

ORDINANCE NO. 10-19

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENTER INTO CONTRACTS WITH THE LORAIN COUNTY METROPOLITAN PARK DISTRICT AND WITH LICENSED EXCAVATORS FOR THE PURPOSE OF REMOVING SOILS FROM THE LORAIN COUNTY METROPARKS SITE AT RIEGELSBERGER AND JAYCOX ROADS PURSUANT TO THE CITY'S RIGHT OF FIRST REFUSAL PRESERVED UNDER THE PARTIES' CONTRACT OF SALE AND DECLARING AN EMERGENCY

WHEREAS, the City entered into a contract with the Lorain County Metropolitan Park District (hereinafter the "Park District") for the sale of approximately 57.12 acres of land (PP#04-00-023-107-025) it owned at the northwest corner of Riegelsberger and Jaycox Roads in September, 2016; and

WHEREAS, pursuant to that contract the City reserved a right of first refusal to remove soil from the property; and

WHEREAS, the Park District has recently notified the City that it is proceeding with plans for the creation, preservation and restoration of various wetland and stream areas at the site and will begin excavating soils from that location; and

WHEREAS, the Park District seeks to enter into a Memorandum of Understanding with the City of Avon that will govern the removal of soils from the site by the City and/or its contractors under this right of first refusal;

WHEREAS, this project will necessitate the removal of several thousand cubic yards of soil from the site over the next six to eighteen months and thus allow for significant flood storage in a flood prone area of the City; and

WHEREAS, the Mayor receives requests from excavation contractors periodically about the availability of clean fill dirt in the City; and

WHEREAS, Council finds that by authorizing the Mayor to enter into the MOU with the Park District and then to contract with various licensed excavators in a timely manner, the City can achieve the benefits of this increase in flood storage area and begin to try to alleviate flooding in the immediate vicinity of this area of French Creek and thereby enhance the health, safety and welfare of all citizens of Avon.

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

Section 1 - That the Mayor is hereby authorized to enter into an Memorandum of Understanding (attached hereto and incorporated herein as Exhibit A) with the Board of Park Commissioners, Lorain County Metropolitan Park District (hereinafter referred to as the "Park District") governing the removal of soils from the Park District's site along the French Creek located at the northwest corner of Riegelsberger and Jaycox roads (PP#04-00-023-107-025) under terms expressed in the parties' MOU. In addition, Council authorizes the Mayor to enter into

contracts with licensed excavating contractors for the removal of soils from this same Park District site for the stated reasons and pursuant to the general plans set forth in Exhibit B, which is attached hereto and incorporated herein by this reference. The City is hereby exercising its right of first refusal contained in the 2016 sale contract with the Park District. All excavations will be carried out under the direction of the City Engineer. There will be no cost to the City for any of these excavations. Once the soil is removed, it is preferred that it not be placed anywhere within the French Creek watershed. The Mayor shall periodically report to Council on the progress of these excavations.

Section 2 - Pursuant to ACO Chapter 1474, Council declares that the removal of soils from the aforementioned site will not create a public nuisance or negatively impact the use and development of surrounding property.

Section 3 - 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 4 - 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 the necessity to authorize the Mayor to enter into an MOU with the Park District (Exhibit A) and then begin to award excavation contracts for soil removal at the French Creek MetroParks site for flood control purposes as outlined in the City Engineer's Memo which is attached hereto as Exhibit B; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig L. Witherspoon, Council President

DATE APPROVED BY THE MAYOR: _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director
City of Avon, Ohio

ATTEST:

Barbara J. Brooks
Clerk of Council

Posted: _____
In Five Places as
Provided by Council

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