

RESOLUTION NO. R-8-19

A RESOLUTION DECLARING IT NECESSARY TO IMPROVE (I) FRENCH CREEK ROAD BY THE CONSTRUCTION OF AN APPROXIMATELY 2,400-FOOT SANITARY SEWER FROM 38151 FRENCH CREEK ROAD TO 37556 FRENCH CREEK ROAD, AND (II) CENTURY LANE BY THE CONSTRUCTION OF AN APPROXIMATELY 230-FOOT SANITARY SEWER, EACH TOGETHER WITH ALL NECESSARY APPURTENANCES AND RELATED IMPROVEMENTS THERETO; AND DECLARING AN EMERGENCY

WHEREAS, the Council of the City of Avon, Lorain County, Ohio (the “City”), in order to provide and improve sanitary sewer service to the property owners along and in the vicinity of French Creek Road from 38151 French Creek Road to 37556 French Creek Road and thus improving the health, safety and welfare of the citizens of the City and to remove from service an existing outdated sanitary sewerage pump station and associated force main along French Creek Road, desires to improve French Creek Road by the construction of an approximately 2,400-foot sanitary sewer from 38151 French Creek Road to 37556 French Creek Road, together with all necessary appurtenances and related improvements thereto, as more particularly described below (the “French Creek Improvement”); and

WHEREAS, the Council of the City, in order to provide and improve sanitary sewer service to the property owners along and in the vicinity of the portion of Century Lane located south of Detroit Road and thus improving the health, safety and welfare of the citizens of the City and to connect an existing sanitary sewer along Century Lane south of Detroit Road beginning near 37889 Detroit Road to an existing sanitary sewer system along Century Lane north of Detroit Road near 3004 Century Lane by the construction of an approximately 230-foot sanitary sewer, together with all necessary appurtenances and related improvements thereto, as more particularly described below (the “Century Lane Improvement” and, together with the French Creek Improvement, the “Improvements”); and

WHEREAS, the French Creek Improvement and the Century Lane Improvement are so situated in relation to each other that, in order to complete each of those Improvements in the most practical and economic manner, they should be improved at the same time, with the same kind of materials and in the same manner; and

WHEREAS, the Council of City further desires to specially assess a part of the costs of the Improvements on the specially benefited lots and lands proximate thereto;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVON, COUNTY OF LORAIN AND STATE OF OHIO:

Section 1 - That it is necessary to (a) improve French Creek Road in the City by the construction of an approximately 2,400-foot sanitary sewer from 38151 French Creek Road to 37556 French Creek Road, including the removal from service of an existing outdated sanitary sewerage pump station and associated force main, and (b) improve Century Lane in the City by the construction of an approximately 230-foot sanitary sewer that will connect an existing sanitary

sewer on Century Lane south of Detroit Road beginning near 37889 Detroit Road to an existing sanitary sewer on Century Lane north of Detroit Road at 3004 Century Lane, each together with all necessary appurtenances and related improvements thereto.

Section 2 - That the Improvements shall be constructed as shown on the plans hereinafter referred to and now on file in the office of the Clerk of this Council.

Section 3 - It is hereby determined that the French Creek Improvement and the Century Lane Improvement are so situated in relation to each other that in order to complete each of those Improvements in the most practical and economic manner, they should be improved at the same time, with the same kind of materials and in the same manner and, accordingly, shall be treated as a single improvement in accordance with Revised Code Section 727.09.

Section 4 - It is hereby determined and declared that the Improvements are conducive to the public health, convenience and welfare of the City and the inhabitants thereof.

Section 5 - That the plans, specifications, estimate of cost and profiles of the proposed Improvements, prepared by Ryan E. Cummins, P.E., Chagrin Valley Engineering, Ltd. (the "Design Engineer") and now on file in the office of the Clerk of this Council, are hereby approved.

Section 6 - The City will pay the following portions of the costs of the Improvements:

- (a) the costs of intersections;
- (b) the costs of Improvements that are attributable to parcels that already have a sanitary sewer connection;
- (c) the costs of Improvements that are attributable to parcels that have no access to the sanitary sewer system and will continue to have no access after the completion of the Improvements; and
- (d) any other amounts that this Council determines the City will pay in the ordinance of assessment for the Improvements to be passed by this Council in accordance with Revised Code Section 727.25.

Section 7 - The remainder of the costs of the Improvements will be assessed in proportion to the benefits which may result from the Improvements upon the following described lots and lands, to wit:

All lots and lands located within the following described area: the area encompassed by parcels identified on Exhibit A to this Resolution, as such Exhibit may be amended prior to its adoption by this Council, which said lots and lands are hereby determined to be specially benefited by the Improvements; and the cost of the Improvements shall include the cost of preliminary and other surveys, plans, specifications, profiles and estimates and of printing, serving and publishing notices, resolutions and ordinances, the amount of damages resulting from the Improvements assessment in favor of any owner of land affected by the Improvements and the interest thereon, the cost, incurred in connection with the

preparation, levy and collection of the special assessments, the cost of purchasing, appropriating, and otherwise acquiring therefor any required real estate or interests therein, expenses of legal services including obtaining an approving legal opinion in connection with the issuance of bonds and notes to finance the Improvements, the cost of labor and material, and interest on any bonds and notes issued in anticipation of the levy and collection of the special assessments together with all other necessary expenditures.

Section 8 - That the Design Engineer is hereby authorized and directed to prepare and file in the office of the Clerk-Treasurer of this Council the estimated assessments of the cost of the Improvements described in this Resolution. Such estimated assessments shall be based upon the estimate of cost of the Improvements now on file in the office of the Clerk of this Council and shall be prepared pursuant to the provisions of this Resolution. When such estimated assessments have been so filed, said Clerk shall cause notice of the adoption of this Resolution and the filing of said estimated assessments to be served on the owners of all lots and lands to be assessed as set forth above and as provided in Revised Code Section 727.13.

Section 9 - That the assessments to be levied shall be paid in 20 annual installments, with interest on deferred payments at the same rate as shall be borne by the bonds to be issued in anticipation of the collection thereof; provided, that the owner of any property assessed may, at such property owner's option, pay such assessment in cash within 30 days after passage of the assessing ordinance; provided that an owner of assessed property may elect to have a credit against the amount owed to the City in the amount of the consideration to be paid by the City for an easement from that owner required for the construction and completion of the Improvements described in this Resolution.

Section 10 - That bonds of the City may be issued in anticipation of the collection of assessments by installments and in an amount equal thereto and notes of the City may be issued in anticipation of the issuance of such bonds and the levy of such assessments.

Section 11 - That the remainder of the entire cost of the Improvements, after application of the assessments provided in this Resolution, will be paid by the issuance of bonds in the manner provided by law or from other funds lawfully available for this purpose.

Section 12 - That it is found and determined that all formal actions of the Council of the City of Avon concerning and relating to the adoption of this Resolution were taken in an open meeting of the Council of the City of Avon and that all deliberations of this City's Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 13 - This Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City for the reasons set forth herein and for the reason of the necessity of the City to begin construction as soon as possible within the current construction season; and provided it receives the affirmative vote of at least six members elected to Council, this Resolution shall take effect and be in force immediately upon its adoption by the Council; otherwise, it shall take effect and be in force after the earliest period allowed by law.

PASSED: _____ DATE SIGNED: _____

BY: _____
Craig L. Witherspoon, President of Council

DATE SIGNED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara Brooks, Clerk of Council

Posted: _____
In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director

EXHIBIT A
to Resolution No. R-8-19

LOTS AND LANDS TO BE ASSESSED

<u>Permanent Parcel Number</u>	<u>Property Owners' Name</u>	<u>Property Address</u>
0400010113079	EISEMAN TIMOTHY R & SUSANNA M	37556 FRENCH CREEK RD AVON, OH 44011
0400010114018	BAUERS KRISTOFOR P	37561 FRENCH CREEK RD AVON, OH 44011
0400010113080	OROSZ FAMILY LTD	37570 FRENCH CREEK RD AVON, OH 44011
0400010114017	CITRO ELAINE M	37575 FRENCH CREEK RD AVON, OH 44011
0400010113052	HINCHCLIFFE STEPHEN M & HINCHCLIFFE MARIA A	37598 FRENCH CREEK RD AVON, OH 44011
0400010114016	CITRO ELAINE M	
0400010114015	RYAN MICHAEL P	37605 FRENCH CREEK RD AVON, OH 44011
0400010113051	BRYSON ALAN J	37606 FRENCH CREEK RD AVON, OH 44011
0400010114014	JACOBS STEVEN & NANCY	37625 FRENCH CREEK RD AVON, OH 44011
0400010114013	JILL M SCHRAFF	37649 FRENCH CREEK AVON, OH 44011
0400010114012	CRAIG KALISTA	37661 FRENCH CREEK RD AVON, OH 44011
0400010114011	FRED J & MARILYN C SCHARMANN	37681 FRENCH CREEK RD AVON, OH 44011
0400010114030	CHARLES V PURKS	37697 FRENCH CREEK RD AVON, OH 44011
0400010114032	TERRI M LEAVITT & MICHAEL TIMKO	37725 FRENCH CREEK RD AVON, OH 44011
0400010114033	RICHARD, BETH & JOSE SANTANA	37745 FRENCH CREEK RD AVON, OH 44011
0400010114009	JEANNE C & JEANNE TIMKO	37765 FRENCH CREEK RD AVON, OH 44011
0400010113106	OROSZ FAMILY LTD	37824 FRENCH CREEK RD AVON, OH 44011
0400010113105	STEVEN C & HEATHER A NICKUM	37856 FRENCH CREEK AVON, OH 44011
0400010113105	BARBARA J DRAGON Y	37849 FRENCH CREEK RD AVON, OH 44011
0400010113044	DEBRA A ADKINS	37888 FRENCH CREEK RD AVON, OH 44011
0400010113048	REIDY COMPANY LLC	37670 FRENCH CREEK RD AVON, OH 44011

0400010113071; 0400010113193	FRATIANNE RANDALL B & DONNA M	
0400010114042	EDWARD P & MICHELLE M BRAUNSCHEIDEL	37967 FRENCH CREEK RD AVON, OH 44011
0400010113041	RANDALL B & DONNA M FRATIANNE	37952 FRENCH CREEK RD AVON, OH 44011
0400010114041	MARK A & MICHELE R SCHRAFF	37971 FRENCH CREEK RD AVON, OH 44011
0400010113069	JOHN F & PATRICIA L GILLES	37974 FRENCH CREEK RD AVON, OH 44011
0400010114040	STEVEN H & SHERRY HARRIS	37975 FRENCH CREEK RD AVON, OH 44011
0400010113039	ROBERT C MALONE JR & N I BADILLO	38000 FRENCH CREEK AVON, OH 44011
0400010114052	DUTKO GRETCHEN SMITH	38017 FRENCH CREEK RD AVON, OH 44011
0400010114051	MICHAEL A & CAROLYN B BECK	38021 FRENCH CREEK RD AVON, OH 44011
0400010114051	DIANE & WILLIAM FIORILLE	38030 FRENCH CREEK ROAD AVON, OH 44011
0400010113037	GARY A SCHECK	38042 FRENCH CREEK RD AVON, OH 44011
0400010113194	LUSTRI GINO TRUSTEE	
0400003103031	TIM A & CAROLE A HOLOWECKY	38141 FRENCH CREEK RD AVON, OH 44011
0400003103046	TIM A & CAROLE A HOLOWECKY	38145 FRENCH CREEK RD AVON, OH 44011
0400003103046	TIM A & CAROLE A HOLOWECKY	38147 FRENCH CREEK RD AVON, OH 44011