

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING APRIL 11, 2011 6:00 p.m.

PRESENT: Council Member Giambrone, Council Member Petrak, Council Member Vann, Council Member Wallace, Vice Mayor Jarvis, Mayor Hadley

ABSENT: Council Member Howard

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

Council Member Giambrone MOVED to excuse Council Member Howard, seconded by Council Member Petrak. Motion PASSED by unanimous voice vote.

Vice Mayor Jarvis led the pledge and a pray.

Council Member Vann MOVED to approve the agenda as amended adding an executive session between agenda items V. A. and V. B. Motion was seconded by Council Member Petrak and PASSED by unanimous voice vote.

**ORDINANCES, RESOLUTIONS, AND PUDS (First Reading)**

**Ordinance 11-10** 9.5 Acres Park Overlook Agreement

Clerk Lampton read an Ordinance declaring 9.5 acres of land located at the south end of Hibiscus Way in Beavercreek to be surplus property and no longer needed for municipal purposes; and authorizing the City Manager to enter into an agreement with Donald L. Huber or Assignee for sale of the property.

Mr. McGrath explained this draft ordinance was the result of discussions occurring over the last couple years. The 9.5 acres of land is located at the south end of PUD 98.9 which also contains Advanced Technological Intelligence Center (ATIC), Clark State University, Lofts at Willow Creek, and apartments and condominiums that were started by Mr. Huber in early 2000. Mr. McGrath explained this PUD was originally scheduled for approximately 800 residential units. He explained over the years things have changed for the better and now have mixed use facilities thus diversifying the portfolio of this area to integrate office and residential multi-family developments. He stated this is the first reading of three should Council approve it. He explained in addition to the required advertising of the second and third reading, they would go one step further and do an individual mailing to property owners within 500 feet to notify them of the public hearing. He explained this would enable the City to receive input regarding the area being discussed to be declared surplus. Mr. McGrath

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displayed an aerial view and discussed the no-cut zones and the current parks in the area. He explained the goal at this meeting was to look at the content of the ordinance and if it was appropriate to bring forward for public input.

Mayor Hadley questioned if the no cut zone on the south end of the property was originally fifty feet and had been expanded to 100 feet. Mr. McGrath replied that was correct. He explained Mr. Huber originally purchased the entire PUD in early 1998. During the development process there was a 9.5 acre buffer toward the south side of the property which was eventually turned over to parkland in lieu of fees to the residential development. He explained this was a sell back to the owner. The land was appraised at \$72,500 per acre with a total proposed sale price was \$688,000 that would be allocated to the parkland acquisition fund.

Council Member Giambrone explained that during the prior work session the Council had asked Mr. Thonnerieux to speak with the members of the Parks, Recreation and Culture Board and there was a memo in this meeting's packet from the Parks, Recreation and Culture Board stating they were recommending general support as long as the money was deposited into the parks capital improvement fund. Mr. McGrath replied there was a memo from Mr. Thonnerieux summarizing the discussion at the Parks, Recreation and Culture meeting held on March 8, 2011.

Council Member Wallace thanked Mr. McGrath for incorporating the work session discussion into the ordinance. She asked Mr. McGrath to define the meaning of no-cut zone for the audience. Mr. McGrath explained a no-cut zone was the most stringent green space requirement. Anything that would come down by mane in that area would have to be approved specifically by the City. This approval would be based on either a threat to property or people given the size of the trees whether living or dead. It would have to warrant or justify any removal of any vegetation in that location. He did remind an area that may be improved for the overall benefit of the community would be a possible bike path. Council Member Wallace stated the no-cut zone would be almost like a natural forest that would not be touched unless something would have to be cleared to prevent harm. Mr. McGrath replied that was correct.

Council Member Petrak commented the only thing they would consider going through the property would be a bike path.

Council Member Petrak stated when the City first accepted the land there had been lengthy discussions and input from the neighbors which the result was

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accepting that land. He said the next meeting would be important when there would be public input which would mold his opinion of how to proceed.

Council Member Giambrone verified no one at this time was paying property taxes on this parcel. Mr. McGrath replied that was correct because it was City owned and was exempt. Council Member Giambrone explained that she looks at all options and felt it would be interesting to see how enforceable the no-cut zone was. If it was and the developer was going to own land she would much rather they own it than the City.

Vice Mayor Jarvis stated the key to the plan was Spicer Road was not planned to cut through and the residents would be glad to know that. Mr. McGrath said any development plan would not be able to connect through at any later date.

Mayor Hadley stated the view of a drawing of a potential development would not have a reason to cut a street in there. Mr. McGrath agreed and thought the layout would be similar which would close off access to Spicer Drive. The exit point would make sense for a bike path to come out.

Council Member Vann asked in addition to the no-cut zone what would the setback be for the structures. Mr. McGrath replied there was no requirement at this time but would look at it in terms of the development application. They would have to do an analysis of the trees within the 100 foot buffer and whether there would need to be supplemental landscaping to build a second tier of the buffer. This would require additional room as a setback. Council Member Vann explained that would be something the residents would be interested in. Mr. McGrath explained if the no-cut were to be extended any more he questioned if there could be a setback or buffer requirements. Mayor Hadley stated there was originally a fifty foot buffer and a fifty foot no-cut zone and they changed it to a 100 foot no cut with no buffer. Potentially the developer could build up to ten feet of the no-cut zone. Mr. McGrath explained the 100 feet was a benchmark that had been successful in other multi-family versus single family developments.

Council Member Giambrone MOVED to moved to approve Ordinance 11-10 and move to the second and third reading, seconded by Council Member Wallace. Motion PASSED by unanimous voice vote.

Council Member Petrak MOVED to enter into Executive Session at 6:17 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of consideration of the purchase of property for public purposes and conference with city attorney disputes involving the City that are subject to pending or

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imminent court action, seconded by Council Member Giambrone. Motion PASSED by a roll call vote of 6-0.

Council Member Giambrone MOVED to adjourn executive session at 7:05 p.m., seconded by Council Member Vann. Motion PASSED by a roll call vote of 6-0.

Council Member Vann MOVED to reconvene the meeting, seconded by Council Member Wallace. Motion PASSED by a unanimous voice vote.

**Resolution 11-16** Retail Space Property Donation Agreement

Clerk Lampton read a Resolution authorizing the City Manager to execute the donation agreement between the City of Beavercreek, the Board of Trustees of Beavercreek Township and Seajay Ohio, L.L.C., and authorizing the City Manager to take all steps necessary to implement the agreement.

Mr. Thonnerieux explained this was a request for the City Manager to enter into an agreement with Beavercreek Township and the Lofino family to receive the remaining portion of the shopping center immediately adjacent to the Dominic Lofino Senior Center.

Council Member Giambrone MOVED to approve Resolution 11-16, seconded by Council Member Wallace. Motion PASSED by unanimous vote.

**Resolution 11-22** Retail Space Property Operations Agreement

Clerk Lampton read a Resolution authorizing the City Manager to execute the retail space property operation agreement between the City of Beavercreek, and the Board of Trustees of Beavercreek Township and authorizing the City Manager to take all steps necessary to implement the agreement.

Mr. Thonnerieux stated this was a follow up to Resolution 11-16 that was just passed and was very similar to the existing senior center operations which was operated in partnership with Beavercreek Township. The City was looking into an operational agreement with the Beavercreek Township Trustees to operate the additional space.

Council Member Petrak verified Resolution 11-16 was a three party agreement and this resolution was a two party agreement with the City and Township. Mayor Hadley replied that was correct.

Council Member Giambrone MOVED to approve Resolution 11-22, seconded by Council Member Vann. Motion PASSED by unanimous vote.

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Council Member Petrak MOVED to amend the agenda by removing agenda item X. Executive Session, seconded by Council Member Giambrone. Motion PASSED by unanimous vote.

### **CITY MANAGER'S REPORT**

Mr. Cornell expressed his appreciation for the staff's efforts over the last few weeks regarding the levies. He believed people were understanding the value of the ongoing issues: Issue 7 Police Services Levy – 3.3 mill replacement levy with four tenths of one mill increase and Issue 8 Street Repair Levy – 1.9 mill replacement levy with seven tenths of one mill increase. The combined increase of the two levies would be a cost of \$43.76 per \$100,000 valuation.

Ohio Public Works Commission announced that the City had been approved to receive financial assistance for the project at North Fairfield Road at New Germany Trebein Road intersection in the amount of \$310,800. Mr. Moorman explained the project entails double left turn lanes for north and south bound movements which was the result of a safety study completed in 2009. He stated that New Germany Trebein Road would have a second through lane added from Town Drive to Lillian Lane. He said the total cost of the project is about \$420,000 which the grant would be paying for approximately 74%. The design work is scheduled to begin this year with the construction scheduled to begin in 2012.

Mr. Cornell reviewed the schedule for the next Council meetings: April 18<sup>th</sup> City Council Work Session beginning at 5:00 p.m. and April 25<sup>th</sup> – Regular City Council Meeting beginning at 6:00 p.m.

### **MAYOR'S REPORT**

Mayor Hadley stated the Mr. Cornell, through a hula hoop contest challenge by the City Manager of Kettering, was able to donate an additional \$300 by the Kettering City Manager to the We Care Arts Annual Action held last Friday. He thanked Mr. Cornell for his efforts.

### **COUNCIL TIME**

Council Member Vann said in the mail this week there was a newsletter from the City with information regarding the levies. She explained the City Council had evaluated the needs for the police and street department in detail and tried to ask for the minimum amount while still being able to service the City well. The newsletter summarized the levies very well and thanked staff for working with the publisher and for the people who paid for the publication. She commented how

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important it is to maintain quality services and hoped the voters would go out and vote in support to the two levies on May 3<sup>rd</sup>. She attended the Taste of Greene County and commented the Beavercreek Chamber once again hosted an outstanding event that brings the community together while raising money for a good cause.

Council Member Wallace stated that the average cost per household in Beavercreek for snow removal was only \$40.00 annually. This is inexpensive when compared to what the cost of having personal snow removal to clear a driveway. She asked the residents to please support the levies. She said Saturday the Beavercreek Women's League would be hosting their annual scholarship luncheon at the Schindler Legacy Banquet Center in Xenia. If interested in attending go to [www.beavercreekwomensleague.org](http://www.beavercreekwomensleague.org) for tickets. The cost was \$30.00 per ticket. The monies from this event are allocated to the Beavercreek Schools Scholarship Fund.

Council Member Vann stated the Beavercreek Women's League had endorsed the two levies.

Council Member Giambrone stated the Beavercreek Chamber of Commerce had also endorsed the City's two levies.

Vice Mayor Jarvis stated that he had been talking with many of the residents regarding the levies. He commented that many did not know about the increase but were aware of the total cost of \$43.00 per \$100,000 assessed value. The focus had been the amount and the how important the main role of government was, which was safety and infrastructure. He commented he was looking for a positive outcome and asked residents to go out and vote and vote early if possible for the levies. He reminded everyone the Board of Elections was now on Ledbetter Road in Xenia.

Council Member Petrak stated the levy amounts were not status quo. The City is downsizing people and postponing procurement.

#### **UNSCHEDULED SPEAKERS**

Mr. Vaughn Hensley, 1868 North Central Drive, stated that he had written letters and emails to the Council during the past few months. He commented he had not received a response from any of the Council Members with the exception of Vice Mayor Jarvis on one occasion. He stated he felt that elected officials had a responsibility to their constituents to respond to them and would like to hear from each of the Council Members about that. Mr. Hensley stated he would be going

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to court for the third time in May over a violation he had received from Mr. Funk, Code Enforcement Officer. He stated he had received the violation and corrected the violation. He received a notice from the prosecutor, Mr. Certo, which stated if the problem was not corrected there would be no choice but to go to court. Mr. Hensley stated again the problem has been corrected. He has been to court twice and has to go back to court again in May. He commented this was a minor misdemeanor, non-jailable, \$150 fine. He stated again he had corrected the problem. He said at the last hearing he had asked Mr. Certo and Mr. Funk what he was in violation of. Mr. Hensley stated they had no answer for him or what he was in violation of. He stated he wanted to know what it was and felt he deserved that. He said the time and money that it had cost him had gone way too far and wanted someone to step in and try to help. He mentioned he was voting to Issue 7 and 8 and was voting for the school levy.

Mr. McHugh stated because this was a pending matter he strongly recommended there be no comment.

Council Member Giambrone did say that it was important for people to know that when a citizen sends in a concern or complaint about an ordinance or enforcement the general Council policy has been to ask staff to respond right away. She continued to explain if it was regarding a legal matter the Council may not be able to respond but always made sure the City Manager, staff and legal counsel were aware so somebody would respond.

Mr. McHugh stated that he and Mr. Cornell had discussed this matter.

Council Member Petrak MOVED to adjourn the meeting at 7:24 p.m., seconded by Council Member Giambrone. Motion PASSED by unanimous voice vote.

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Scott Hadley, Mayor

ATTEST:

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Dianne Lampton  
Clerk of Council  
Cmin041111