

BEAVERCREEK CITY COUNCIL
REGULAR MEETING March 8, 2010 6:00 p.m.

PRESENT: Councilmember Giambrone, Councilmember Howard,
Councilmember Petrak, Councilmember Vann, Councilmember Wallace, Vice
Mayor Jarvis, Mayor Hadley

ABSENT: None

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

Councilmember Petrak led the pledge and a moment of silence.

Councilmember Howard MOVED to approve the agenda with several amendments. Motion was seconded by Councilmember Giambrone and was PASSED by unanimous voice vote.

Councilmember Howard MOVED to approve the minutes of the February 22, 2010 Regular meeting. Motion was seconded by Vice Mayor Jarvis and PASSED by unanimous voice vote.

PRESCHEDULED SPEAKERS

DARE Essay Winners

Officer Cole thanked Council for allowing the DARE students to come in and read their winning essays. He explained they are representing their respected schools, and they will introduce themselves and the school they attend.

Jordan Williams from Valley Elementary School, Grace Culpepper from Main Elementary School, Christina Kallet from St. Luke's School, and Emily Harron from Main Elementary School read their winning essays.

Officer Cole thanked Dave Dennis Chrysler Jeep and Dodge for donating the DARE vehicle.

Harold Lewis – Township/City Unification

Harold Lewis stated approximately ten years ago he was a member of the City/Township Unification Task Force. Recently, he was on the Beaver Creek Charter Review Commission, and throughout their discussions of proposed changes the merger issue kept coming up. He felt the City has three options; the City can merge with the unincorporated Township, the City can secede from the unincorporated Township, or the City can maintain a status quo. He explained this is important so the City can do long term planning. Mr. Lewis discussed the proposed mergers lately in the surrounding vicinity.

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He stated in order to merge, the City and Township have to decide if it is a good idea, but it does not have to be voted on. Mr. Lewis explained the next step is to take out petitions for merger, and said six people have to be on the merger commission for each party. Mr. Lewis stated the City and Township petitions have to contain signatures from 10% of registered voters that voted in the last election. He explained once that is achieved, then it goes on the ballot and 6 members are elected from both the Township and City. He said any issues that arise have to be voted on by a majority, and the Chair is from one party and the Vice Chair is from the other. Mr. Lewis stated from the time it is started, there is a two year period before the merger recommendation is due back to the Township and the City. He explained it is then voted on, and if it fails it is a dead issue, and nothing can be done for three years. He urged City Council to meet with the Township, and see if they would be willing to move forward with the process.

Mr. Lewis stated as a member of the Charter Review Commission, he had never received a letter from the City that it was disbanded. Mayor Hadley explained when the Charter Review Committee recommended the changes to be put on the ballot to City Council is when the Charter was disbanded.

ORDINANCES, RESOLUTIONS, AND PUDS

Ordinance 10-03 Amending Section 95.21 Concealed Carry License (First Reading)

Clerk Gillaugh read an Ordinance repealing current Section 95.21 of the City of Beavercreek Code of Ordinances, entitled "Firearms and Weapons", and adopting new Section 95.21 of the City of Beavercreek Code of Ordinances, entitled "Weapons in Parks", regulating the possession and use of weapons in City parks.

Mr. McHugh stated previously the title was "Firearms and Weapons" and it is being repealed and would be replaced with "Weapons in Parks". He explained the reference to "firearms" was removed, and he spoke to the City Prosecutor about the Ordinance and a suggestion was made in Section A to insert the word "reasonable" between "without" and "cause".

Councilmember Giambone questioned if this now satisfies the State. Mr. McHugh stated it does, and it also addresses Council's previous concerns.

Councilmember Vann thought it was good that Ordinances like this are consistent with the State since the Police Department enforces it.

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Councilmember Vann MOVED to approve Ordinance 10-03 with an amendment to insert "reasonable" in Section A and to send it to second and third reading, seconded by Councilmember Wallace. Motion PASSED by unanimous voice vote.

Ordinance 10-04 Water Booster Station (First Reading)

Clerk Gillaugh read an Ordinance to declare certain City owned property interests as surplus and to approve the conveyance of a utility easement on City owned property generally known as the Beavercreek Golf Club on the south side of New Germany-Trebein Road.

Mr. Beach stated he was requesting approval to transfer an easement to the Greene County Sanitary Engineering Department for construction of a water booster station which will help with the water distribution problem in the City of Beavercreek and Beavercreek Township. He discussed the location of the site, and explained it is located within an area that will not be used for golf course purposes. Mr. Beach stated the County Sanitary Engineers worked with the City on various portions of the design. He showed a picture of a similar one they are proposing, and explained several features that would be different.

Mayor Hadley and Mr. Beach discussed the location of the easement and where the building would be located. Mr. Hadley was concerned about the color of the brick, and Mr. Beach explained there is a provision to check with the City on final color before they move forward with the project.

Vice Mayor Jarvis asked if this pumping station was being constructed because of the lack of pumping water in the area or if it will benefit an area beyond the station. Mr. Beach explained the difficulty is getting water east to the Township areas from this point and it also keeps the water flow moving allowing the water to be fresher.

Councilmember Wallace questioned how large the easement would be. Mr. Beach stated it is approximately 6,000 square feet. Councilmember Wallace asked besides supplying them with the land there is no additional cost to the City. Mr. Beach said there is no cost to the City.

Councilmember Howard wanted to make sure there were provisions in place if any construction damage was done outside of the easement area. Mr. Beach stated if there already isn't a provision in the easement deed, the City can add it.

Mayor Hadley stated the City is giving an easement to Greene County, and if the City would want to have its own water system one day, what provision is made to

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protect the City. Mr. Beach said in the past that has not been a provision, and any cost that the City would charge the County now in terms of the easement could be a reverter clause if they abandon the easement. Mayor Hadley explained he was not in favor of charging the County something, but wanted to make sure the City is protected. Mr. Beach stated the City would have to purchase the money the County put into the pump station, but the County is not buying the land.

Vice Mayor Giambrone said the City was not giving up ownership of the property. Mr. Beach explained it is an easement.

Mr. McHugh said the value would be the building and the equipment, and did not feel it was appropriate for the City to have to pay back the cost for the land since it was provided to the County at no cost.

Councilmember Wallace asked if there should be a provision added that would state if the City of Beavercreek decided to do its own water supply that the City would be able to purchase it back at the cost. Mr. McHugh said it was something that could be discussed with Mr. Beach, and could be addressed at the second reading.

Councilmember Giambrone MOVED to approve Ordinance 10-04 and to send it to second and third reading, seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

LIQUOR LICENSES

Sake One Inc- Stock Transfer

Ohio Division of Liquor Control sent police notification of a request for a change in corporate stock ownership shares from permit holder Sake One Inc. DBA Sake Japanese Steakhouse, 4470 Indian Ripple Road, Beavercreek, OH 45440. A records check revealed no criminal record with this agency or in the State of Ohio on Ms. Qin Lin who is assuming the change in the corporate stock ownership shares of the business. The liquor permit classes for this business are a D5I and D6.

Councilmember Giambrone MOVED to accept without comment, seconded by Vice Mayor Jarvis. Motion PASSED by unanimous voice vote.

Khehra Oil- Transfer

Ohio Department of Commerce, Division of Liquor Control sent notification of a request to transfer a C1, C2, D6 liquor permit currently issued to Giant Dayton LLC., DBA Giant 486, 4362 Indian Ripple Rd., Beavercreek, OH 45440 to Khehra

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Oil LLC., DBA Indian Ripple BP , same address. A records check was done on the applicant: Mr. Gurbrinder Sandhu, DOB# 06/18/64 of Beavercreek, OH who was found to have no criminal record with this agency or in the State of Ohio.

Councilmember Vann MOVED to accept without comment, seconded by Councilmember Howard. Motion was PASSED by unanimous voice vote.

JSK BP LLC- Transfer

Ohio Department of Commerce, Division of Liquor Control sent notification of a request to transfer a C1,C2 liquor permit currently issued to MK Petroleum LLC., 2835 N. Fairfield Rd., Beavercreek, OH 45431 to be transferred to JSK BP LLC., DBA North Fairfield BP, as same address. A record's check was done on the applicant: Mr. Ghanshyam Patel, DOB# 10/14/83 who resides in Fairborn, OH. He was found to have no criminal record with this agency or in the State of Ohio.

Councilmember Wallace MOVED to accept without comment, seconded by Councilmember Howard. Motion was PASSED by unanimous voice vote.

DECISION ITEMS

Boards and Commissions

Bikeway Advisory Committee (1 Replacement)

Councilmember Petrak nominated Abe Bassett. Councilmember Wallace nominated Matthew Evans. Councilmember Giambrone nominated Mark Insani.

Councilmember Howard MOVED to close nominations, seconded by Councilmember Giambrone. Motion PASSED by unanimous voice vote.

Vote by show of hands was Abe Bassett 2, Matthew Evans 1, Mark Insani 4.

Councilmember Giambrone MOVED to appoint Mark Insani to Bikeway Advisory Committee for the term March 1, 2010 through February 28, 2011, seconded by Councilmember Wallace. Motion PASSED by unanimous voice vote.

Impact Fee Appeals Board (1 Vacancy or 2 Vacancies)

Councilmember Wallace nominated Cynthia (C.J.) Bieghler. Councilmember Howard nominated John Langenderfer.

Councilmember Giambrone MOVED to close nominations, seconded by Councilmember Wallace. Motion PASSED by unanimous voice vote.

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Councilmember Vann MOVED to appoint Cynthia (C.J.) Bieghler and John Langenderfer to Impact Fee Appeals Board for the term March 1, 2010 through February 28, 2013, seconded by Councilmember Giambrone. Motion PASSED by unanimous voice vote.

EXECUTIVE SESSION

Councilmember Petrak MOVED to enter into Executive Session at 7:04 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of consideration of conference with the city attorney concerning disputes involving the City that are subject to pending or imminent court action; and for the purpose of consideration of preparing for, conducting or reviewing negotiations or bargaining sessions with public employees, seconded by Councilmember Howard. Motion was PASSED by a roll call vote of 7-0.

Councilmember Howard MOVED to adjourn Executive Session, seconded by Councilmember Wallace. Motion was PASSED by a roll call vote of 7-0.

Councilmember Howard MOVED to reconvene the regular meeting, seconded by Vice Mayor Jarvis. Motion was PASSED by unanimous voice vote.

Mr. Cornell explained Council had a chance to review findings of the Fact Finding Report as it relates to City negotiations with FOP Lodge #160. He thanked the FOP bargaining team, as well as, the management team in their efforts to reach a solid understanding of this agreement.

Councilmember Giambrone stated this did go to fact finding, and thought as the Council looks at the overall process in the state of Ohio it was concerning with how out of touch it is with what is happening in this state in terms of zero growth and looking at budgets.

Councilmember Giambrone MOVED to accept the report issued by Fact-Finder Richard J. Colvin on March 3, 2010 in the negotiations between the Fraternal Order of Police, Beavercreek Lodge No. 160 and the City of Beavercreek, Case No. 09-MED-10-1308 pending at the State Employment Relations Board, seconded by Councilmember Vann. Motion was PASSED by a roll call vote of 7-0.

Councilmember Petrak stated several weeks ago, Council came to agreements with all other Union represented employees and were very congenial. He thanked the employees for working with Council, and making things a little more reasonable.

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Councilmember Giambone agreed with Councilmember Petrak, and stated this Council and staff worked extremely hard to put together a budget. She explained it had zero growth in terms of salary, and the increase was something that was not planned.

Mayor Hadley explained Council planned for a zero growth, and did have to forego that, but felt it worked out best for everyone and now the City can move forward.

Resolution 10-13 Authorizing City Manager to sign FOP Local Police Officers' Unit Contract

Clerk Gillaugh read a resolution authorizing the City Manager to execute a collective bargaining agreement with the Fraternal Order of Police, Lodge #160 – Patrolmen in the Police Department.

Councilmember Vann MOVED to approve Resolution 10-13, seconded by Councilmember Wallace. Motion PASSED by a roll call vote of 7-0.

CITY MANAGER'S REPORT

Mr. Cornell explained there have been numerous questions about a frontage road on North Fairfield Road possibly to be constructed in the future, and stated Mr. McGrath was going to explain the road.

Mr. McGrath reviewed an aerial photo that showed a frontage road running north and south along North Fairfield Road near Beaver Vu Drive. He explained the end of the southern portion of the road is the access easement of Frisch's Restaurant that they dedicated. He stated the northern end is in front of the Subway Restaurant in the Fairfield Plaza. Mr. McGrath discussed the amount of traffic at the Marion's Piazza and Fairfield Plaza area, and explained staff's goal is to get as much traffic to Beaver Vu light as possible. He stated there are two parcels to the north that will separate the Frisch's development from the Fairfield Plaza PUD. He said with the amount of interest in this location that there could be some redevelopment interest to the north, in which the continuation of the access easement would be required. He explained the ultimate goal is to have a road parallel with North Fairfield from Fairfield Plaza to the Beaver Vu light.

Mr. McGrath explained staff required an access easement to the south of the Frisch's development to be recorded, but did not see any immediate opportunities to extend that road to the south. He discussed the issue with not allowing businesses to have curb cuts, and said the City's goal would be

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redevelopment to the south with consolidation of curb cuts farthest away from the intersection as possible.

Councilmember Vann questioned if there was a timeline or budget for this. Mr. McGrath explained it would be private and not dedicated right-of way. He explained a similar situation between Continental's Property and the Target site, and stated it would be the property owner's responsibility to maintain their section of the private drive.

Councilmember Wallace complemented staff on this futuristic approach, and how important it is to look at the options now when the situations are occurring.

Mayor Hadley commended Frisch's for allowing the easement and for constructing the traffic signal at Beaver Vu Drive.

Mr. Cornell stated the traffic signal at North Fairfield Road and Fairwood Drive is flashing, and is anticipated to be fully operable by Tuesday, March 9th in the afternoon. He gave an update of the Beavercreek Signals Project, which entails the interconnection of all signals along North Fairfield Road. Mr. Cornell also discussed the current status of the Dayton-Xenia Road Improvements near Grange Hall Road.

Mr. Cornell explained they received some correspondence today related to efforts made last week by MVRPC.

Mr. Moorman stated the City learned this week that MVRPC accepted five out of the six applications submitted last fall, and the total of federal rewarded money is a little over four million dollars to the City of Beavercreek. Mr. Moorman reviewed the projects, the total cost of the projects, and the grant money awarded.

Mr. Cornell explained the funding is actually going to be assigned in the 2014/2015 time frame. Mr. Moorman stated that is what is being looked at currently, but the City has to meet with ODOT and MVRPC to set the actual project schedule.

Mr. Cornell stated the February City of Beavercreek Employee of the Month is Paige Bagford. He explained she is the Public Service Division Administrative Assistant, and she has been with the City since October 14, 2008.

COUNCIL TIME

Vice Mayor Jarvis thanked the City Attorney, Mr. McHugh on the work he did of the Weapons in Park Ordinance.

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Vice Mayor Jarvis stated he thought the adjustment of the speed limit in the Dayton-Xenia Road Project would be difficult to adjust to, but has had no issues and appreciated the safety concern for workers.

Vice Mayor Jarvis explained in approximately a week, the Census forms are going to be sent out. He urged all citizens to fill it out and send it in.

Councilmember Howard stated she had given our front office some Census information, and if anyone had any questions they could call 427-5500.

Councilmember Howard MOVED to adjourn the meeting at 7:48 p.m. seconded by Councilmember Giambrone. Motion PASSED by unanimous voice vote.

Mayor Hadley

ATTEST:

Deputy Clerk
cmin030810