

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE  
CITY OF AVON, OHIO HELD MONDAY, SEPTEMBER 21, 2020  
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING  
AT 7:30 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; 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. 89-20](#) – TO ACCEPT IMPROVEMENTS IN RED TAIL SUBDIVISION NO. 16  
Mr. Farmer

Mr. Farmer advised at this point and time they have not finished signing the routing slip as there are some items that need to be completed. He said once the items are completed then they will be ready for passage next Monday and if not, it will be the first of three readings.

Mr. Logan confirmed all deposits were received.

Mr. Gasior pointed out that just before the start of the meeting, Council all received a letter from Mr. Pete Restivo and Mr. Restivo and his attorney Gerald Phillips are present in tonight's meeting. He advised Council Member Moore has indicated to him that he has a business relationship with Attorney Phillips. Mr. Gasior stated he does not believe there will be a conflict of interest if Mr. Moore acts on this legislation, but he wants to provide him with some advice on that by next week, but he wants to look into it and determine if he has to abstain. He advised the City Administration would all be receiving copies of the letter as well.

Mr. Gasior noted Mr. Farmer's comments about the subdivision not being ready and he asked if it was safe to assume that it would not be ready by September 28, 2020.

Mr. Farmer advised he did not get a chance to go out there today to know for sure what is completed and what has not been completed.

Mr. McBride asked the location of Red Tail Subdivision No. 16.

Mr. Gasior advised it was near the driving range behind Gene Hickerson's old house on the east side of Nagel Road.

Mr. Farmer advised it was south of Lion's Gate Run and between St. Theresa Blvd and Nagel Road.

Peter Restivo of 4061 Nagel Road, Avon advised the nature of the complaint he makes on behalf of the residents of Red Tail. He said he has been there, in that residential community, his entire adult career here in Avon and he knows the community extremely well. Mr. Restivo stated there is a residential development standard in that community that is actually a document and it is combined to a declaration of covenants and restrictions. He said it sets forth a lot of parameters about the expectations and it is such an important document that no one can buy a lot or own a home in Red Tail without signing it and no one does that, but them. Mr. Restivo advised he is very proud of Red Tail and he is not here in opposition to Ms. Mary Khouri. He stated he is here based on a lifetime of work, a brand name that he built; it is a wonderful project and will be a wonderful project for a long time. Mr. Restivo said there are certain standards that are required, and he felt Carnegie Corporation was rushing this subdivision unnecessarily and he did not know to whose benefit. He advised the letter speaks for itself and is very factual and it is not accusatory or damning but is a straightforward letter. Mr. Restivo stated there are also some safety issues involved that are significant and there are some things being done that have never been

done before in any of their subdivisions at Red Tail and they have done 18 of them. Mr. Restivo advised they have been here a long time and he believes that body of work speaks for itself and when the City looks at it he asked that they look at it with an open mind and it should be for their consideration about how this subdivision is accepted as it is an important document. He understood they just received a copy of the letter prior to the start of the meeting and that they may not have had time to form any questions. Mr. Restivo explained they would have normally provided the letter sooner if they could have, but they just found out about it and he understands they all have their own schedule they are trying to deal with.

Mr. Gasior advised with Mr. Cummins and Mr. Farmer having a copy of this letter he thinks that any of the issues that are raised in the letter can be addressed over the course of the week and the City will make a determination on September 28<sup>th</sup> whether or not they are ready to go forward. He said he would let the Council President know and if it is ready it will be added to the Regular Meeting agenda and if it is not then he will recommend not adding it to the Regular Meeting based on what Mr. Cummins and Mr. Farmer think about the status of that development.

Mary Khouri of Carnegie Residential and Development Corporation 27500 Detroit Road, Suite 300, Westlake advised she is representing Carnegie Residential as it relates to Red Tail Subdivision No. 16 and she would like to share with the Council that they were not aware of any objections from any homeowners in Red Tail and they have not heard of this letter nor have they seen it. She said they are not able to address any concerns as it relates to the letter again, because they have not seen it. Ms. Khouri stated she just heard about the letter this evening in Council and they came to the meeting tonight in case there were any questions. She advised they have fulfilled the financial obligations and have completed their drawings according to Mr. Cummins' review and they had no expectation of any delays whatsoever and this has caught them off guard. Ms. Khouri stated she is unable to address any concerns in the letter, but she does not believe that they have any merit and quite frankly if she understood Mr. Restivo's comments correctly he referenced that there were major concerns and deficiencies in the declaration of covenants and restrictions as it relates to Red Tail phase 16. She said she is not aware of any deficiencies or concerns and no objections have been raised. Ms. Khouri advised the original declaration of covenants and restrictions for phase 16 was run by Pete Restivo prior to the parties parting ways. She asked if she could receive a copy of the letter so that they could also address it and unless it is specific with regard to some deficiency and compliance with either the subdivider's agreement and/or the as-built drawings she really did not understand why there would be anything for them to address.

Ms. Khouri was handed a copy of the letter.

Mr. Gasior advised the City and Council were handed the letter at approximately 7:15 p.m. this night.

Ms. Khouri advised she understood, but she wanted to share what she is able to share.

Debbie Reed of Carnegie asked what the City felt was not finished.

Mr. Farmer advised he saw the street signs were replaced. He said there was still work in the right of way that needs to be completed with the cart paths.

Ms. Reed advised the cart paths should be done tomorrow or Wednesday morning.

Mr. Farmer advised that is why they have not finalized the routing slip because the City has not signed off as it being completed.

Ms. Reed advised the cart paths are not part of the subdivision.

Mr. Farmer advised it is in the right of way and all work in the right of way needs to be completed.

Ms. Reed advised it will be completed and she asked if there was anything else.

Mr. Farmer advised he went over there this weekend and where those golf carts are going through is a mess.

Ms. Reed advised she was there this morning and they started the work this morning and it will be done by Wednesday morning and she asked if there was anything else besides that.

Mr. Farmer advised he needed to confer with the Streets Superintendent to make sure he is happy with the work in the right of way.

Mayor Jensen advised they try to get these approved as quickly as possible when everything is complete, but if there is something that is brought to the City's attention that they might not have been aware of the City will want to be somewhat cautious in terms of passing something by emergency next week unless everyone agrees it is completed and ready for approval. He understood Ms. Khouri would be reviewing the letter as well. Mayor Jensen said Mr. Farmer has a punch list of everything that has to be done, but even if those are completed, if there are issues before the City, they were still going to have to be cautious in terms of moving forward.

Mr. Gasior advised they will find out the status by Thursday or Friday and let the Council President know and he can then decide whether to add it to the agenda and have a reading or leave it off the agenda until October 5<sup>th</sup> or 12<sup>th</sup>.

Mr. McBride advised whether they are ready next meeting or next month, he felt some of the issues raised about erosion stabilization and this is the perfect time of year to grow tall grasses, cattails or the like planted on the hillside as that should be done now and established before winter or they will have other slip measures in there for a long time and it will not be until spring when something could be done. He suggested the necessary parties to please read through the letter and he was not sure of its merit yet, but he advised they should take a walk with a critical eye as he knew the City Service Director and City Engineer will be. Mr. McBride felt some of the other items in the letter may need to be addressed as well and this is the perfect time of year to do plantings and tweak the grades a little bit to get some vegetation growing; that would be good.

Ms. Khouri on behalf of Carnegie Residential, the Developer for Red Tail Subdivision No. 16 asked if she is understanding correctly that the City is deferring its compliance and code requirements to Pete Restivo.

Mr. Gasior advised no.

Ms. Khouri asked that they help her understand that if Carnegie has completed everything or that they understand that they have complied with all City requirements except for what Mr. Farmer needs completed, how is it that, absent this letter, they would not have an issue, but because a letter has been received from an individual that was involved in the origination of the subdivision and now is no longer involved, that his letter is somehow holding this up.

Mr. Gasior advised Mr. Restivo's letter is not holding it up. He said he thinks all the City is trying to do is make sure that there nothing pointed out in the letter that could have been missed. Mr. Gasior stated Mr. Farmer is going through the checklist and if everything is met on his punch list and the matter is ready to be accepted, it will be in front of Council to be accepted. He said he did not have any idea what is in this letter, but if there is something in this letter that may be a part of the City's punch list.

Ms. Khouri asked if they should not already be aware of it.

Mr. Gasior advised he did not know as Mr. Farmer was on vacation recently.

Ms. Khouri asked if they understood her concern.

Mr. Gasior advised he absolutely understands her concern, but he is just trying to explain that Council is not going to deviate from their punch list of items and add to them because of a letter received from someone that

indicates something that is not on their punch list. He said her point is whether an individual can raise an issue outside of the City's general punch list items and yes, they can and they do and the City is sensitive to those individuals, but the City's punch list items are the City's punch list items.

Ms. Khouri said she understood.

Mr. Gasior advised the implication of Ms. Khouri's comment is that the City/Council may bow to pressure of someone who comes in with a letter although they respect the letter, but the City does not bow. He said the City has their own standards and will comply with their own standards. Mr. Gasior stated that Ms. Khouri's concern seems to be that there may be something in this letter that creates a new standard for the City.

Ms. Khouri advised she is suggesting that an individual should not be setting a different standard.

Mr. Gasior advised but that is what she said and what he is saying is that they do not set a new standard. He said he does not know what is in this letter.

Ms. Khouri asked Mr. Farmer if he has had an opportunity to read the letter.

Mr. Farmer advised he was just handed the letter when he arrived tonight.

Ms. Khouri advised she would just like to understand where she stands right now.

Mr. Fischer advised it was no different than a resident calling and asking for the City to look into a situation before it being approved. He said of course the City officials in that department are going to check into it as that is their job if someone has a concern.

Ms. Khouri asked what she should be doing to address the deficiencies that are referenced in this letter. She asked if she should be waiting to hear back from the City.

Mr. Fischer advised first of all, Mr. Farmer and Mr. Cummins are going to have to look to see if there are deficiencies.

Ms. Khouri asked if she should then wait and not do anything until the City gives them direction.

Mr. Farmer asked to give them an opportunity to review the letter and visit the site to see if anything in the letter has merit. He advised the City's walk-through is with the Utilities Department, the Streets Department, and the Storm Water Department as they all have a checklist. Mr. Farmer stated he wanted to make sure they are all on the same page. He said he knows the Streets Superintendent had a couple of items on his list and he was out of the office today and he has not had a chance to sit down and go through this yet. Mr. Farmer advised they normally meet prior to a Council Meeting to discuss any deficiencies that need to be addressed.

Ms. Khouri advised she would like to add that they will do whatever is required to be done to satisfy the City requirements and to make sure it is done properly.

Mr. McBride advised his comment was not to throw anyone under the bus based on a letter, but it was more that he was looking at it and thinking there could be something to it. He said there should not be anything outstanding on the City punch list as everything should already be done. Mr. McBride stated he is assuming that Carnegie is paying someone to do that, someone that does their site work. He said it should be done and if they have not done it, Ms. Khouri may have to physically go out to the site and walk it to see for herself. Mr. McBride advised it is just a heads up.

2. [ORDINANCE NO. 90-20](#) – GRANTING A SPECIAL USE PERMIT TO PLAZA STREET FUND 108, LLC, TO AUTHORIZE THEIR TENANT, SLIM CHICKENS TO CONSTRUCT A 429 SQUARE FOOT

OUTDOOR PATIO SEATING AREA ON PROPERTY LOCATED IN THE C-4 GENERAL BUSINESS DISTRICT WEST OF NAGEL ROAD AND NORTH OF MIDDLETON ROAD Planning Referral

Ms. Fechter advised Slim Chickens is coming to town and they have purchased one of the out parcels from Meijer. She said they would be next to the Meijer gas station. Ms. Fechter stated Plaza Street Fund 108 is asking for Council to grant them a Special Use Permit to operate a 429 square foot outdoor patio seating area. She said they will not have any live music on their patio, but it will be for dining and they will be open from 10:30 am to 10:00 pm.

3. ORDINANCE NO. 91-20 – TO AUTHORIZE AN AMENDMENT TO THE FINAL PLAT FOR THE GILBERT FORTHOFFER SUBDIVISION NO. 6 Planning Referral

Ms. Fechter advised this plat is before Council and this is a City project that is part of the Detroit Road widening. She stated in exchange for some right of way the property owners would like to consolidate two lots of the old Forthofer subdivision.

Mr. Gasior advised any time there is a consolidation of an old subdivision, the County requires an amendment to the final plat of that subdivision. He said in this case subplot 16 and 17 are being combined and then there will be new subplot number 78 created eliminating numbers 16 and 17 in phase 6 of the Gilbert Forthofer subdivision. Mr. Gasior stated that is the way the legislation has to be worded and if approved by Council will go to the County to be recorded. He said they recommend that Council approve it as it is a part of the overall negotiations that the City has been engaged in with Mrs. Lowry on the property that the City needs to acquire on Detroit Road in her front yard.

4. ORDINANCE NO. 92-20 – AMENDING SECTION 210.01(f)(3)(D) OF THE CODIFIED ORDINANCES OF THE CITY REGARDING MINOR SUBDIVISION/LOT SPLIT REVIEW FEES Mr. Gasior

Mr. Gasior advised they needed to clean up something in the fee schedule listed in the Code. He said it appears that they may have missed an increase in a fee a few years ago and they wanted to bring it current. Mr. Gasior stated the minor subdivision/lot split review fee will go from \$50 to \$75.

5. REPORTS AND COMMENTS

MAYOR JENSEN advised with the Mass Estates Development the City has worked really hard with it and there are some things the City is working through internally to try to help. He stated it may or may not be before Council next week and he spoke with Mr. Cummins today about it and they are working through some issues.

Mayor Jensen advised they have received a lot of complaints about the microphone system and with everyone wearing masks and the plexiglass installed now that the IT Department is working on trying to get them replaced or upgraded so that the audience can better hear what is being discussed. He hoped that would be within the next week or two to have something that will work better.

COUNCIL MEMBERS:

MR. BUTKOWSKI, WARD 1 had no comments.

MRS. HOLTZMEIER, AT LARGE advised she would be absent from the Regular Meeting of Council on Tuesday, October 13, 2020.

Mrs. Holtzmeier stated some good news was that residents were starting to see the new sidewalk crossings going in throughout town especially on Detroit Road. She asked Mr. Farmer if he could provide a brief summary on that situation as well as an expectation as to when they might be ready to go.

Mr. Farmer advised they are waiting for the rapid flashing beacons to come in. He said in the meantime they are installing the aprons and hope to put up some temporary signage. Mr. Farmer confirmed they

were working on Moon Road and French Creek Road today and they already have the sidewalks installed by St. Francis Drive and Nagel Road. He stated they were making headway on that project and they were also putting up some of those speed indicator signs, and he is working with the Safety Director verifying their intended locations to make sure everyone is on the same page.

Mrs. Holtzmeier added that she heard that Century Lane and Fairway Drive were on the schedule as well and Mr. Farmer confirmed those locations. She asked if there was a calendar date such as some time in October perhaps.

Mr. Farmer advised one of the manufacturers for those poles was having issues, so they were probably looking at approximately 14-16 weeks from the time they were ordered so they were a way off from getting them installed.

MR. MCBRIDE, WARD 2 advised he felt like the signs in the public right of way were out of control and he thanked Mayor Jensen who asked the Parks Department and Service Department employees to pull signs that were illegally placed, and they were now disappearing, which was great news.

Mr. McBride advised on a personal note, he discovered some identity theft recently and he filed a report at the Avon Police Department. He said everyone who lives in Avon already knows that the City employees are awesome, but he wanted to personally attest that the Avon Police Officer was very helpful and the bottom line is that there are a lot of great City employees.

MR. MOORE, WARD 3 advised he would like to revisit the tree maintenance and preservation plan conversation, if possible, start working on some kind of established code for the City.

MR. RADCLIFFE, WARD 4 asked if Mr. Streator or Mr. Farmer could provide a list to Council of where the speed signs are located. He said he would like to double check the list. Mr. Radcliffe stated he submitted a request from a resident earlier this year and he wanted to make sure it is on the list and that they are all on the same page with what is getting installed.

Mr. Streator advised they would finalize that list tomorrow and send it out to Council.

MR. WITHERSPOON, AT LARGE had no comments.

MR. FISCHER, AT LARGE had no comments.

#### DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER advised there is another subdivision that the Administration is working on, the Mass Estates Subdivision. He said there is a chance that it may come before Council next week, but there are a lot of details to be worked out in order for that to happen, but it is something that is being worked on as they speak.

MR. FARMER, SERVICE DIRECTOR had no additional comments.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR advised to add to Mr. Moore's comments regarding tree maintenance and preservation in the City. She said the consultant the City hired that is identifying lot sizes is also looking at some of the requirements for trees for businesses coming into the City as well as new residential areas to add to our existing Code. Ms. Fechter said she is hopeful that the report will be coming out soon from the consultant and she understands that regulating trees is important, and she wanted to let Council know they are looking at requirements for planting/replacing trees. She noted they have not had any conversations yet about what is required to be kept regarding existing trees.

MR. GASIOR, LAW DIRECTOR had no comments.

MR. LOGAN, FINANCE DIRECTOR had no comments.

MR. STREATOR, SAFETY DIRECTOR had no comments.

AUDIENCE:

Tom Kuluris, with Liberty Development Company, 28045 Ranney Parkway, Westlake for Mass Estates, LLC advised they received contingent approval last week from the Planning Commission and they are all working very hard to get here. He said he wanted to come in and let Council know that they are looking forward to coming before this body for approval. Mr. Kuluris stated they have been working together a long time with the Planning Commission as Mr. Radcliffe and Mr. Cummins and the Administration are aware. He advised it has probably put more on the table for a community than most subdivisions that his company has worked on and they try to excel in everything they do. Mr. Kuluris said this subdivision with 2 for 1 compensatory storage along the stream, Schwartz Creek, will really help alleviate flooding in the area way beyond their proposed subdivision. He stated they are redoing Williams Court from Schwartz Road all the way to the creek as that was getting widened and new sanitary and storm water improvements being made. Mr. Kuluris advised there are a lot of good things happening and the neighbors seem very happy with it. He said there is one geologist who works with Baldwin Wallace University who said a couple of meetings ago that Liberty Development is really helping them. Mr. Kuluris stated they are excited about this project and are looking forward to bringing it to Avon and he wanted to make sure if there was anything that Council needed from them before to let him know. He indicated they hoped to be present next Monday and he said they really hoped to be able to at least do some grading this year as they have some things they need to get accomplished over the winter and if they do not get the grading done it is going to be very difficult for them. Mr. Kuluris added that so far they are all working together and he is hoping that happens.

ADJOURN: 8:01 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