

**MINUTES OF THE WORK SESSION OF THE COUNCIL OF THE
CITY OF AVON, OHIO HELD MONDAY, OCTOBER 26, 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; Finance Director – William Logan; Safety Director – Duane Streater; Acting Law Director – Thomas Stringer; Clerk of Council - Barbara Brooks

ABSENT:

Law Director - John Gasior

President Fischer thanked Council and the City Administration for their patience, understanding and flexibility with changing the meetings again. He said he is hopeful they will not have to modify the schedule again, but it was unavoidable and he is optimistic things can get back to a normal schedule once again.

1. [ORDINANCE NO. 89-20 – TO ACCEPT IMPROVEMENTS IN RED TAIL SUBDIVISION NO. 16](#)
Third of Three Readings to be held on Monday, October 26, 2020 Mr. Farmer

Mr. Fischer advised Council all received videos and a letter from Mr. Restivo late that afternoon and Mr. Gasior, the City Law Director, had several concerns. He said he is going to ask Council to remove Ordinance No. 89-20 from the Regular Meeting agenda following this Work Session, to allow Mr. Gasior time to review those concerns. Mr. Fischer indicated Mr. Gasior should be back in his office toward the end of the work week and in attendance at next Monday’s meeting. He stated they could schedule a Special Meeting to be held after next week’s Work Session to act on Ordinance No. 89-20 if everything is in order by that time.

No questions were asked.

2. [ORDINANCE NO. 96-20 – REAPPROPRIATIONS](#) Mr. Logan

Mr. Logan explained the reappropriations per the exhibit attached to the Ordinance that included both increases where there were shortfalls and reductions to not exceed total available resources in specified funds per ORC 5705.36(A). He said some of the increases in appropriations were due to the 27th pay happening in 2020 and that most of the reductions were due to revenues being down as a result of the pandemic.

No questions were asked.

3. [ORDINANCE NO. 97-20 – APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION AND PUBLICATION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH](#) Mr. Gasior

Mr. Fischer advised he spoke with Mr. Gasior about this legislation and he has reviewed the updates and does not see any issues. He said this is more of a housekeeping issue and something that is done regularly to update our Codified Ordinances. Mr. Fischer stated he would recommend approving this Ordinance at the Regular Meeting unless a member of Council has a question or concern about any of the proposed updates.

Mr. Stringer confirmed that what Mr. Fischer said was true and that these updates are done routinely.

4. RESOLUTION NO. R-22-20 – SUPPORTING THE SUBMISSION OF AN OHIO PUBLIC WORKS COMMISSION (OPWC) STATE ISSUE ONE FUNDING APPLICATION FOR THE CHESTER ROAD WIDENING PHASE II PROJECT Mr. Cummins

Mr. Cummins advised it is time to make application for Ohio Public Works Commission funding. He said this normally happens in September of each year, but with the pandemic the schedule was pushed back and will be occurring at the beginning of November. Mr. Cummins stated they would like to submit two projects for OPWC's consideration with this being the first one. He advised it would be a widening of Chester Road from American Way eastern drive through American Way western drive of approximately 1,550 feet in total. Mr. Cummins said portions of that widening are mandated as part of the developer's agreement for the Concord Village project. He stated there have been discussions in the past with the Avon Pointe developer about them being responsible for adding a left turn lane at their western entrance. Mr. Cummins advised both of those would be incorporated as a part of this widening project and if they were to be improved individually there would be several hundred feet in the middle that would not be widened. He said by the City stepping in and doing it as one project, it will happen with much less turbulence to the traveling public than it would be during separate construction projects and it will be complete through that 1,550 feet stretch of roadway. Mr. Cummins stated it is approximately a \$2,033,000.00 project and the City is seeking a \$500,000 grant and a \$250,000 loan from Ohio Public Works and that will be in addition to the private funds that will pay for their respective sections.

5. RESOLUTION NO. R-23-20 – SUPPORTING THE SUBMISSION OF AN OHIO PUBLIC WORKS COMMISSION (OPWC) STATE ISSUE ONE FUNDING APPLICATION FOR THE JAYCOX ROAD RESURFACING PROJECT Mr. Cummins

Mr. Cummins advised this will be the second project that they are applying for funding and it would resurface Jaycox Road from Mills Road to the south to approximately the start of Schwartz Road. He said it is a \$1.47 million project and the City is seeking a \$500,000 grant and a \$500,000 loan from Ohio Public Works. Mr. Cummins stated this project, if successful, would go to construction in early 2022.

6. REPORTS AND COMMENTS

MAYOR JENSEN advised next week Safety Director Streator would go over the data they have collected from the speed signs that have been installed. He said they can use that data when the City receives complaints from residents about speeders in an area of the City to know what action needs to be taken, if any. Mayor Jensen stated the data can be used to tell them things such as the time of day that they see the most offenders on specific streets. He said on South Park Drive, for example, the report indicates the average daily speed was 26.3, 23.9, 25, 26 within a two-week period. Mayor Jensen advised parameters can be set on the device such as the number of vehicles going 15mph over the speed limit or how many motorists travel that area or the average speed of the motorists. He said on South Park Drive they did vehicle counts and it registered 660, 848, 900, 926, 959 over a five-day period. Mayor Jensen stated Mr. Streator would elaborate further in an upcoming meeting, but he wanted to let Council know that was coming. He said if Council has some ideas as to the kind of information they would like populated, they could try to provide that. Mayor Jensen advised the device can also provide the percentage of vehicles going 10 mph and 15 mph over the speed limit.

COUNCIL MEMBERS:

MR. BUTKOWSKI, WARD 1 had no comments.

MRS. HOLTZMEIER, AT LARGE had no comments.

MR. MCBRIDE, WARD 2 advised regarding the speed signs that it would be interesting to know if the highest recorded speed was at the same time each day.

Mayor Jensen advised it can be broken down per hour which would help the police officers.

Mr. McBride advised while they do not like to issue speeding tickets to residents who live in that subdivision, typically the worst offenders are residents in those subdivisions and if they need to do it then they need to do it.

Mayor Jensen said hopefully this information can be used to help slow those motorists down.

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 mentioned there was a great turnout at the Police Station and he thanked the Mike Trivisonno Show, Rocker, Billy Morris who brought the food truck, Dave Mortach of Mortach Financial and Joe Burdick of Burdick Custom Flags for the Safety Forces Appreciation Day. He said the Police Department and Fire Department were treated to lunch. Mr. Fischer advised Joe Burdick donated a beautiful wood carved flag and it was nice to see them doing this in cities throughout the area and it was nice that they included Avon.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER had no additional comments.

MR. FARMER, SERVICE DIRECTOR advised they started leaf collection throughout the City today and they will continue with the branch collection as well. He asked that residents please place the leaves at the curb and keep debris out of the storm drains.

MS. FECHTER, ECONOMIC DEVELOPMENT/PLANNING COORDINATOR provided an update on Hunter International advising that she has been speaking with Ms. Christman over the past week or so and for now Ms. Christman has asked that her project be placed on hold as far as incentives are concerned. She said that Ms. Christman appreciates all the time and energy that Council put into considering the request. Ms. Fechter stated that Ms. Christman plans on building phase one and increasing her employment and then possibly coming back before this body in a couple of years to ask for incentives at that time.

MR. GASIOR, LAW DIRECTOR was absent.

MR. LOGAN, FINANCE DIRECTOR reminded the Finance Committee of Council that they have need to have the 2021 budget meeting on a Saturday morning in November noting that all of Council are invited to attend. He said in talking with the three committee members earlier tonight, the meeting could certainly be done via Zoom or other similar platform or in Council Chambers where there is more space to distance ourselves. Mr. Logan advised on the decided Saturday morning he would like to meet for about a three-hour block at approximately 8 am to 11 am. and he is available any of the three Saturdays in November.

MR. STREATOR, SAFETY DIRECTOR thanked Mr. Fischer for bringing up the event at the PD and Fire Station. He said the appreciation shown to the Police and Fire Departments by the Trivisonno Show and the entire group that Mr. Fischer mentioned did not go unnoticed.

Mr. Streator advised he wanted to update Council that for the last month and probably for the next month the Fire Department has been using the house the City purchased for training and they had some great training capabilities out of that house and they would be still performing some training if Council should see some activity at that location.

MR. STRINGER, ACTING LAW DIRECTOR, had no comments.

AUDIENCE:

Kristin Havanas, owner/operator of Pinspiration located at 34970 Detroit Road advised she was before Council several months ago regarding her license for her liquor permit. She said it has been a long road as she still does not have a liquor permit because they ran into some snags. Ms. Havanas stated she was always in line for the D5 or beer permit knowing that there were none available in Avon at the time and she was not financially at the point where she could buy one or TRES one in, but knew she needed the wine first and she was willing to wait for the rest. She advised the D5 became available and now has run into a couple more snags. Ms. Havanas said the liquor board will not issue her D2 because the D5 is pending. She stated that she also found out that White Claw hard seltzer drinks fall under the category of beer and currently she cannot serve the White Claw that is on her menu. Ms. Havanas advised she is just trying to navigate all of these issues and she wanted to address City Council and explain that she is not extending her hours of operation and she does not want her business to turn into a bar and she does not plan on having crazy wild parties, but it is more to diversify her menu and offer drinks to her patrons and the D5 will allow her to do that. She said she knows a 30-day extension was filed with the Division of Liquor Control to allow Council time to review it and she is just trying to get ahead and let them know why she has filed for the D5 and that the D2 that she was originally going to TRES into Avon will go away and she will not obtain it.

Justin Havanas, owner/operator of Pinspiration thanked Council and the City Administration for their support and the overwhelming support from the Avon community in getting them started in this business. He said the last time they were in front of City Council the weather was just starting to get warm and here they are 6 months later so they have lost a lot of revenue by not having their alcohol sales, which is a big part of their revenue model. Mr. Havanas said their business is drastically hurting because of not being able to offer the alcohol and because of COVID with the health restrictions they have to follow. He stated they are not looking to have any late night parties or do anything against City Council or the requirements of the City, but they were just trying to keep revenue coming in for their business and for the City and move this along since it has been a long arduous battle to get this liquor license. Mr. Havanas advised they appreciate everyone's time and all the support from the community and the Council over the past six months since they have launched. He said they are doing very well and are very happy to be a part of the community.

Ms. Havanas advised she understands they consider these items on the second and fourth Mondays of the month, but she did not know if it was at all possible to get it approved sooner than the thirty days that were extended to try and get the D5 permit in place before the holiday season. She said she has events scheduled and she is already restricted from a capacity standpoint and she strategically creates the events with incentives for basically women to come in and the ticket includes wine tastings and the like.

Mr. Fischer advised he spoke with Mr. Gasior earlier about this situation and he believes that Mr. Gasior was going to be getting in contact with Ms. Havanas' attorney. He said that Mr. Gasior had some concerns about putting a D5 permit at that location as well as what would happen with the TRES transfer.

Ms. Havanas confirmed that they would not be pursuing the D2 TRES. She said her contract is contingent based on her receiving the D2 and she has not received it.

Mr. Fischer advised Mr. Gasior is expected to be back at the next Council Meeting and he would be discussing it with him. He said he understands they are waiting on their liquor license, but he knows that Mr. Gasior has some concerns and wanted time to look into it further.

Mayor Jensen inquired if the D5 was also a TRES transfer like the D2 she requested earlier.

Ms. Havanas explained that the D5 is available through the City of Avon so she would not be TRES transferring it in. She said she was on the waiting list for awhile for a D5 to become available.

Mr. Fischer asked if the TRES for the D2 went through.

Ms. Havanas said no. She said what her lawyer indicated to her is that if she goes forward with the D2 TRES transfer she has to reject the D5 that became available in Avon and start that process all over again. Ms. Havanas stated she could potentially could lose a lot of money if she goes forward with the D2 TRES she would have a permit that she purchased and then start over again for another permit to be able to diversify that menu and financially that does not make sense to her since the D5 is now available in Avon.

Mr. Havanas explained that they could only have one or the other. He said allowing their business to have the gluten free (White Claw) beverages available by July 2021 is preferred and since the D5 is available they no longer need the D2 and they can cater toward a gluten free menu with the D5.

Ms. Havanas advised she is willing to write a good neighbor letter if that is what is asked of her. She said she is trying to understand what the concerns are from the Council and she asked how she can assist or how can she help to move this forward.

Mr. Fischer advised this is probably the first that the whole City Council is hearing about this.

Mr. McBride advised he has had a conversation with Ms. Havanas and separately he spoke with Mr. Gasior. He said that Council approved the TREX D2 model and wine was going to be served and he felt it is ridiculous that they cannot serve the White Claw without the D5 because it falls under the beer license and their business is restricted. Mr. McBride stated the D5 became available and is less money than the TREX transfer and the D5 provides the ability to sell alcohol. He said possibly Mr. Gasior may want to put in place some restrictions, but he was not sure the City could even do that. Mr. McBride advised once Mr. Gasior gets back in the office then they could have those conversations. He said he does not believe any of Council were opposed to granting the D5 unless the Law Director advises them of some consequences that they are unaware of. Mr. McBride stated there are just some housekeeping issues to go through that was part of their due diligence, but they don't have any control over how long it takes the Ohio Division of Liquor Control to act. He felt as long as Ms. Havanas' attorney was communicating with the Avon Law Director that they were in good shape.

Mr. Fischer felt all that was pausing the Council from moving forward with this request was that Mr. Gasior would like to speak with her attorney and iron out a few things and Mr. Gasior is out this week.

Ms. Havanas said she just wanted to clear up any confusion on what she is doing or why this came up so soon after she asked for the TREX transfer a few months prior.

Mr. Havanas advised their understanding from the Liquor Control is that they are ready to sign it and have been ready, but the Avon Law Director's concerns were about their business having late night parties and they wanted to come forward and reassure City Council that is not what they are doing and they have no alcohol to-go or anything of that nature. He said this is just a part of their offerings when people come in to do a project that they have the option to offer beer and the like. Mr. Havanas said their business cannot do malts or gluten free blends or anything like that, which is a big part of their business model. He appreciates their time and if there was anything they could do to clarify that they were happy to answer their questions.

Ms. Havanas said the Ohio Liquor Board pushed their request through very quickly and used the inspection for the D2 for the D5 and they were doing her a favor thinking they were pushing it through because she had been working through logistics with them.

Mr. Butkowski asked what will happen to the D2 TREX transfer.

Ms. Havanas stated it would go back to the seller and the contract will be voided.

Mr. Havanas said they are folding it completely and will be 100% out.

Mr. Fischer advised the City and Council want to see their business succeed, but if they should close down he asked what would happen to the D5 liquor license. He asked if it would stay with the building or if it would stay with Ms. Havanas.

Ms. Havanas speculated the liquor license would stay with PInspiration as they are a franchise and she believes PInspiration would step in, but she loves this community and everything her business has to offer and she stands 100% behind it.

Mr. McBride said it seems as if the Havanas are the lessee's of that liquor permit. He stated it is a State permit and they control it and if the Havanas were to go out of business, in order to do a transfer it would have to come before this body for approval like they are notified about similar transfers all the time and Council would have some say in whether they would be agreeable to it transferring.

Mary Khouri on behalf of Carnegie Residential Development stated she was hopeful that at this meeting, the subdivision, Red Tail #16, would have its third reading and a vote for the acceptance of the improvements. She said that as of Friday (10/23/20), Debbie Reed, the project manager, had coordinated with the City that they had fully complied with everything that was requested of them in order to have the third reading and the vote. She said she is not quite sure what happened, and she would just like to understand where they are right now as it relates to Red Tail phase 16, acceptance of improvements. Ms. Khouri asked what is it that the City would like them to do to get these improvements accepted because they are under a time crunch and they would like to do everything the City needs them to do so that they can fulfill their obligations to the buyer of the subdivision. Ms. Khouri advised she is happy to answer their questions, but she does not know where they stand right now.

Mr. Fischer advised he spoke to Mr. Gasior several times today about this matter and he spoke with Mr. Farmer as well. He said the Law Director had some reservations about the videos and the letter that was received late this afternoon and he was not comfortable going forward tonight since he was not going to be here tonight. Mr. Fischer stated Mr. Gasior should be back in his office mid-week and if everything is squared away by next Monday, Council could schedule a Special Meeting to vote on accepting Red Tail #16.

Ms. Khouri asked what was it that the Law Director received.

Mr. Fischer advised there were videos and a letter received by Council and the City Administration of flooding and water issues.

Ms. Khouri asked who the videos and letter were from.

Mr. Fischer answered they were from Mr. Pete Restivo.

Ms. Khouri asked when they were received.

Mr. Fischer advised he saw them this afternoon around 3:00 p.m. He said Mr. Gasior was looking into it and the conversation was back and forth and there was something that concerned the Law Director enough to ask that it be removed from the agenda tonight.

Ms. Khouri asked when Carnegie Development would be given the opportunity to address Mr. Gasior's concerns.

Mr. Fischer advised they are hopeful Mr. Gasior is back in the office on Wednesday. He said he was probably available by phone before that.

Ms. Khouri asked if the third reading has occurred or not.

Mr. Fischer confirmed not yet.

Ms. Khouri asked when the third reading would be.

Mr. Fischer advised if things get ironed out this week then a Special Meeting can be scheduled for next Monday (11/2/20) to be held after the Work Session to have the third reading and vote on the Acceptance of Improvements for Red Tail #16.

Ms. Khouri advised she would like to offer that they stand ready to meet and to get this resolved as quickly as possible. She said also it would be helpful if they were given the benefit of any concerns that were raised to the City so they could in-kind respond to the City promptly and not have a situation such as they do now for the second time where they came with an expectation only to be pushed off yet again. Ms. Khouri thanked Council for their time.

7. ADJOURN: 7:37 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