

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD TUESDAY, OCTOBER 13, 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; 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; City Engineer – Ryan Cummins; 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

Council-at-Large – Tammy Holtzmeier

ADDITIONS AND DELETIONS TO THE AGENDA

A motion was made by Mr. McBride and seconded by Mr. Butkowski to add Ordinance No. 95-20 – Authorizing the Mayor to Execute an Easement and Donation Letter to Convey a Right of Way Easement to the City of North Ridgeville, Ohio for the Reconstruction of the Mills Road Bridge Over French Creek as item # 10a, and the vote was: Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

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

The vote was 6 for and 0 against and the Chairman declared the motion passed.

MINUTES OF THE ECONOMIC DEVELOPMENT COMMITTEE OF COUNCIL HELD MONDAY, SEPTEMBER 21, 2020

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Economic Development Committee of Council held Monday, September 21, 2020, and to approve said minutes as published, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

MINUTES OF THE ECONOMIC DEVELOPMENT COMMITTEE OF COUNCIL HELD MONDAY, OCTOBER 5, 2020

A motion was made by Mr. McBride and seconded by Mr. Moore to dispense with the reading of the minutes of the Economic Development Committee of Council held Monday, October 5, 2020, and to approve said minutes as published, and the vote was: Mr. Radcliffe, “yes”; Mr.

Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, SEPTEMBER 21, 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 Monday, September 21, 2020, and to approve said minutes as published, and the vote was: Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD MONDAY, SEPTEMBER 28, 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 28, 2020, and to approve said minutes as published, and the vote was: Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Fischer, “yes”.

The vote was 6 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 second of three readings of Ordinance No. 89-20.

ORDINANCE NO. 94-20 – TO AMEND SECTION 210.01 (e)(6A)(A)(1) & (2) OF THE CODIFIED ORDINANCES TO ESTABLISH RATES FOR THE USE OF THE CITY’S AQUATIC CENTER IN THE YEAR 2021

The Clerk read Ordinance No. 94-20 by title only, entitled:

AN ORDINANCE TO AMEND SECTION 210.01 (e)(6A)(A)(1) & (2) OF THE CODIFIED ORDINANCES OF THE CITY OF AVON TO ESTABLISH RATES FOR THE USE OF THE CITY’S AQUATIC CENTER IN THE YEAR 2021 AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 94-20, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”.

The vote was 6 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. 94-20, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ORDINANCE NO. 95-20 – AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT AND DONATION LETTER TO CONVEY A RIGHT OF WAY EASEMENT TO THE CITY OF NORTH RIDGEVILLE, OHIO FOR THE RECONSTRUCTION OF THE MILLS ROAD BRIDGE OVER FRENCH CREEK

The Clerk read Ordinance No. 95-20 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN EASEMENT AND DONATION LETTER TO CONVEY A RIGHT OF WAY EASEMENT TO THE CITY OF NORTH RIDGEVILLE, OHIO, OVER A PORTION OF PERMANENT PARCEL NOS. 04-00-013-000-125 AND 04-00-013-000-136 FOR THE RECONSTRUCTION OF THE MILLS ROAD BRIDGE OVER FRENCH CREEK AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Radcliffe to suspend the rules and act on Ordinance No. 95-20, and the vote was: Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

The vote was 6 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. 95-20, and the discussion was:

Mr. Gasior advised the bridge on Mills Road that goes over French Creek has been a topic of discussion for about a year and half now. He said there was always a concern on the part of the City of Avon about the amount of flow that would pass underneath that bridge if it was replaced. Mr. Gasior stated somewhere around the end of 2019 both cities agreed that span would not increase in size; however, the physical bridge itself would be a little bit larger to accommodate sidewalks on both the north and south side. He advised in order to construct this bridge, North Ridgeville needs a right of way easement from the City of Avon because Avon owns both parcels on the north side that abut French Creek to the east and to the west. Mr. Gasior said the property to the east was purchased approximately ten years ago by the City at a sheriff’s sale and the property on the west is the Vo property which the City of Avon purchased recently with the FEMA Hazard money. Mr. Gasior advised negotiations over this easement were entered into because of concerns on Avon’s part of never being able to open up that span. He said Mr. Cummins helped him write some language into the easement that would say that the bridge will be constructed to the satisfaction of the City of Avon. Mr. Gasior stated the legislation is written in such a way that the span can never be opened up in any way, shape or form without the consent of Avon City Council. Mr. Gasior said the other aspect to the easement is that it is a perpetual easement, which he felt is fine. He stated there was a misunderstanding on his part as they have been negotiating this since September, but he just learned the deadline is the 15th of October or N. Ridgeville could lose funding and so Council needs to pass this Ordinance tonight approving this easement and allowing N. Ridgeville to file it with ODOT to show they have secured the property so that it can move forward and get the funding and start construction.

Mr. Cummins advised he had an exhibit if Council wished to see the extent of the project. He said the property is a very small amount at .05 acres in total and lies directly along the northern right of way about 16' wide and is triangular in shape. Mr. Cummins stated there will be a waterline, a gas line and some storm sewer work occurring in this area that will be just north of the northern end of the proposed new bridge.

Mr. Gasior noted this is a donation as the City of Avon is not extracting any funds from North Ridgeville.

Mr. Cummins pointed out French Creek on the map with the existing and proposed structure which will be the same span as it is currently, noting that it is being elongated to the north and south to accommodate sidewalks. He advised part of the project is filling in on the Avon side with a continuous sidewalk going over the bridge to make that connection. Mr. Cummins stated the yellow highlighted area is the easement in question. He said the depth going north and south is about 15 or 16 feet. He said there is a waterline, a gas line and a small amount of storm sewer work that would occur in that area.

Mr. Gasior pointed out that the language in the easement (Exhibit B) states that the bridge structure... "shall not now or in the future be modified to increase the number of spans from the current single span design; have its span increased beyond twenty-five feet; have its rise be larger than nine feet; or mechanically increase the cross-sectional flow area under the bridge structure; without authorization from the Avon City Council."

Mr. Cummins advised the area is needed to get the utilities out from the bridge, one of them being an Avon waterline. He said they put in some protection so that the bridge will stay configured as it is unless they come back before this body.

Mr. Fischer clarified they were not widening any flow.

Mr. Cummins advised the span of the bridge is not increasing, but the bridge is getting longer so that there is room for sidewalks on the north and south sides. He said the proposed span will match the existing span. Mr. Cummins stated with this easement it is being set in stone unless they were to come back before this body and get Council's approval to do something different.

Mr. McBride asked if someone would be onsite during the work to verify foundations of that bridge so that clear span is maintained.

Mr. Cummins advised this is an ODOT project and ODOT will certify that it is being constructed to the plans as proposed. He said he does really know that someone from Avon would need to be present while the construction is going on although certainly they could do some spot checks, but ODOT will make sure that they are following the current plans during the construction.

Mr. McBride advised he would recommend spot checking. He said he does not know what the ODOT inspector or the engineer would permit if they ran into something in the shared space.

Mr. Cummins stated that sounds easy to do, but it is not that easy with this type of structure, but he was sure that the City could follow-up and check on the various construction stages.

Mr. Gasior asked if that is something that would cause the City to appropriate money for at some point in the future once construction begins. He asked if they could just add a line item on the reappropriations to provide for that.

Mr. Logan confirmed they could.

Mr. Butkowski asked if this is a pre-cast structure that they could just drop in for that span or were they going to build it out.

Mr. Cummins advised it is small enough that they might be able to build it out, but he did not know that construction method off the top of his head.

Mr. Butkowski advised if it is pre-cast they would already know.

Mr. Cummins believed it to be pre-cast, but it is relatively small as far as bridges go, but that gets into a lot of other aspects like the watermain and the gas line as everything is set based off of that span.

Mr. Radcliffe asked what the width was going to be of the sidewalk that would now span the bridge. Mr. Cummins said he believed we have it as 4 ft.; there is existing sidewalk on both sides. Mr. Radcliffe asked, and that is also currently 4 ft.? Mr. Cummins answered, that is correct.

Mr. Witherspoon stated that he agreed with Mr. McBride that we need to watch this project as closely as possible. He does not care who is involved in it, ODOT or North Ridgeville, but if something happens to this and it gets to be something different than what we expect it to be, we are going to be in trouble with a lot of people. Mr. Cummins said that we certainly can make a point with North Ridgeville to be involved in a pre-construction meeting and updates from the contractor as well as to make periodic visits to the site. Mr. Witherspoon said that if Mr. Cummins was comfortable with doing that he would highly recommend that we watch this project very closely.

Mr. McBride asked if we have a bike/multi-purpose trail route on Mills Road and Mr. Cummins said he did not believe so. Mr. Butkowski stated that there was a national bike trail that went along Mills Road. Mr. Cummins added, yes, Mills Road itself is designated as a bike trail, the roadway itself, not as a separate trail.

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

The vote was 6 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-20-20 – ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR

The Clerk read Resolution No. R-20-20 by title only, entitled:

AN ORDINANCE ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR

AND DECLARING AN EMERGENCY

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

The vote was 6 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 Resolution No. R-20-20, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

RESOLUTION NO. R-21-20 – AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS AND AGREEMENTS NECESSARY TO PROCURE THE LWCF (LAND AND WATER CONSERVATION FUNDS) GRANT FOR THE PURCHASE OF PROPERTY AT 39115 DETROIT ROAD

The Clerk read Resolution No. R-21-20 by title only, entitled:

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS AND AGREEMENTS NECESSARY TO PROCURE THE LWCF (LAND AND WATER CONSERVATION FUNDS) GRANT FOR THE PURCHASE OF PROPERTY AT 39115 DETROIT ROAD (PP#04-00-001-103-001) AND DECLARING AN EMERGENCY

A motion was made by Mr. McBride and seconded by Mr. Moore to suspend the rules and act on Resolution No. R-21-20, and the vote was: Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Resolution No. R-21-20, and the discussion was:

Mr. Gasior reminded that this is the Kurtz Bros. property and we are getting very close to finalizing this deal. Because of the grant that is involved, the Mayor will have to execute documents and we just need to make sure that he has the authority to do that but ultimately we will end up with the Kurtz Bros. property on Detroit Road.

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

The vote was 6 for and 0 against and the Chairman declared the motion passed.

REPORTS AND COMMENTS

Mayor Jensen advised, in regard to the Kurtz property, that once that transfers, he will bring in some depictive diagrams of what that park could look like. It is just going to be a passive park. We do have an application in for some State grant money to put in a pier for a fishing area and that will be the new area for our Fishing Derby and some other things. He said that he would show Council the layout of what to expect over the wintertime because we have all those grindings back there. We will show some temporary roadways back through there and also paths that will be attached to that. The layout will give Council a general idea of what it may look like and then he would ask Council for other ideas they may have and maybe also ask for some input from the general public. It is a pretty neat piece of property; it connects to Veterans Park through the back way so it will give us a third entrance in and out of the park.

Mayor Jensen said that his second comment concerns the bridge. He said that they will be back before Council to either reappropriate money or to explain to Council when they will want inspectors on that job, because he thinks that it is very important that we make sure that we have done our part on having someone there to see it just in case there are any questions. We want someone there on the part of the City of Avon that will have documentation that they saw exactly the same thing that we may be getting from ODOT. He thinks it is really important that the City of Avon follows the same criteria that we do on other Avon projects and we have our inspectors there. He said he would be back to let Council know what kind of money it may take and also the timing of when we think we will want inspectors there. They will not need to be there through the whole process but they will need to be there through the setting of the openings.

COUNCIL MEMBERS:

Mr. Butkowski, Ward 1, had no comments.

Mrs. Holtzmeier, At Large, was absent.

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, stated that just this afternoon he was informed that next Monday at noon, Mike Trivisonno from WTAM is supposed to be at the Avon Police Station along with a rock band and a food truck in recognition and appreciation for the police. They have been doing this all over and he understood that Avon was chosen. He said he was hoping this information was true.

DIRECTORS/ADMINISTRATION:

Mr. Cummins, City Engineer, stated that he opened the plans for the bridge that they were speaking about and said that the structure itself is to be a pre-cast concrete culvert, so it will be

pre-cast sections. The ends, the headwalls and wingwalls at each end, will be cast in place so it is a combination of the two.

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, advised that today we received Round 3 of the CARES Act money and the amount was \$843,000. The City has now received almost \$1.2 million dollars federal money as a grant, basically. We will be making our first report for the first two rounds, which were about \$340,000, sometime this week to the Office of Budget Management, meaning we have to report the expenses we have used those monies for. He said he has talked with the Mayor and the Safety Director about this additional money and we can certainly use it against police and fire salaries that have been incurred, but we will get together and see if there is anything that we want to offset with that money first. He said he believes we have until the end of January now to do that second reporting of what we have used the funds for.

Mr. Streator, Safety Director, had no comments.

AUDIENCE:

No comments were made from the audience.

EXECUTIVE SESSION: 7:58 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 vote was: Mr. Witherspoon, “yes”; Mr. Butkowski, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Radcliffe, “yes”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.

RECONVENE: 8:20 p.m.

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

The vote was 6 for and 0 against and the Chairman declared the motion passed.

ADJOURN: 8:21 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”; Mr. Fischer, “yes”.

The vote was 6 for and 0 against and the Chairman declared the motion passed.