

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, SEPTEMBER 28, 2020
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

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

PRESENT

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

ABSENT

City Engineer – Ryan Cummins

ADDITIONS/DELETION

A motion was made by Mr. McBride and seconded by Mr. Moore to add item #12a to the agenda, Executive Session to Discuss the purchase or sale of real estate and the threat of imminent litigation, and the vote was: Mr. Butkowski, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to accept the agenda as amended, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”.

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

MINUTES OF THE WORK SESSION OF COUNCIL HELD TUESDAY, SEPTEMBER 8, 2020

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Work Session of Council held Tuesday, September 8, 2020, and to approve said minutes as published, and the discussion was:

Mr. Logan pointed out that at the Work Session on September 8, 2020 regarding Ordinance No. 81-20 – Reappropriations – at that time there were a couple of items added to that Ordinance that were not listed in the physical Exhibit A of the Ordinance. He said those added items were mentioned in the Work Session; however, he failed to distribute the revised document. Mr. Logan explained the attachment Council saw and eventually passed on September 14th did not include two items that he would like to have Council consider tonight with Ordinance No. 93-20 which amends Ordinance No. 81-20. He apologized for the error.

Mr. Fischer clarified Ordinance No. 93-20 is item #11 on tonight’s agenda.

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

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

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, SEPTEMBER 14, 2020

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Regular Meeting of Council held Monday, September 14, 2020, and to approve said minutes as published, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

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

ORDINANCE NO. 89-20 – TO ACCEPT IMPROVEMENTS IN RED TAIL SUBDIVISION NO. 16

The Clerk read Ordinance No. 89-20 by title only, entitled:

**AN ORDINANCE TO ACCEPT IMPROVEMENTS
IN RED TAIL SUBDIVISION NO. 16
AND DECLARING AN EMERGENCY**

The Chairman declared this to be the first of three readings of Ordinance No. 89-20.

Mr. McBride asked Mr. Farmer for a status update to this legislation.

Mr. Farmer advised he and Mr. Cummins walked the site this past Wednesday. He said they also walked the site with Mr. Khouri, Mrs. Khouri and Mrs. Reed of Carnegie Development. Mr. Farmer stated the only issue the City had was in the right of way areas and the common areas. He said that areas for development, they will be bringing in fill dirt as they dig for basements and other things of that nature and they did not see any issues outside of that.

Mr. McBride advised that would not be within the City’s purview anyway. He asked if there were any slip issues from the Building Department.

Mr. Farmer advised there were no slip issues.

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

The Clerk read Ordinance No. 90-20 by title only, entitled:

**AN ORDINANCE 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**

AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 90-20, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to adopt Ordinance No. 90-20, and the discussion was:

Mr. McBride asked if there would be the same patio restrictions as any other retailer in that area in terms of the noise Ordinance.

Ms. Fechter asked Council if they would like that restriction added. She advised Slim Chickens does not plan to have any music on the patio and the patio closes at 10 p.m.

Mr. McBride was satisfied with that answer.

Ms. Fechter stated they do have a patio clause in the Special Use Permit across the street for Beerhead Bar & Eatery and she believes they end at midnight on weekends. She said with Slim Chickens not having a band or overhead music and closing at 10 p.m. they did not add anything specific to that in the legislation although they could.

Mr. McBride advised that might be something that Planning Commission may want to consider discussing in the future to have those same restrictions included even if there is no music so that the whole area is treated the same. He stated it would be similar to what was done for Main Event even though he could not imagine any noise from Main Event.

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

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

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

The Clerk read Ordinance No. 91-20 by title only, entitled:

**AN ORDINANCE TO AUTHORIZE AN AMENDMENT TO THE FINAL
PLAT FOR THE GILBERT FORTHOFFER SUBDIVISION NO. 6
AND DECLARING AN EMERGENCY**

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 91-20, and the vote was: Mr. Butkowski, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 91-20, and the vote was: Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”.

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

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

The Clerk read Ordinance No. 92-20 by title only, entitled:

AN ORDINANCE AMENDING SECTION 210.01(f)(3)(D) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON REGARDING MINOR SUBDIVISION/LOT SPLIT REVIEW FEES AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 92-20, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mrs. Holtzmeier, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 92-20, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

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

ORDINANCE NO. 93-20 – TO AMEND ORDINANCE NO. 81-20 WHICH AMENDED AND SUPPLEMENTED APPROPRIATIONS ORDINANCE NO. 104-19

The Clerk read Ordinance No. 93-20 by title only, entitled:

AN ORDINANCE TO AMEND ORDINANCE NO. 81-20 WHICH AMENDED AND SUPPLEMENTED APPROPRIATIONS ORDINANCE NO. 104-19 AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Ordinance No. 93-20, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 93-20, and the discussion was:

Mr. Logan pointed out that the Exhibit to the Ordinance is what he intended to have attached to Ordinance No. 81-20. He said the two items at the top of the second page of the Exhibit; the Detroit Road Widening appropriation of \$20,000 and the Chester Road/American Way Improvement

appropriation of \$15,000 were not included in the original Ordinance No. 81-20. Mr. Logan advised what he is asking Council to act on tonight would be these re-appropriations for a total of \$35,000.

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

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

REPORTS AND COMMENTS

Mayor Jensen had no comments.

COUNCIL MEMBERS:

Mr. Butkowski, Ward 1, had no comments.

Mrs. Holtzmeier, At Large, had no comments.

Mr. McBride, Ward 2, asked if next weekend when Warner Interiors puts up their illegal signs again, if the City could take pictures and issue tickets.

Mayor Jensen asked where he saw their signs placed.

Mr. McBride answered he saw them on Sunday at SR 83 and Detroit and they were also either near Jaycox Road or Nagel Road and Detroit.

Mayor Jensen advised they would take pictures and have the signs pulled.

Mr. McBride advised under organizational liability they could cite all the officers of a corporation. He said that hopefully it would be an annoyance to the company and the signs would stop being placed illegally.

Mr. Moore, Ward 3, had no comments.

Mr. Radcliffe, Ward 4, asked if Council could receive an update regarding an email circulated about the condition of sewer grates in specific areas from a resident once they were able to investigate the situation as he would greatly appreciate it.

Mr. Farmer responded that they should have something to report back in the next couple of days.

Mr. Radcliffe thanked him.

Mr. Witherspoon, At Large, had no comments.

Mr. Fischer, At Large, had no additional comments.

DIRECTORS/ADMINISTRATION:

Mr. Cummins, City Engineer, was absent.

Mr. Farmer, Service Director, had no additional comments.

Ms. Fechter, Economic Development/Planning Coordinator, asked Mr. Moore if he would like to schedule another Economic Development Committee meeting for next Monday night October 5, 2020 to further discuss possible abatement for Hunter International.

Mr. Moore advised that was fine with him.

Mr. Butkowski and Mrs. Holtzmeier also indicated they were available.

After a brief discussion it was agreed that the meeting should be set for 6:30 p.m. on October 5, 2020.

Mr. Gasior, Law Director, had no comments.

Mr. Logan, Finance Director, had no comments.

Mr. Streator, Safety Director, had no comments.

AUDIENCE:

No comments were made from the audience.

EXECUTIVE SESSION: 7:45 p.m.

A motion was made by Mr. McBride and seconded by Mr. Moore to enter into Executive Session for the purpose of discussing the purchase or sale of real estate and the threat of imminent litigation, and the vote was: Mr. Butkowski, “yes”; Mrs. Holtzmeier, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

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

RECONVENE: 8:12 p.m.

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

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

ADJOURN: 8:13 p.m.

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

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