

BEAVERCREEK CITY COUNCIL
REGULAR MEETING January 14, 2008 6:00 p.m.

Mayor Vann called the meeting to order followed by roll call.

PRESENT: Mr. Hadley, Mrs. Howard, Mr. Leonard, Mr. Martin, Mr. Petrak, Vice Mayor Giambrone, Mayor Vann

ABSENT:

Mr. Hadley led the pledge and a moment of prayer.

Mrs. Howard MOVED to approve the agenda after removal of Executive Session, seconded by Mr. Martin. The Motion PASSED by minority voice vote (Vann, Giambrone, Petrak, Martin abstained).

Mr. Hadley MOVED to approve the minutes for December 10, 2007 after correction seconded by Mrs. Howard the Motion PASSED by unanimous voice vote.

PRESCHEDULED SPEAKERS

Dave Smith of 3570 Jayfred Circle stated that he would like for the Council to allow the citizens to vote on an earnings tax. Mr. Smith stated that if you check around other cities they all have City Fire Departments but we have a Township Fire Department and we should take the upper hand and take it over. He was also interested in instituting Impact Fees for the schools even if building is slowing down. Then he spoke about the brick sidewalks which he did not feel were being taken care of and suggested that the City use jail inmates to clean it up. Mr. Smith also wanted to see better zoning and enforcement, specifically moving the storage of RV's and boats out of residential neighborhoods altogether.

PUBLIC HEARING-Z-07-6 Daniel Matulka

Clerk Bucheit read on an application filed by Daniel Matulka, 2262 County Line Road, Beavercreek, OH 45430. The application requests the rezoning of 0.4566 acres of land from R-1A One-Family Residential District to RO-1 Residential/Office District located on the east side of County Line Road approximately 120 feet south of Weber Drive further described as Book 3, Page 3, Parcel 80 on the Greene County Property Tax Atlas.

Dave Montgomery on behalf of Daniel Matulka stated this is a rezoning application which has received favorable recommendations from staff as well as the Planning Commission. The property has a ranch style home approximately 1600 sq ft located next to the AHEPA senior housing and across from Reynolds and Reynolds. The request is for RO-1 Residential/Office which is what the area is to be used for according to the Land Use Plan that was recently updated. He is presently using this as a residence with a home occupation but is not allowed employees or signage and not allowed to have the structure at more than 25% of the acreage. Mr. Matulka is looking to expand and would like some signage and they believe this would be a good use for the property since it would not change what is being done there now.

Mr. McGrath stated the applicant is requesting to rezone 0.4566 acres of land located at 2262 County Line Road from an R-1A One Family Residential District to RO-1 Residential Office District. The applicant intends to convert the existing house into an office use.

This property was introduced to Planning Commission for rezoning in 2002. At that time, staff recommended disapproval of the request based on the fact that

January 14, 2008

rezoning the property would be in conflict with the Land Use Plan. Planning Commission indicated that an amendment to the Land Use Plan would have to be approved before considering the application for approval, and recommended disapproval on April 4th, 2003. Since that time, the Land Use Plan has been updated and the applicant would like the rezoning request to be reconsidered.

The property is currently zoned as a one-family residential district and contains a one-story 1,652 square foot residential structure.

The subject property is surrounded by various residential uses, including the AHEPA 113 retirement complex zoned R-PUD directly to the south, the Fieldstone apartment complex zoned R-PUD to the east and a single family residence zoned R-1A to the north. To the west of the property, in the City of Kettering, is Reynolds and Reynolds, within the Miami Valley Research Park.

The Beavercreek Land Use Plan designates this property for an office development. The request to rezone to R-O1 for residential office development is consistent with the Land Use Plan designation.

The RO-1 Office district is intended to act as a transition between established residential neighborhoods, such as the Fieldstone and Stonegate II developments to the east, and non-residential uses, such as Reynolds and Reynolds, to the west. The physical appearance of the buildings in RO-1 districts should be residential in nature, and no traffic or noise should be generated which would have a negative impact on the adjoining neighborhoods. The residence as it stands now will not change in appearance with the exception of perhaps a ground sign, should the rezoning be approved. The applicant has stated that the office will be used as an insurance agency with very few visits from clients, and the applicant has confirmed that the vast majority of business would be conducted over the phone and through the mail.

Public Hearing

Mr. Fred Stecker Sr. of 2242 County Line Road submitted a letter to Council in support of this rezoning application.

There being no other public input the public hearing was closed.

Mr. Martin asked what the process would be for a sign for this property. Mr. McGrath stated that there are rules in the code requiring a small sign 3' X 2' like one that would be used in a residential district similar to a real estate sign and is issued by permit.

Mr. Hadley MOVED to approve Ordinance 08-02 and send it to the second and third readings, seconded by Mr. Martin. Ordinance 08-02 was APPROVED by unanimous voice vote.

PUBLIC HEARING-PUD 07-6 (491 Amend 5/07) Rolin Investments

Clerk Bucheit read on an application filed by Ronald J. Miller, 542 Snyder Court, Dayton, OH 45440. The applicant requests approval to rezone 2.3784 acres from PUD 491 and C-PUD 91-11 into C-PUD 07-6. The property is further described as Book 5, Page 6, Parcel 223 on the Greene County Property Tax Atlas.

Roger Sadler of 1599 N. Central Dr. stated he was representing Mr. Miller of Rolin Investments and he is here to request to rezone two lots, one in PUD 491 and the other to the west in PUD 91-11, they will replat to combine the two lots into one. There is access to the property off Rodenbeck Drive and from the west thru the plat from Dayton-Xenia Rd. and they are going to put an island in to the south to slow the traffic.

January 14, 2008

Mr. McGrath stated there are two separate planned unit development districts involved in this rezoning. The first is a PUD that was established in 1978 and, for the most part, is a B-3 zoning district since the B-3 General Business District is the underlying zoning for the PUD at this time. The PUD is currently occupied by several different businesses including Dayspring Ministries, Monroe Auto Service Center, two driving schools, a beauty salon, and professional offices.

The second zoning district is PUD 91-11 which was originally the Cap'n Bogey's site and is now occupied by Wendy's and the Midtown Shoppes of Beavercreek. The parcel from this PUD to be incorporated into the new PUD 07-6 will be the vacant 0.5094 acre parcel at the easternmost end of the PUD.

The surrounding land uses include the previously mentioned PUD 91-11 Midtown Shoppes of Beavercreek, which is currently home to a medical office and a Wendy's Restaurant. To the east of the subject property are the Village Green Office Condominiums which are located on a parcel that is zoned as O-1 office. To the south is the Monroe Auto Service Center in the existing PUD 491 that has underlying B-3 zoning, and the American Legion building, which is located in a B-2 district. To the north of the 1.8 acre property is Shoup Park, owned by the City of Beavercreek. To the north of the 0.5 acre property is a vacant parcel designated R-1A single family residential that is currently owned by St. Luke's Church.

All of the surrounding properties are planned development areas which are designated by the Land Use Plan as Neighborhood/Community Commercial/Office uses with the exception of the St. Luke's property directly to the north of the 0.5094 acres. That property is designated as Low-Density Single Family Residential.

Currently, there is one, two-story 14,558 square foot building on the 1.8 acre site that is being occupied by Dayspring Ministries and Greene County MRDD. The 0.5 acre property is vacant. For the most part, the site will remain as is and if approved, the site plan will be adopted as the approved Specific Site Plan, stamped "Received October 5, 2007".

As stated previously, the applicant is requesting that the two parcels within PUDs 491 and 91-11 be rezoned to a new PUD. The current permitted uses for the parcel in PUD 491 are all of those that are normally allowed in B-3 General Business Districts. The uses allowed in PUD 91-11 are those uses allowed by the Beavercreek Zoning Code under B-2 Community Business Districts, plus miniature golf, and outdoor recreation facilities. Should the application be approved, a number of potentially inappropriate uses, currently permitted in B-2 and B-3 districts, would be eliminated. The proposed permitted and conditional uses prohibited at this site are listed within the ordinance.

The City of Beavercreek Land Use Plan designates this area as Neighborhood/Community Commercial/Office. The existing uses of the Rolin Investment Building are consistent with that designation.

The maximum building square footage allowed within this proposed PUD shall be 16,000 square feet and there shall only be one building permitted on the site. The design of the building will remain as it currently is and any future modifications will require approval from City Council and/or Planning Commission or the Planning Department.

The setbacks for the existing building are the proposed minimum setbacks and shall be the conforming setbacks only for the existing structure, if this rezoning

January 14, 2008

becomes effective. If the applicant chooses to make an application to demolish the existing structure and redevelop the site or add square footage to the existing building, setback requirements will be established at that time.

There are currently two access points to this new PUD. One comes off Rodenbeck Drive to the south and the other comes in from the Midtown Shoppes Development to the east. The applicant has had problems recently with drivers coming through the parking lot at high rates of speeds to cut through to the next development. Those issues should be resolved once the extra curbing is added as shown on the site plan. This curbing will force drivers to take the long way around the parking lot instead of cutting through, which would in turn, reduce their speed. All other existing parking, curbing, etc. will remain as is and will be part of the specific site plan, should it be approved

There being no public input the Public Hearing was closed.

Mr. Leonard asked about the half acre parcel and whether it could be built on. Mr. McGrath stated that there is not enough property for building and the thought was that it would be used for shared parking for the combined lot and for the adjacent lot; that is why the maximum square footage was capped at 16,000 sq. ft.

Mr. Petrak asked about the additional curbing barrier if it was relevant to this particular issue. Mr. McGrath said it was not relevant but with PUD rezoning but that it is a two step process and it will be in the specific site plan. Mr. Petrak stated that they showed the curbing coming down from the north and almost intersecting the island and then there is a gap, he wanted to know if the gap was to allow vehicles thru. Mr. McGrath stated it is not wide enough for any vehicles to cut thru, there could be some storm water implications and possible walkway for pedestrian access but there it is a barricade to keep anyone from driving thru. Mr. Petrak was concerned that anyone that would drive to the doorway to drop someone off would not be able to get back out if all the parking places are used. He suggested that there should be some sort of turn around so that they could get back out. Mr. McGrath suggested that a condition be added now for the specific site plan.

Mr. Petrak MOVED to add a motion that there will be applicable openings for continuous flow of traffic, seconded by Mr. Hadley it was approved by majority voice vote (Vice Mayor Giambrone abstaining).

Mayor Vann suggested looking at where the handicapped spaces were after the new configuration of the parking lot is done.

Mr. Hadley MOVED to approve Ordinance 08-01 with the added motion and send it to the second and third readings, seconded by Mrs. Howard. Ordinance 08-01 was APPROVED by majority voice vote (Vice Mayor Giambrone abstaining).

PUBLIC HEARING-PUD 07-5 SSP#1 Sonic Restaurant

Clerk Bucheit read on an application filed by Houchens Properties, 700 Church Street, Bowling Green, Kentucky, 42101. The application requests specific site plan approval for 2.039 acres of land to allow for construction of approximately a 1,728 square foot restaurant located north of Colonel Glenn Highway and east of National Road. The property is further described as Book 1, Page 9, Parcels 2, 15, 24, 25, and 27 on the Greene County Property Tax Atlas.

Tim Rich of Houchens Properties 700 Church Street, Bowling Greene, Kentucky stated that this is the existing Thomas Towing site on Colonel Glenn Highway

January 14, 2008

near the intersection of National Road. He stated that they had agreed with staff on several items, it will be a brick building, they agreed to widen National Road, no cul-de-sac access to Zink Road, 10' wood fence between adjoining residential property, additional landscaping in the 50' buffer to buffer headlights and noise, site lighting posts will not exceed 16' in height, no poster displays on the side of the building and there will be a bike easement on the rear of the property. There is one item that they do not agree with and that is the square footage of the sign, since they are new in the area they believe that the larger sign is needed for name recognition.

Mr. Burkett stated the applicant is requesting specific site plan approval to construct a 1,728 square foot Sonic Restaurant with related site improvements. The proposed Sonic Restaurant will be located northeast of the intersection of Colonel Glenn Highway and National Road, just east of the existing Tuty's Inn.

The applicant is proposing two access points to this site. The primary access point to the restaurant will be on Col. Glenn Highway, approximately 500 feet east of the intersection of Col. Glenn Highway and National Road, 300 feet east of the access point to Tuty's Inn and approximately 215 feet west of the Col. Glenn Highway access point for Meijer's gas station. This access point will be approximately 35 feet wide and will be a full access point. This access point will line up with and be serviced by the traffic light at Germany Lane and Col. Glenn Highway. The second access point to the site will be on National Road, 325 feet north of the intersection of Col. Glenn Highway and National Road, 80 feet north of Tuty's Inn access point on National Road and 88 feet south of the access point for the Fairborn Gospel Tabernacle Church. This access point is also a full access point and is approximately 24 feet wide.

The applicant has provided a total of 47 parking spaces on the proposed site plan. This includes 25 spaces that are covered by a free-standing aluminum topped canopy, 20 regular uncovered parking spaces and 2 uncovered handicap parking spaces. Based on the Zoning Code, the applicant would be required to have 1 parking space for each 3 seats of the restaurant, 1 space for each automobile in which food is consumed on the premises and 1 space for each employee. Based on the proposed site plan, there are 48 seats in the outdoor seating area, which requires 16 spaces, and there are 25 designated spaces for where food is to be consumed on the premises (the spaces covered by canopies), which requires 25 spaces. This would leave enough spaces for 6 employees at the restaurant.

Planning staff would like to add a condition to provide access from the sidewalk at Colonel Glenn onto the site without having to use the driveway meant for vehicle access.

The proposed plans call for the construction of a 1,728 square foot, single story rectangular structure, approximately 70 feet long and 30 feet wide. The building is oriented so that the long axis is facing Col. Glenn Highway. There is also a 900 square foot outdoor patio on the east side of the building, covered with a metal and fabric roof.

The building utilizes a variety of materials, and is compatible with the designs of buildings in the community. Included in the design features of the building is a stone veneer that wraps the entire base of the building. The remainder of the wall consists of a brick veneer which utilizes soldier course design to accent the top of the building parapet wall, as well as above the windows and doors.

Around the building, the proposed drive aisles are to be one-way in design with traffic flowing counterclockwise. There is a drive-thru order station on the west

January 14, 2008

end of the building and the pick-up window is on the southeast corner. The Zoning Code requires that drive-thru establishments provide at least 5 spaces for waiting of cars in the drive-thru lane. The proposed plans include a stacking area for 7 cars.

When this case was brought before Planning Commission, the east end of the southern wall, adjacent to the drive-thru lane had some poster display boards on the wall. At the request of the Planning Commission, the applicant removed the poster display boards as reflected in the plans stamped "Received Jan 7, 2008". Staff has added Condition #26, which requires the applicant to add in recessed brick faux windows to break up the large expanse along the western edge, they are open to amending that condition to add "or other architectural features per the approval of the Planning Department". The applicant is proposing one wall sign which is a 3' X 6' yellow sign on the left elevation of the building facing Colonel Glenn Highway.

A condition of the rezoning of this property requires that there be a 50-foot Landscape Buffer and Parking and Building setback from the residential property to the north. In addition to the 50-foot distance requirement, the condition required that this area be landscaped adequately to screen light and noise. The applicant has provided for your consideration a Landscape Plan that fulfills this requirement. In addition to the landscaping, the proposed plans call for a 10-foot wooden fence to run along the north property line to aid in screening this property from the property to the north. On the proposed plans, the applicant indicated their intention is to increase the height of the existing fence by adding to the top of it. However, staff feels in order to screen this property from the residential property to the north, in more effective and aesthetic way, the existing fence should be removed and a new 10' fence, with no apparent front or rear should be installed in its place, as reflected in Condition #22.

The applicant has included one ground sign for your consideration. The proposed ground sign is 6' X 12' including the brick base and will be located just east of the Col. Glenn Highway access point. Staff does not recommend the size of this sign; staff feels the 50 sq. ft. sign is too large in proportion to the signs on adjacent properties. In straight B2 zoning the maximum height is 5 feet and 25 sq. ft. maximum per sign face. However since Sonic objected to that size and have cooperated fully staff would recommend to relax the maximum to 40 sq. ft. per side but request that the maximum height remain at 5 feet.

Public Hearing

Ryan Kappa 3636 King Edward Way asked about the sign in relation to the exit and wanted to know about visibility. Mr. Burkett answered that the drive lines up with the light at Germany Lane and that the sign would be set back approximately 15' from the sidewalk and that a car coming out of the exit would have full visibility.

Public Hearing was closed.

After considerable discussion about the signs both on the building and off and the comparison with surrounding businesses plus the applicants concern about the importance of a distinctive logo in an undeveloped market, both Council and the applicant came to an agreement about the signage.

Mr. Martin MOVED to amend condition #16 to allow a maximum sign area of 40 square feet per sign face with a total maximum sign area of 80 square feet, seconded by Mr. Hadley it was approved by unanimous voice vote.

January 14, 2008

Mr. Leonard wanted to add a condition for sidewalk access. Mr. McHugh stated that he drafted some language for the condition "The applicant shall provide other than through the access drive, an access point from the sidewalk abutting Colonel Glenn Highway across the parking lot to the restaurant".

Mr. Leonard MOVED to add condition # 27 to provide sidewalk access, seconded by Mr. Martin it was approved by unanimous voice vote.

Mayor Vann asked about the bike path access. Mr. Burkett stated that this was an easement obtained in the event that the properties to the north went commercial so that any bikeways coming down old Zink Road will be able to get out to National Road without any problem.

Mrs. Howard asked about the fencing having to be wooden and pointed out that there was a lot nice vinyl fencing. Mr. Burkett stated that they could add that vinyl or an appropriate substitute could be used. Mr. Petrak thought that it should at least look like wooden fencing. Mrs. Howard thought that they could work with staff to determine what was appropriate. Mr. Hadley recommended that if the fence is on Sonic's property that they must remove it but not if it is on the neighbor's property. They discussed that the changes would be to condition # 22 and that wooden should be removed from condition # 23 also.

Mr. Hadley MOVED the fence shall be a minimum of 6 feet in height and from original grade to the top of the fence will be a total of 10 feet with additional mounding, the existing wooden fence shall be removed and replaced with a new fence of wood, vinyl or other appropriate fencing as approved by the Planning Department, if it is on the applicant's property, seconded by Mr. Martin it was approved by unanimous voice vote.

Vice Mayor Giambrone asked about the condition at Planning Commission about the outdoor speakers being removed. Mr. Burkett stated that it was taken out after the applicant became aware of the existing noise ordinance and that they would be held to that standard.

Mr. Leonard MOVED to add additional language to condition number 26, "other architectural design elements" after windows, seconded by Mr. Hadley it was approved by unanimous voice vote.

Mr. Hadley MOVED to approve PUD 07-5 SSP#1

"I move, for the purpose of taking administrative action, approval of a PUD Specific Site Plan for the Sonic restaurant, PUD 07-5, SSP #1, on the basis that City Council finds the facts submitted with the application and accompanying materials, and modifications, amendments and supplementary conditions satisfy the standards and criteria for PUD Specific Site Plan approval as per §158.066 of the Zoning Code. Supplementary conditions required of this approval shall be as follows. I further move that this motion with all conditions be fully recorded in the minutes of this Council meeting."

1. The approved site plan and the architectural elevations shall be the plans dated "Received January 7, 2008" except as modified herein.
2. All building mechanical equipment is to be screened from all directions with architectural features (roof forms or parapet walls). Metal screening will not be accepted.
3. Final cut sheet details and photometric plans for the lighting of the site shall be reviewed and approved by the Planning Department, prior to the issuance of a zoning permit. Maximum mounting height for any parking lot

January 14, 2008

- light fixture shall be 16 feet. Lights in the parking lot shall be reduced to no greater than 25 percent illumination level within one hour after closing.
4. A PUD Agreement must be signed by the owner and a bond or letter of credit for the entire site landscaping must be submitted prior to issuance of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping. Said bond or letter of credit must meet the requirements of the City's landscaping and screening regulations.
 5. The final design and cost estimate of the landscaping plan shall be reviewed and approved by the Planning Department prior to the execution of a PUD Agreement with the applicant.
 6. Perpetual maintenance of landscaping shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes as originally planted, within three months, weather permitting.
 7. All trash collection containers shall be enclosed within a building or screened from view and enclosed within a permanent dumpster enclosure. All dumpster enclosures shall be constructed with materials to match the building.
 8. Debris and trash shall be routinely collected by the owner from the parking lot and grounds of all areas of the project. The City reserves the right to require more frequent collection as necessary.
 9. All concerns of the City Engineer, Fire Department, Sanitary Engineer and the Planning Department shall be addressed and approved prior to the release of a zoning permit.
 10. No temporary signs of any kind will be permitted within this PUD.
 11. There shall not be any downspouts or ladders visible on the exterior of the building.
 12. No portion of the building may be occupied for the first time or reoccupied later until and unless an application for a Certificate of Zoning Compliance has been submitted to the City by the property owner or by the prospective occupant. No such occupancy may occur until the application for a Certificate of Zoning Compliance has been approved and issued by the City.
 13. All man-doors and service doors shall be painted to match the color of the building as to blend in with the proposed facade.
 14. Prior to the release of any zoning permit for the development, the applicant shall record a final subdivision plat or replat with the Greene County Auditor's office.
 15. Prior to release of the record plan for recording, the applicant shall sign a Subdivider's Contract and submit a bond or letter of credit for the purpose of ensuring the installation of public improvements, if required by the City Engineer.
 16. The ground sign permitted for this PUD shall have a maximum sign area of 40 square feet per sign face with a total maximum sign area of 80 square feet. The maximum height of the one ground sign shall be 5 feet.

January 14, 2008

The brick used to construct the base of the monument sign shall match the brick used to construct the primary structure.

17. The number, size, design and location of directional signs shall be reviewed and approved by the Planning and Zoning Department, prior to the release of the zoning permit.
18. All wall sign letters and/or symbols shall be individually mounted. The use of raceways shall not be permitted. The final designs of all wall signs shall be subject to review and approval by the Planning Department
19. Construction hours shall be limited to 7 A.M. to 7 P.M Monday thru Saturday.
20. Final drainage calculations shall be approved by the City Engineer if required, prior to the release of a record plan for recording.
21. The applicant will be responsible for impact fees associated with this development, as it falls within the Impact Fee District.
22. The existing wooden fence that runs along the northern property line shall be removed and replaced with a new fence of wood, vinyl or other appropriate fencing as approved by the Planning Department, if it is on the applicant's property. The fence shall be a minimum of 6 feet in height and from original grade to the top of the fence will be 10 feet with additional mounding. The fence shall be designed in such a way that there is no apparent front side or rear side. The final design shall be reviewed and approved by the Planning and Zoning Department, prior to the release of the zoning permit.
23. The fence along the northern property line shall be kept in good condition. The Planning and Zoning Department reserves the right to determine if the fence condition is in disrepair and has not been maintained in a commercially acceptable condition, and that improvements are required. Those improvements shall be completed in a timely manner.
24. Any renovation or new construction that occurs over existing utility facilities will require the relocation of said facilities at the cost of the applicant, owner, or any future owner of the property, per the approval of the appropriate governing bodies.
25. The exterior of the building shall not be painted or altered without the approval of the Planning Commission or City Council.
26. The applicant shall have recessed brick/faux windows or other architectural design elements on the eastern end of the southern elevation, per the approval of the Planning and Zoning Department.
27. The applicant shall provide other than through the access drive, an access point from the sidewalk abutting Colonel Glenn Highway across the parking lot to the restaurant.

Seconded by Mr. Martin it was approved by unanimous voice vote.

ORDINANCES, RESOLUTIONS AND PUDS

Ordinance 07-49 Approval of Flood Plain (Third Reading)

Clerk Bucheit read AN ORDINANCE ADOPTING §151 "SPECIAL PURPOSE FLOOD DAMAGE REDUCTION" ORDINANCE FOR THE CITY OF

January 14, 2008

BEAVERCREEK SUPERSEDING ORDINANCES NO. 80-28, 82-14 AND 88-50 (PC 07-6).

Mr. Martin MOVED to approve Ordinance 07-49, seconded by Mr. Hadley; it was APPROVED by unanimous voice vote.

Ordinance 08-4 Chapter 30 Governmental Reorganization

Clerk Bucheit read an Ordinance approving amendments to the Code of Ordinances, Chapter 30 Governmental Organization.

Mr. Kucera stated that the Accountant position has been vacant since April 2007 and the job description does not accurately reflect what that position does now. They reclassified the job to Fiscal Officer, and rewrote the job description but would like the pay grade to remain the same. There is one other change that needs to be made, there was an ordinance passed in September of 2007 with the department reorganization and one position of Production Assistant which is part time that should be under Finance was left under the City Manager's department. This has to come before the Council because it is included in the Code of Ordinances.

Mr. Hadley wanted to know if it could be done by resolution instead of ordinance. Mr. McHugh stated that it is codified and must be an ordinance.

Mrs. Howard MOVED to approve Ordinance 08-04 and send it to the second and third readings, seconded by Mr. Petrak. Ordinance 08-04 was APPROVED by unanimous voice vote.

Resolution 08-1 Mutual Aid Agreement

Clerk Bucheit read To authorize the City of Beavercreek, Ohio to enter into a Mutual Aid Agreement with political subdivisions in Greene County for the purpose of additional police protection and services in the event of emergencies and upon request.

Chief Turner stated that this is an updated version of the mutual aid agreement that was requested by the Greene County Sheriff's Department with various changes to the existing agreement last approved in 2004. They have asked each City to pass a resolution to approve the agreement. On page one of the agreement they added the last line in section 2 about the practices and procedures of the National Incident Management System which is a command structure to be used in case of certain incidents so that everyone knows what to do. On page two they removed mention of a state wide radio system and replaced it with the use of available radio networks. Spring Valley was deleted from the contract and was replaced by Central State. The Greene County SWAT team call out procedures was added as an addendum to the back page since the SWAT teams all merged and this was just an informational page.

Mr. Leonard asked when there is a call to help do we go in at our own risk or do they have any responsibility with our equipment, do they pay for the officers on duty. Chief Turner stated that there was a nominal charge of six dollars an hour and we would be responsible for our own equipment. Chief Turner stated that he thought we should look at this down the line because other jurisdictions have more reasonable fees of about \$25 an hour with a maximum of eight hours. Mr. Leonard wanted to know how balanced this whole process was, do we get called out more than the others? Over time we go outside the jurisdiction more because there are more calls outside. Chief Turner stated that we would also be reimbursed if there is a state or federal call out which we would be reimbursed in full but we must follow all the NIMS guidelines.

January 14, 2008

Mrs. Howard said that in order to get the necessary reimbursement all the Council Members must attend the NIMS class and submit their certification to the Clerk of Council. Vice Mayor Giambrone stated that it was very important because other entities are adhering to the NIMS training, such as hospitals and County Health Departments.

Mr. Petrak wanted to know if we had similar agreements across county lines for support. Chief Turner stated that we had an active agreement with Montgomery County.

Mr. Martin wanted to know if time was of the essence or if we had time for discussion instead of letting the \$6 an hour rate go for another four years. Chief Turner stated Greene County wanted it back by January 26th and that they had looked at it previously in March but could probably change it later by addendum changing the price charged. Mr. McHugh stated that it is a one year contract and we could get the changes for next year. Mr. Martin stated he was comfortable with having the City Manager look into the changes.

Mr. Martin MOVED to approve Resolution 08-1, seconded by Mrs. Howard it was approved by unanimous voice vote.

Mr. Martin MOVED to have the City Manger look into the pricing of the mutual aid contract by summer, seconded by Mr. Hadley it was approved by unanimous voice vote.

Resolution 08-02 Recreational Trails Program Application

Clerk Bucheit read A resolution authorizing the submittal of an application for funding through the Recreational Trails Program (RTP) for the I-675 Pedestrian/Cyclist Bridge.

Mr. Moorman stated that in the fall of 2007 the City Council authorized the submittal of an application for federal funding for construction of the pedestrian bridge that would span I675 to the west of North Fairfield Road. In that application we maxed out the potential federal money on the application but there is still a substantial local share. What is being proposed with this resolution is to apply for an additional grant that would further reduce the potential local share of that project if the federal application is successful. The funding source is the Recreation Trails Program and the amount we are applying for is \$150,000.

Mrs. Howard stated that she is very pleased with staff in looking for grants, Dave Beach has been wonderful in obtaining grants at the direction of the City Manager, saving the tax payers money and taking advantage of what is out there, great job and thank you.

Mr. Hadley MOVED to approve Resolution 08-2, seconded by Mr. Martin it was approved by unanimous voice vote.

Mr. Brislawn thanked Council for their support and stated that they are still looking for grants from the state to take care of the balance.

Resolution 08-3 Pay Plan Reclassification

Clerk Bucheit read this is a Reclassification of Senior Center Supervisor Position and Pay Grade

Mr. Kucera reminded Council that they had looked at several positions and asked why the person was hourly and being paid overtime. He looked at one job in particular, the Senior Center Supervisor and matched it with the FSLA requirements to move it from Non-Exempt hourly to Exempt salary and it

January 14, 2008

qualified. This is a resolution to reclassify the position from a Non-Exempt hourly to an Exempt salary, making overtime no longer available. They took a look at the hourly rate and the pay grades of the salaried positions and decided to put this in under pay grade 10 where the Accountant or Fiscal Officer was. The overtime was averaged for the last couple of years and added to the salary and it fell in mid range of that pay grade. This needs to be changed so that it is effective at the beginning of the next payroll cycle on January 20th.

Mr. Hadley MOVED to approve Resolution 08-3 as amended, seconded by Mrs. Howard it was approved by unanimous voice vote.

DECISION ITEMS

Council Appointments to Local Agencies

Mayor Vann stated that in order to coordinate with other jurisdictions they appointed Council Member to sit on these committees.

Beautification Committee: No appointment

Bikeway Advisory Committee: No appointment

Fourth of July Committee: Mr. Hadley

Greene County Regional Planning Commission: Mr. Martin, Mrs. Howard

Greene County Family and Children First Council: Mr. Martin, Vice Mayor Giambrone

Little Miami Basin Council: Mr. Petrak

Miami Valley Regional Planning Commission: Mrs. Howard, Mr. Martin

Sister City Committee: Mr. Leonard

Greene County Water Advisory Task Force: Mr. Leonard, Mr. Petrak

Beavercreek Youth Development Advisory Committee: No appointment

I 70/75 Development Committee: No appointment

Freedom's Call Tatroo Committee: No appointment

Environmental Advisory Committee: No appointment

Records Retention

Mr. McHugh stated that one of the requirements of the Public Records Law that went into affect is that the Council Members are each required to be certified and take the class or make a motion to appoint someone else from the City as their designated representative.

The entire Beavercreek City Council MOVED individually to appoint the Clerk Christine Bucheit as their designated appointee; seconded by Vice Mayor Giambrone it was approved by unanimous voice vote.

LIQUOR LICENSES

Chipolte Mexican Grill of Colorado LLC

Chief Turner stated they received notice last month from the Department of Liquor Control requesting a records check on Steven Ells and Mr. Montgomery Moran owners of Chipolte Mexican Grill to be located at the Greene at 4473 Walnut Street. They ran criminal background checks on both individuals and see no reason to deny the request.

Mr. Hadley MOVED to accept without comment Chipolte Mexican Grill liquor license, seconded by Mr. Petrak it was approved by unanimous voice vote.

Mr. Martin explained that the Council does not approve the liquor license, they accept without comment. We have an opportunity to request a hearing, not approve or deny so with legal counsel's advice it is accept without comment.

Giant Dayton LLC–BP Products North America Inc. and Giant Dayton LLC-Standard Oil Co.

January 14, 2008

Chief Turner stated this is a transfer of two liquor licenses the BP Food Mart on Indian Ripple Road and the Standard Oil Co. Food Mart on Fairfield Road and the Liquor Control Board requested a background check on Mr. Ali of Tampa Florida and they found nothing criminal on his record.

Mr. Martin MOVED to accept without comment both Giant Dayton LLC liquor permits; seconded by Mr. Petrak it was approved by unanimous voice vote.

CITY MANAGER'S REPORT

Mr. Cornell stated that there are two levies that will be on the ballot in March and the first is the Police Levy which is Issue 4 which is a three year 3.3 mil Police Operation Levy that is needed to maintain current police services. The previous levy was approved in 2005. This levy represents more than 50% of the total funds dedicated to law enforcement operating costs here in the City of Beavercreek. It is anticipated to generate \$3,917,000 on an annual basis.

Mr. Cornell said that Issue 5 is the second request for replacement for the Street Maintenance Levy which is a 5 year 1 mil levy which will maintain our current street services within our community. This levy will generate 33% of the monies necessary to maintain 244 miles of streets in the City of Beavercreek and it has been five years since it has been approved by the voters. Citizens may call the City if they have any specific comments about either levy.

Mr. Cornell announced the employee of the month for December and January and both employees are from the Police Department. Officer Roger Hildebrandt has been with us since October 1987 and Debra Moyer who is the Technical Services Supervisor who was hired in June 1976.

MAYOR'S REPORT

Mayor Vann stated that this week was the Wright State Beavercreek Night. It is wonderful to have such a great University on the adjacent border of Beavercreek and that they are willing to designate a night to celebrate their relationship with Beavercreek and the importance of that relationship.

Mayor Vann said that the Beavercreek Bikeway Committee had already spoke with her and on Thursday at Wright State they listened to a report on Walkable Communities. There has really been a struggle because when the suburbs were built they were built with the transportation being a car, but now people are rethinking that and would like to have a walkable community. The Bikeway Committee would like to have the Walkable Communities presented to the Council at a work session by the Miami Valley Regional Planning to share the strengths and importance of having a walkable community.

Mayor Vann stated that every January we accept applications for Boards and Commissions. The City asks for citizens who would like to volunteer and are interested to apply for the Planning Commission, Board of Zoning Appeals, Parks, Recreation and Culture Board, Environmental Advisory Committee, Personnel Board, Impact Fee Appeals Board, Bikeway Advisory Committee, Youth Development Advisory Committee and the Investment Advisory Committee which was newly formed. There are vacancies on many of the Boards and Commissions and the application is due in by February 4th and is on the website. The applications will go to the City Clerk for consideration at the second meeting in February.

COUNCIL

Mrs. Howard wanted to congratulate employees with anniversaries: the City Manager Michael Cornell has been with us for a year, the Golf Employees have been with us for three years, Bryan Beaupre, Michael Gafkjen, Leslie Heller,

January 14, 2008

Judy Lemke, Joseph Moore, Alicia Rizzo, Matthew Toney, Mike Hamilton, and Senior Center Supervisor Lee Duteil 6 yrs, Karen Hamilton 9 yrs, Mark White 9yrs, Rachel Burkett 10 yrs, Donald Cole 13 yrs, Jeffrey Fiorita 16 yrs and Shawn Sumner 16 yrs. Congratulations on your anniversaries with the City, thank you so much for your service.

Vice Mayor Vicki Giambrone wanted to thank all the staff for being so welcoming and providing everything that she has asked for. She especially wanted to thank the other Council Member for their welcoming advice and assistance.

Mr. Martin spoke of the young Police Officer from Cedarville that was killed on his way to work a couple of weeks ago and stated that a fund has been set up at Huntington Bank to make donations.

Mr. Petrak spoke of an open meeting that the Miami Valley Regional Planning Committee will sponsor for the Regional Transportation Public Input Session on January 24th and wanted to be sure someone from the City would attend. Mr. Cornell stated that it was highly attended by Beavercreek and that Dave Beach is our representative and that he is also trying to attend and Mrs. Howard stated that she would also try to attend.

UNSCHEDULED SPEAKERS

Joseph Koussa of 1037 Beaver Creek Lane, Kettering asked God to keep his eyes on our troops overseas and to please God bring them home safely, they are there for a good reason, we all thank you God.

Mr. Koussa thanked Mr. Turner for voting yes with the government to watch over children's' toys. Mr. Turner stated that parents are the best inspectors to determine whether or not they are good for their children. Mr. Koussa would like to see parents educated in school in finance before they get the marriage license since that causes most divorces and he believes that children need two parents.

Mr. Hadley MOVED to adjourn at 8:50 p.m., seconded by Mr. Martin. The motion PASSED by unanimous voice vote.

Julie Vann, Mayor

ATTEST:

Clerk

Cmin11408