

ORDINANCE NO. 13-16

**AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO
A SETTLEMENT AGREEMENT WITH AVON BASEBALL, LLC.
AND DECLARING AN EMERGENCY**

WHEREAS, the City of Avon sued Avon Baseball, LLC in January of 2015 in the Lorain County Court of Common Pleas (Case No. 15 CV 185389) alleging Avon Baseball, LLC breached Article VI, Section 6.1(e) of the Stadium Lease; and

WHEREAS, the matter was transferred to the U.S. District Court for the Northern District of Ohio and then dismissed without prejudice (Case No. 1:15-cv-00155-PAG) to give the parties an opportunity to conduct dispute resolution under Article XI, Section 11.4 of the Stadium Lease; and

WHEREAS, the parties conducted dispute resolution and have reached a settlement of their differences and wish to enter into an "Agreement of Settlement and Mutual Release" to resolve all pending and outstanding claims being litigated in the above-referenced case; and

WHEREAS, Council finds that the settlement reached between the parties is fair and equitable and in the best interests of the health, safety and welfare of the citizens of Avon to adopt same.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1 - That Council, in an effort to bring about a reasonable resolution to the dispute between the parties over net Marquee Sign revenues for the years 2011, 2012, 2013 and 2014, hereby authorizes the Mayor, on behalf of City Council and the City of Avon, to enter into and execute the parties' "Agreement of Settlement and Mutual Release", which is attached hereto and incorporated herein by reference.

Section 2 - That it is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such 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 3 - That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety and welfare of the citizens of the City of Avon, the immediate emergency being to bring about a fair and equitable settlement of the Marquee Sign Revenue dispute between the City and Avon Baseball, LLC and avoid incurring additional costs and protracted litigation; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Ellen R. Young
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

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