCHER, AT LARGE reminded the elected officials that the filing deadline for their 2019 Financial Disclosure Statements is Wednesday, July 15, 2020.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no further 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.

MR. STREATOR, SAFETY DIRECTOR had no comments.

AUDIENCE:

Bob Seibel of 1691 Elm Drive in the Willow Creek Subdivision advised one of his neighbor's, Mark Pesta, in recent months spoke in front of this Council highlighting some of the ongoing drainage issues that the Willow Creek Subdivision is experiencing. He said Mr. Pesta even brought to Council's attention some of his neighbors to the south end of the neighborhood that are experiencing flooding in their backyards after a heavy rainfall. Mr. Seibel stated unfortunately he is one of those neighbors along with his neighbor Fran Varga who are probably ground zero for this issue. He said he moved into Willow Creek in 2015 and there have been ongoing water and drainage issues from the start, but as of late it has gotten significantly worse and it is affecting their properties and the neighborhood.

Mr. Seibel advised on Friday, May 15, 2020 there was a heavy rainstorm and it rained all day and around 5:30 p.m. his backyard looked like a duck pond. He said when describing his backyard, it is not runoff, it is not puddling, it is a lake and he has plenty of pictures. Mr. Seibel said he was so frustrated that May evening that he decided to put on his raincoat and knee high waders and walk through the 22.5 acre parcel to the south of him that runs up to Detroit Road because he wanted to find out how there was this much water coming into his backyard. He stated first off, he was blown away by how much water sits back there and he could not fathom where it comes from as it was not natural runoff from a day of rain. Mr. Seibel advised only by accident, as he was walking back home, he headed east out of the woods to walk back down the Avon Oaks Country Club driveway to get home and there was his problem. He said along the access road of Avon Oaks CC is a small swale that is clearly inadequate for the amount of water that is coming there. Mr. Seibel stated the water was rushing and pushing out of that little swale into the vacant parcel and into his backyard and that is what is happening. He said the next day he walked along the golf course, through the neighbors' yard on Detroit Road and there at the top of North Star Lane is a big 4' catch basin 20' wide and approximately 30' deep to catch a lot of water running underneath Detroit Road through two residential properties on Detroit Road and down along the Avon Oaks CC, which not only ends up in his backyard, but ends up in many of his neighbors' backyards and eventually into the pond that they are now having issues with.

Mr. Seibel advised on May 20th he spoke with Mr. Cummins about this issue for 34 minutes on the phone and he appreciates that as he was more than cordial and gave him a lot of information, but he was not sure what Mr. Cummins was looking at, at that time because when he told Mr. Cummins what he found he agreed and said there was over 70 acres, almost 800 acres of runoff coming to that catch basin at North Star Lane. He said he has been told since he moved here that his issue is with the vacant land of 22.5 acres that is currently for sale. Mr. Seibel stated he has talked with attorneys; he has talked with engineers and he cannot get a response from the owners of the 22.5-acre parcel. He advised now that he found out where that water is coming from, it is not runoff from the 22.5-acre parcel, but it is a design flaw that should not be going where it is going. Mr. Seibel said he keeps being told the swale is not a named ditch, so the City is not responsible. He asked why a 100 acres of water is going to a ditch that is not named. Mr. Seibel asked if they could name it a ditch and have it adequately drained, or can we make it head somewhere else. He said he does not know what the answer is, but this is something that he and his neighbor, Fran Varga of 1689 Elm Drive and his neighbor's Chris and Helene Dandrea of 1693 Elm Drive and many more residents of Willow Creek feel is unwarranted.

Mr. Seibel advised he does not want to be here any more than they want to hear from him, he keeps being told that he just has to stay on the City and keep emailing and keep calling and he does not want to be that pest. He said he has been a real estate appraiser for fifteen years and he knows that every homeowner is entitled to certain rights and two of those rights are right to enjoyment and the right to disposal and he felt both of those

rights were being infringed upon. Mr. Seibel stated he cannot put a swingset or a sandbox in his backyard for his kids. He advised Ms. Varga has had to repave her patio twice in two years because of the amount of water passing through our backyards and it is changing the landscape of their properties. Mr. Seibel said they have had excavators, landscapers, anyone who will listen come and provide quotes as they are willing to pay to get this situation rectified. He stated all the contractors say the same thing when he shows them the pictures, that he has to talk to the City as they will not touch this situation. Mr. Seibel indicated this issue has already been brought to the City's attention, but now knowing the area causing the problem he felt it should be addressed. He advised he has received quotes from a reputable engineering department to do a water analysis on their own although he does not feel that should be necessary for him as a taxpayer to get that analysis when he could tell them without it where all the water is coming from. Mr. Seibel stated he wanted to come before this Board and ask when he can get an answer on whether someone will address this situation. He said Mr. Farmer, Service Director has been great as well as Mr. Cummins and he does not want to keep emailing and calling them, but he wants to know when this situation will be addressed because it is not right. Mr. Seibel advised any of the City officials were more than welcome to come look at his property and he was more than happy to show them his pictures and videos. He stated this is a design flaw more than natural runoff and he wanted to know when he could get an answer as to whether the City was going to do something about it.

Mr. Fischer advised City officials have discussed this before and he brought up this issue again with Mr. Cummins and Mayor Jensen last Tuesday. He said the land around Mr. Seibel's property might be getting developed soon and it all comes down to getting that water study done and how long they can wait.

Mr. Seibel advised his issue with the land behind his house is that he has tried to contact the property owners in the past with no response. He said it is not known whether that land can be developed with the amount of water back there.

Mr. Fischer clarified he was referring to property further down from Mr. Seibel's house.

Mr. Cummins advised, as they have spoken about before, the first step is to identify the exact area that is contributing. He believes the existing culvert has been in place for a long time, but they need to track down the current circumstances such as when it came to be and if there is any evidence that something has changed along the way and then explore what potential remedies there may be. He said that drainage area, the Detroit Road culvert and the drainage way to the north has been in place for decades so it would take some study to come up with how that might be able to be addressed.

Mr. Seibel asked if it would help if he and his neighbors get the study started and he understood it is going to take some time. He said they keep being told it has been in place, but clearly something is changing. Mr. Seibel stated he has a timeline of photos and videos. He advised the default excuse that it has been there was not enough, and he believes there is more to this. Mr. Seibel said he is a little taken aback that he has to keep badgering the City when it is obvious there is a problem. He asked why 100 acres of water is going to that grassy swale and who is in charge of that swale.

Mr. McBride felt something has changed and he is the Ward 2 Councilman, which includes this area, and he stated when this subdivision was first installed it was not flooding like that, so something has changed. He said they would need to figure out how many years back it changed, but the culvert at North Star Lane has been there for a long time and it was not flooding. Mr. McBride advised figuring out what changed is not going to be a quick solution.

Mr. Seibel asked what was approved last year for Avon Oaks to change their ponds at the golf course hole number 13.

Mr. McBride advised he did not know and speculated the Country Club may have changed something without coming in and filing with the City Engineer. He indicated an elevation cannot be changed without approval.

Mr. Seibel stated when he spoke with a lady on Detroit Road the day he took that walk, he asked her if she was getting water on her property like he was and she said no, that her property was up rather high. He advised that he explained his situation and she wondered if it has anything to do with the people from the City or the golf course that were looking at this ditch for every day for two months about six months ago. Mr. Seibel indicated his backyard now has water deck high after a heavy rainfall. He said something has happened over the last couple of years that has made his yard, Ms. Varga's yard, and the Dandrea's yard flood. Mr. Seibel advised he is willing to spend money, he is willing to put a mound or drains in, but he would just be kicking the can down the road to his next neighbor and make more problems for Willow Creek. He was asking if the City could take a look at this because it was getting worse and it is affecting the neighborhood as a whole and it is not going away. Mr. Seibel asked if there was any form of timeline they could provide, whether on an agenda or have some form of an answer to an analysis.

Mr. McBride said he did not know that getting it on an agenda was the avenue to take, but he felt it was more the Service Director meeting with the City Engineer and looking at the site before they go out and decide on the targeted study that needs to be done. He indicated they need to analyze what work has been done since the flooding started. When Mr. Pesta came to City Council, that was the first he heard of flooding in that area. He said he does not remember hearing anything about flooding in this area last year. Mr. McBride speculated maybe the problem is a couple of years old but wondered what was happening. He believes they still have some homework to do before the City can move forward.

Mr. Seibel asked it looks to him that tributary was made to go to Porter Creek and it never makes it there. He said Porter Creek is ten feet wide and goes underneath Avon Road, but that water never makes it there, but a tiny arm that makes it into his backyard. Mr. Seibel asked even if North Star Lane has been there for twelve years and they find out that it was inadequately put in, was the City saying, "oh well, the five year statute is passed and they cannot do anything to help Willow Creek".

Mr. McBride advised they do not know that North Star Lane is the cause. He speculated it could be the golf course, it could be something that flows into that area.

Mr. Farmer advised he caddied at Avon Oaks when he was approximately 12-14 years old until he was 18 years old and that tributary has always been there. He said North Star Lane has not been there as long, but that tributary has always been there, and it has always followed that road along the bend before the houses were built in that area.

Mr. Seibel asked when it wraps around the back near the dome was why his other neighbors do not get flooded until a very heavy rainfall, but when it wraps around the dome, it was six feet wide and eight feet deep in that area. He said when it gets up to that swale, it was nothing. Mr. Seibel asked if it got filled in as he did not understand why it would do that. He thanked Council for their time, but he would really like to see if someone can look at this because it is very much affecting their properties and their rights as property owners and he was hopeful they could find some resolution. He reiterated they were willing to spend money themselves to do whatever they can to protect their property but said he would like the City to be more active in looking into the situation.

Mr. Seibel projected his photos of his backyard during times of flooding on the large monitors in Council Chambers for all to see.

Fran Varga of 1689 Elm Drive advised she lives just north of Mr. Seibel and she appreciates any help or direction they could provide for this issue as they are really at a loss for what to do. She said she has lived there for sixteen years and she loves the neighborhood and she loves Avon and right now she could not sell her house if she wanted to and that is really upsetting because they are not getting anywhere with the issue and they do not know what to do. Ms. Varga stated they have tried so many avenues to try not to badger people, but it feels like they are getting nowhere. She said last year the water in her backyard came up to her house for the first time in sixteen years. Ms. Varga advised it has just been the last couple of years that it has been horrific. She stated

there are ducks that swim in her backyard and she cannot see any of her landscaping and she just spent another \$3600 to repair her patio because the water sank it and she could not keep doing this, but she does not really know what to do and would appreciate any help. Ms. Varga said it looks like Niagara Falls is heading toward your house as it was an unbelievable amount of water. She advised Mr. Farmer saw it last year just on that access road and she has lived there sixteen years and she asked what changed.

Mr. Witherspoon asked when the flooding started.

Ms. Varga said she remembers they lived there approximately seven or eight years of no flooding as it was before they finished the basement because they wanted to make sure there was not any water issues. She stated there were at least eight years of no water issues. Ms. Varga advised then there were some times with very heavy rain there was a swale that would direct down and fill up, but now it is a lake; it is indescribable.

Mr. Seibel advised that is why they think part of the problem is that there is so much water coming through that it is changing the topography of their properties. He said Ms. Varga's property now looks like a swale, but five years ago there was a mound, but that is gone now.

Ms. Varga advised now other people in their neighborhood are coming to them saying that they are getting water along the Avon Oaks side.

Mr. Fischer felt something definitely has changed and suggested that getting a water study completed might be the way to start. He said they were going to have to start somewhere and figure out what changed as well as having the Service Department walk that area to see if that water is somehow getting redirected in the last couple of years.

Mr. Witherspoon asked if 2012 would be approximately when they started noticing flooding.

Ms. Varga stated she was trying to remember when it got really bad.

Mr. Seibel advised he moved into his house in 2015 and it has always been an issue ever since he moved in as it was disclosed to him when he purchased the property that minor puddling occurs during heavy rainfall, which is an understatement. He said it has been present the entire time he has lived there, but it has gotten worse in the last two years. Last year was the first time they saw it hitting Ms. Varga's house and coming up to his deck which is probably twenty feet from the woods. Mr. Seibel thinks it has been ongoing for quite awhile but the severity of it has gotten significantly worse in the last two years.

17. ADJOURN: 8:22 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