

**MINUTES OF THE REGULAR MEETING OF THE COUNCIL
OF THE CITY OF AVON, OHIO, HELD MONDAY, OCTOBER 28, 2024
IN THE COUNCIL CHAMBERS OF THE MUNICIPAL BUILDING
AT 7:30 P.M.**

The Chair, Council President Brian Fischer, called the meeting to order and led in the pledge of allegiance.

PRESENT:

Council Members: Council-at-Large Mary Berges; 1st Ward – Jennifer Demaline; 2nd Ward – Dennis McBride; 3rd Ward – Anthony Moore; Council-at-Large Michelle Patton; Council-at-Large and Council President – Brian Fischer; Mayor - Bryan Jensen; City Engineer – Ryan Cummins; Planning and Economic Development Coordinator – Pam Fechter; Law Director – John Gasior; Finance Director – Steve Presley Safety/Public Service Director – Duane Streater; Clerk of Council – Barbara Brooks

ABSENT: 4th Ward – Scott Radcliffe

CORRESPONDENCE

The Clerk reported that she received a request from the Ohio Division of Liquor Control for a NEW liquor license from Capl. Retail LLC, located at 39105 Colorado Avenue, Avon for C1, and C2 permit classes.

There were no comments and no requests for a hearing.

MINUTES OF THE WORK SESSION OF COUNCIL HELD MONDAY, OCTOBER 7, 2024

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, October 7, 2024, and to approve said minutes as published, and the vote was: Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Ms. Patton, “yes”; Mr. Fischer, “yes”.

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

MINUTES OF THE REGULAR MEETING OF COUNCIL HELD TUESDAY, OCTOBER 15, 2024

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 Tuesday, October 15, 2024, and to approve said minutes as published, and the vote was: Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Ms. Patton, “yes”; Ms. Berges, “yes”; Mr. Fischer, “yes”.

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

MINUTES OF THE SPECIAL MEETING OF COUNCIL HELD MONDAY, OCTOBER 21, 2024

A motion was made by Mr. McBride and seconded by Ms. Berges to dispense with the reading of the minutes of the Special Meeting of Council held Monday, October 21, 2024, and to

approve said minutes as published, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Ms. Patton, “yes”; Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

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

ORDINANCE NO. 90-24 – APPROVING THE PLAN OF OPERATION AND GOVERNANCE FOR THE NOPEC OPT-IN GAS AGGREGATION PROGRAM FOR THE PURPOSE OF JOINTLY ESTABLISHING AND IMPLEMENTING AN OPT-IN GAS AGGREGATION PROGRAM AS A NOPEC MEMBER

The Clerk read Ordinance No. 90-24 by title only, entitled:

AN ORDINANCE APPROVING THE PLAN OF OPERATION AND GOVERNANCE FOR THE NOPEC OPT-IN GAS AGGREGATION PROGRAM FOR THE PURPOSE OF JOINTLY ESTABLISHING AND IMPLEMENTING AN OPT-IN GAS AGGREGATION PROGRAM AS A NOPEC MEMBER

The Chair declared this to be the second of three readings of Ordinance No. 90-24.

ORDINANCE NO. 91-24 – AUTHORIZING ALL ACTIONS NECESSARY TO ESTABLISH AN OPT-IN NATURAL GAS PROGRAM PURSUANT TO SECTION 4929.27(A)(1), OHIO REVISED CODE, JOINTLY THROUGH NOPEC AS A NOPEC MEMBER

The Clerk read Ordinance No. 91-24 by title only, entitled:

AN ORDINANCE AUTHORIZING ALL ACTIONS NECESSARY TO ESTABLISH AN OPT-IN NATURAL GAS PROGRAM PURSUANT TO SECTION 4929.27(A)(1), OHIO REVISED CODE, JOINTLY THROUGH NOPEC AS A NOPEC MEMBER

The Chair declared this to be the second of three readings of Ordinance No. 91-24.

ORDINANCE NO. 97-24 – TO AMEND THE SPECIAL USE PERMIT GRANTED TO THE AVON LOCAL SCHOOL DISTRICT TO ALLOW FOR THE CONSTRUCTION OF AN 8,000 SQ. FT. WEIGHT ROOM ADDITION/RENOVATION TO AVON HIGH SCHOOL LOCATED AT 37545 DETROIT ROAD

The Clerk read Ordinance No. 97-24 by title only, entitled:

AN ORDINANCE TO AMEND THE SPECIAL USE PERMIT GRANTED TO THE AVON LOCAL SCHOOL DISTRICT TO ALLOW FOR THE CONSTRUCTION OF AN 8,000 SQ. FT. WEIGHT ROOM ADDITION/RENOVATION TO AVON HIGH SCHOOL LOCATED AT 37545 DETROIT 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. 97-24, and the vote was: Mr. Moore, “yes”; Ms. Patton, “yes”; Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 97-24, and the vote was: Ms. Patton, “yes”; Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

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

ORDINANCE NO. 98-24 – AUTHORIZING THE MAYOR TO ENTER INTO THE “THIRD AMENDMENT TO LEASE” BETWEEN THE CITY OF AVON AND BUCKEYE BASEBALL, LLC

The Clerk read Ordinance No. 98-24 by title only, entitled:

**AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO
THE “THIRD AMENDMENT TO LEASE” BETWEEN THE CITY OF
AVON AND BUCKEYE BASEBALL, LLC
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. 98-24, and the vote was: Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Ms. Patton, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mr. Moore to adopt Ordinance No. 98-24, and the discussion was:

Mayor Jensen advised two of the owners were present if Council had any questions. He said with so many moving parts with the “Christmas Around the World” event planned at the Crushers Stadium; they talked about different things with the ownership team. Mayor Jensen stated the amendment to the lease needed to be enacted by the end of this month. He advised all parties felt it would be best to extend the lease for a year and that it was in the best interest of the City to do so as the ownership works through all the upcoming changes for a positive outcome.

Len Komoroski, Managing Partner of Buckeye Baseball, LLC said he wanted to thank City Council for the first year. He advised they are eight months in and are excited about trying to make a great impact in the community. Mr. Komoroski stated they are very excited about “Christmas Around the World” and they are hopeful that it will draw tens of thousands of people to the community. He advised Vic Gregovits, President/Partner/Lake Erie Crushers, and the team have been working hard about how to build off this past year and bring in additional event activities in addition to the Crusher’s baseball team. Mr. Komoroski felt it could be a real economic force for not only the community, but for Lorain County and beyond.

And the vote was: Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Ms. Patton, “yes”; Ms. Berges, “yes”; Mr. Fischer, “yes”.

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

RESOLUTION NO. R-25-24 – TO ADVERTISE FOR BIDS FOR THE REPAINTING OF THE DETROIT ROAD ELEVATED WATER TOWER LOCATED IN THE CITY OF AVON

The Clerk read Resolution No. R-25-24 by title only, entitled:

A RESOLUTION TO ADVERTISE FOR BIDS FOR THE REPAINTING OF THE DETROIT ROAD ELEVATED WATER TOWER LOCATED IN THE CITY OF AVON 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-25-24, and the vote was: Mr. McBride, “yes”; Mr. Moore, “yes”; Ms. Patton, “yes”; Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Ms. Berges to adopt Resolution No. R-25-24, and the vote was: Mr. Moore, “yes”; Ms. Patton, “yes”; Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Fischer, “yes”.

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

RESOLUTION NO. R-26-24 – 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-26-24 by title only, entitled:

A RESOLUTION 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-26-24, and the vote was: Ms. Patton, “yes”; Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Mr. Fischer, “yes”.

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

A motion was made by Mr. McBride and seconded by Mrs. Demaline to adopt Resolution No. R-26-24, and the vote was: Ms. Berges, “yes”; Mrs. Demaline, “yes”; Mr. McBride, “yes”; Mr. Moore, “yes”; Ms. Patton, “yes”; Mr. Fischer, “yes”.

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

REPORTS AND COMMENTS

MAYOR JENSEN had no comments.

COUNCIL MEMBERS:

MS. BERGES, AT LARGE, wished everyone a safe and happy Halloween.

MRS. DEMALINE, WARD 1, advised she is looking forward to the Service Committee of Council Meeting on Monday, November 11, 2024, beginning at 6:30 p.m. Mrs. Demaline stated she spoke with Mr. Cummins and asked him to prepare some updated information on sidewalks in relation to the updated Ward Boundaries for Council. Mrs. Demaline stated she was also looking forward to an update on the previous year's sidewalk program at that meeting.

Mrs. Demaline mentioned she would be absent for next week's Council Meeting.

MR. McBRIDE, WARD 2, had no comments.

MR. MOORE, WARD 3, said driving from the High School to Drug Mart on Detroit Road, which is approximately 3 miles, he passed 11 builder signs. He referenced the Codified Ordinances of Avon that there is not to be advertising. Mr. Moore felt it is out of control. He advised he does not understand why builders get to put signs all over our City on the weekend to advertise. Mr. Moore said the Zoning Enforcement Officer should not have to track all these builders down, but rather call them and let them know they are not allowed to do that because these signs are in the right of way and are not to be placed in the right of way. He mentioned that the signs were littered under street signs, and right on the highway entrance/exit ramps and it just looks terrible. Mr. Moore asked if these businesses were allowed to advertise because he could get some free advertising if that is the case.

Mr. Gasior advised those signs should not be in the right of way. He said it is the responsibility of the Zoning Enforcement Officer to police that violation; however, she is a department of one person, and she does not work on the weekends for the City. Mr. Gasior stated so when those signs pop up on a weekend, he does not know who is going to enforce the law.

Mr. Moore asked if someone could call the builders and tell them they are not allowed to advertise and if they do then there should be repercussions.

Mr. Gasior agreed the Zoning Enforcement Officer should be trying to do that during the week.

Mr. Streator advised he will talk with Ms. Clements about serving notice to those builders. He asked Mr. Moore if he knew which builders to which Mr. Moore said he would talk to Mr. Streator after the meeting.

Mr. Gasior advised there is no doubt that the signs should not be in the right of way. He said if the City was consistent with the enforcement, there should be more compliance. Mr. Gasior stated the problem is that these signs pop up over the weekend and they do not get taken down.

MS. PATTON, AT LARGE, concurred with Mr. Moore.

Ms. Patton mentioned that she will be absent for the Council Meeting on Monday, November 25, 2024.

MR. RADCLIFFE, WARD 4, was absent.

MR. FISCHER, AT LARGE, had no comments.

DIRECTORS/ADMINISTRATION:

MR. CUMMINS, CITY ENGINEER, had no comments.

MS. FECHTER, PLANNING/ECONOMIC DEVELOPMENT COORDINATOR, wished everyone a Happy Halloween.

MR. GASIOR, LAW DIRECTOR, had no comments.

MR. PRESLEY, FINANCE DIRECTOR, had no comments.

MR. STREATOR, SAFETY DIRECTOR/PUBLIC SERVICE DIRECTOR, advised next Monday, November 4th, the leaf collection service will begin and the branch collection will be suspended for that time because the equipment and personnel are needed for the leaf pickup.

AUDIENCE COMMENTS:

Fadi Boumitri, a resident at 8466 Camden Court, Broadview Heights, said at a prior Council Meeting he was here asking City Council to consider lifting the moratorium and allowing a marijuana dispensary in the City. He stated today he wanted to give a brief explanation as to why. Mr. Boumitri advised growing up he had two best friends, one from school and one next door. The friend next door was a friend he saw every day while growing up but when he went off to college and in his early years of practicing law, they did not see each other as often but would still catch up on occasion. In early 2016, his friend passed away after his thirtieth birthday from an unfortunate overdose. Mr. Boumitri said the reason for the overdose was lacing of fentanyl in his marijuana that was received from a drug dealer. He advised that is one of the reasons he got into this industry even though he had never tried a drug a day in his life. Mr. Boumitri stated he had several more personal stories that he could provide, but he was wanting to remain respectful to the time limit. He reiterated it was one of the reasons he is in this industry and added that it is one of the reasons that he would like the City to consider lifting the moratorium as there are only a few dispensary licenses left in the State of Ohio. Mr. Boumitri said right now Avon residents would have to drive to Lakewood, Lorain or Elyria and he felt that would drive them to a local drug dealer instead as a local drug dealer is more likely to upsell to something that would cause them to seek more at a faster rate whereas a local dispensary cannot, will not do that. He advised not only is it tested by the State in one of the most stringent testing requirements in the Country, but it is also sold inside of a licensed dispensary that only those 21 years and older are allowed into. Mr. Boumitri said the people who work at these dispensaries have to be background checked on a regular basis every year or every other year. He stated there are cameras on every inch, all hours of the day, every day of the year, which is provided to the State of Ohio. Mr. Boumitri felt these dispensaries were one of the safest places in any given area. He said he again would like to ask City Council, for the sake of those who are going to smoke marijuana, to give them an option to buy something they know is clean because the State makes sure that it is clean.

Mr. Gasior clarified that it is not a moratorium, but it is an Ordinance passed by Avon City Council in April of 2024 to prohibit dispensaries in Avon. He advised City Council would have to pass an Ordinance to repeal that prohibition.

Drew Werley gave his address as 36080 Chester Road, Avon, which is Avon City Hall (actual address - 5016 Timberview Drive, Vermilion, Ohio) said he is a founding member and the current Chair of the Erie County Libertarian Party and has been a civil rights activist for almost two decades. He stated he brings that up because that is one of the reasons why he is here

tonight. Mr. Werley advised he has had multiple people from various groups reach out to him recently about possible civil rights violations in Avon. He said he was made aware of something that he and the Supreme Court of the United States consider to be first amendment violations. Mr. Werley stated he was here to try to save the taxpayers money from the subsequent litigation that may arise due to the said civil rights violations. He advised it is in regard to Avon's Codified Ordinance section 836.03 (c) as he felt Avon treats canvassing the same as soliciting and they are not the same. Mr. Werley said there have been almost a dozen cases at the Supreme Court level about that issue and two of them were borne right here in Ohio and one is over eighty years old and the other is over seventy years old. He stated the Supreme Court has ruled multiple times, it is close to a dozen times, that canvassing and soliciting are not the same at all. Mr. Werley advised Avon's Ordinances do not treat canvassing and soliciting the same, but they do put some limitations on there that the Supreme Court has said they cannot do. He said one of them in subsection (1) there is a time limit set as to when people can canvass/solicit, and the Supreme Court has allowed it to be from 9:00 a.m. to 9 p.m. Mr. Werley also noted Avon's "Do Not Knock Registry". He added while there is no cost to get a permit to canvass, he felt the City could not require canvassers to hold onto a No Knock Registry. He believed there was another requirement to hold onto some other documentation. He recommended that Avon look into that situation because if he wants, to he will come to Avon and start canvassing wherever he wants to and as soon as he is held up by the police then they would go to court over it. Mr. Werley said they should really look into that as it is protected free speech, and he is looking out for the taxpayers and the City would get sued over it as he felt it is a clear-cut violation of civil rights.

Mayor Jensen asked if someone does not want him to knock on their door would he abide by that request. Mr. Werley answered of course. Mayor Jensen said that is the reason for the No Knock list that the City asks him to carry with him and he was right that the City does not charge a fee. Mr. Werley said the City is not asking him to carry that list, but they were demanding it. Mayor Jensen asked how Mr. Werley would know where to knock without the list. Mr. Werley stated they have "Private Property - No Trespassing" signs. Mayor Jensen said the City provides "Do Not Knock" stickers to residents who want them, but the City also has a list so someone can look on the list and know not to knock.

Mr. Werley advised most of the time when people are canvassing whether religious speech or political speech, if they see a "No Soliciting" sign, which again is not the same as canvassing, they typically abide by that. He said but if someone specifically wants no one to come to their door including canvassers, then he felt "Private Property – No Trespassing" signs, they will abide by that.

Mr. Gasior advised when that Ordinance was prepared awhile back, the City wanted to specifically open the door to the canvasser, the person who is not soliciting funds and thus no fraud involved or peddling, so that Avon residents were not being taken advantage of by unscrupulous solicitors or peddlers. He said this has been researched and all the City asks is that individuals carry with them the "Do Not Knock" list. Mr. Gasior mentioned when canvassing a particular street in the City any individual could look up that street from the list and note any addresses where the residents have said they do not want individuals to knock on their door. He said if the list is present when the police officer stops and asks then there is no violation. Mr. Gasior noted that pulling up the list on a smart phone was acceptable proof.

Mr. Werley confirmed he had the list on his phone to which Mr. Gasior said then he does not have a problem. Mr. Werley felt they were putting limitations on free speech.

Mr. Gasior advised the City was simply giving Avon residents an opportunity to express their desire to not be bothered and he has not come across a case where any court has said that is unconstitutional and a violation of the First Amendment. He stated the City is not requiring a license or anything. Mr. Gasior said individuals could go to their neighbor's door on any given afternoon and petition for whatever and as long as they have that "Do Not Knock" list in their hand or on their phone and they do not bother those residents that have expressed a desire to not be bothered. He said if so, the courts were going to have to let us know, but the courts have not told the City that yet.

Mr. Werley clarified that he would not personally take the City to court, because he would not do that. He said he believes that taxation is theft, and he does not want to take the taxpayers money to waste it on that issue, but somebody will.

Mr. Gasior advised he knows that recently someone was cited, and he spoke to that individual who was represented by an attorney from Americans for Prosperity. He said they agreed that since he had a smartphone, and it was explained to the Police Chief that if the individual has the Do Not Knock list pulled up on their phone that it would be dismissed. Mr. Gasior stated the officers were going to be instructed on how to teach the canvasser how to access the Do Not Knock list using their smartphone.

Mr. Werley asked if that encounter was recent to which Mr. Gasior answered yes. Mr. Werley commented that he felt that was done because the election is coming up and that individual did not want to ruffle feathers. Mr. Werley said, "I am the feather ruffler. I will come here just for this".

Mr. Gasior advised the police officer read the Code and the individual did not have the Do Not Knock list in his hand, paper wise. He said when the Do Not Knock list was adopted, the smartphone was as prevalent as it is today, today everyone has a smartphone. Mr. Gasior stated the ability to access that Do Not Knock list by going to the City's website using a smartphone is simple and all the more reason that he would hope the courts side with municipalities on that issue. He advised the City is really not trying to stop someone from canvassing.

Mr. Werley said he can appreciate that as he feels it is an undo burden on free speech and the Supreme Court has ruled on that issue multiple times.

Mr. Gasior advised all the City is trying to do is keep the resident who has requested the privacy, be recognized.

Mr. Werley said he understands that as he feels all rights are borne out of property owner rights and he could fully support that. He stated he appreciates this body for allowing him to speak for longer than two minutes and field these questions.

Mayor Jensen added that the reason the police were there is because the resident called to say that they are on the Do Not Knock list and asked why this person was knocking on their door. He said there was a similar issue a few years back. He added the City allows canvassing and does

not have an issue with it, but when residents call multiple times saying that someone is knocking on their door when they are on the Do Not Knock list, they have to look into it. Mayor Jensen stated many would rather not have the unsightly stickers on everyone's door as that is the alternative, but anyone can look up the list on the City website.

Mr. Werley said he could understand that, and he appreciates that. He provided a compliment of the quick response he received from Avon's Clerk when he contacted her earlier that day with a public records request and she sent him an email within sixteen minutes. He stated he also really likes that Avon's certified copy of their Ordinances are on the website because if someone wants it, they have a certified copy available to them. Mr. Werley thanked Council for the time and said he just wanted to bring that issue to their attention because someone might challenge the Do Not Knock list. He advised he understands that the police are tasked with enforcing that Code, but he believes that Code is unconstitutional.

ADJOURN: 7:58 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: Mrs. Demaline, "yes"; Mr. McBride, "yes"; Mr. Moore, "yes"; Ms. Patton, "yes"; Ms. Berges, "yes"; Mr. Fischer, "yes".

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

PASSED: _____

SIGNED BY: _____
Brian Fischer, President of Council

ATTEST: _____
Barbara J. Brooks, Clerk of Council