

BEAVERCREEK CITY COUNCIL
REGULAR MEETING April 12, 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 Wallace led the pledge and a moment of silence.

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

Councilmember Howard MOVED to approve the minutes of the March 15, 2010 Work Session. Motion was seconded by Vice Mayor Jarvis and PASSED by unanimous voice vote.

Councilmember Wallace MOVED to approve the minutes of the March 22, 2010 Regular Meeting. Motion was seconded by Councilmember Vann and PASSED by majority voice vote. (Howard abstained)

PRESCHEDULED SPEAKERS

Project Citizen Club – Introduction of Texting Law

Chief Turner stated in February Council received an email from two fifth graders from Main Elementary School questioning if Council is for or against texting while driving and if Council has any thoughts about making a law about this in the future. He explained this email was the initial contact that created discussion in work sessions about a possible Ordinance. Chief Turner said with Council's request, staff asked the group to come forward and give a presentation on what they have learned about this topic.

Jessica Parthemore, 5th Grade teacher at Main Elementary School, stated Project Citizen Club consists of 30 fifth graders that volunteer their time after school, and sometimes their lunch and recess, to pick a problem in the community that they feel needed fixed through public policy. She explained the whole process is based on letting the children discover what the process is. Ms. Parthemore said this is a free program that is given to the school by the Center for Civic Education that allows them to offer it to the students. She stated they will be traveling to Columbus in May to compete and present what they have done in front of Supreme Court Justices, State Representatives, etc.

Caleb Austin, Kasey James, Emma Bierman, Grace Mackey, and Maddie Reichert gave a PowerPoint presentation explaining what Project Citizen Club is and their concerns and their proposal with texting while driving.

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Nadine Zampatti – Beaver Creek Golf Course Lake

Nadine Zampatti, a resident in the Crossing at Canterbury Trails condos, which is adjacent to the City owned Beaver Creek Golf Club. She explained she is here tonight representing homeowners regarding the deteriorating condition of the lake which borders their homes. Ms. Zampatti stated the lake is approximately 12 years old and has no means for control of the algae. She explained the algae is getting much worse, and in the three years she has lived there the condition has drastically declined. The water is runoff created by a small dam, then runs down to the 15th green, and ends abruptly where a small lake is formed created by a spillway which is where algae forms and is held back by the spillway. Ms. Zampatti explained this produces a very foul odor, becomes infested by bugs and varmints, and is an unhealthy environment to have to live in. She provided Council with a packet of letters from several residents, including some pictures of runoff entering the lake. She explained they are requesting Council take whatever action is needed to clean up this unhealthy environment on City owned property.

PUBLIC HEARING

PUD 93-4 SSP #5, Ashton Brooke Phase IV

Clerk Gillaugh read the notice of public hearing on an application filed by George J. Kontogiannis, 400 S. Fifth Street, Suite 400, Columbus, OH 43215. The applicant requests specific site plan approval for 8.41 acres of land to allow for the construction of 7 buildings containing 80 multi-family residential units located on the west side of Lillian Lane and north of New Germany-Trebein Road. The property is further described as Book 4, Page 2, Parcel 23 on the Greene County Property Tax Atlas.

Randall Woodings, Principal of the Architectural Firm Kontogiannis and Associates, stated they are the developers on the existing Ashton Brooke project. He explained approximately a year and a half ago they rezoned a piece of property in the northwest quadrant of the PUD to hospitality. Mr. Woodings stated the property under discussion was originally zoned for office/commercial, but they rezoned the property to multi-family residential. He explained they changed the elevations by adding more brick, and added more landscaping to this phase. Mr. Woodings said they have met all the fire safety concerns, and he discussed the access points to the site. He stated the units will be very similar to the existing ones in Phase I, II, and III. Mr. Woodings discussed the buffering between the project under discussion and the retail center, and stated the applicant is going to provide more buffering in that area.

Mr. Burkett summarized the staff report dated April 8, 2010, which stated the property was originally approved in 1994 and had been amended three times with the latest being earlier in 2010 to allow for 80 more multi-family units. Mr. Burkett discussed the location of the property, the surrounding properties' zoning districts, the proposed site plan, the access points, the parking requirements, the transportation improvements, the

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building elevations and building materials, the landscaping plan, the stormwater management requirements, the lighting requirements, and the signage proposed. Staff and Planning Commission recommended approval of the case with 18 conditions.

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

Councilmember Wallace questioned what the triangular part of the site plan was. Mr. Burkett explained it was the retail center's detention pond and there is no proposed change. Councilmember Wallace was concerned about the amount of handicap parking spaces, and suggested adding a condition to add two additional handicap parking spaces. There was a discussion about the placement of the handicap parking spaces, and it was determined the placement should be decided by the applicant. Councilmember Wallace was concerned with the crosswalk, and wanted to make sure the applicant was going to make it very visible. Mr. Woodings stated they have committed to installing stop signs and striping the crosswalk. Councilmember Wallace asked if the applicant was planning on having a fitness track around the property. Mr. Burkett explained because of topography issues, a track could not be installed.

Councilmember Giambrone stated the citizens are concerned with traffic load and growth, and one of the reasons it was rezoned was because Council did not feel there was more need for retail and it was the applicant's desire to have the property rezoned to multi-family residential. She explained there have been no complaints from the single family abutting homes about the Ashton Brooke Apartments, and that the apartment complex has a high occupancy rate. Councilmember Giambrone said another issue that was discussed was speed of traffic, and thought the stop signs idea was excellent.

Vice Mayor Jarvis had a question about Condition #17, and asked for an explanation regarding Park Fees. Mr. Burkett explained there is a formula that calculates the amount that goes to the park fund or a park is dedicated.

Councilmember Petrak stated when the rezoning case was approved, there was concern shown from Council that there are enough multi-family residential units in Beavercreek. During that discussion, it was brought to Council attention that many apartments were given up along Pentagon Boulevard to office development. Councilmember Petrak asked if there was a new recreational area for this phase or if it was all across Lillian Lane in the existing phases. Mr. Woodings explained there will be a fitness room, but all the other recreational facilities will be across the street.

Councilmember Vann stated there will be sidewalks that will allow a person to walk from the development to the retail center and thought it would be a nice walking path. She said there are not enough handicap accessible apartments in the vicinity, and was

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pleased to hear the ground level units were handicap accessible. Mr. Woodings stated all the first floor units meet all ADA requirements.

Councilmember Giambrone MOVED, for the purpose of taking administrative action, approval of a PUD Specific Site Plan for Ashton Brooke Phase 4, PUD 93-4 SSP #5, 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. She further moved that this motion with all conditions be fully recorded in the minutes of this Council meeting.

1. The approved site plan, architectural elevations and landscape plan shall be those plans dated "Received February 23, 2010" except as modified herein.
2. A PUD Agreement must be signed by the owner and a bond or letter of credit for 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.
3. A detailed landscape plan shall be reviewed and approved by the Planning Department prior to the execution of the required PUD Agreement and release of any zoning permits for Ashton Brooke Phase 4.
4. 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.
5. Debris and trash shall be routinely collected by the owner from the parking lot and grounds of all areas of the project including the storm drainage facilities. The City reserves the right to require more frequent collection as necessary.
6. Prior to the issuance of any zoning permits, final cut sheet details and photometric plans for lighting of the site shall be reviewed and approved by the Planning Department.
7. The building exterior of any of the structures shall not be painted or altered in any way that varies from the approved elevations unless otherwise approved by the Planning Department or, if required, by the City Council and/or Planning Commission.

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8. No temporary signs of any kind are permitted unless otherwise approved by the Planning Department and/or Planning Commission.
9. Material and color samples shall be submitted to the Planning Department for review and approval prior to the issuance of any zoning permits.
10. Final drainage calculations shall be approved by the City Engineer prior to the release of any zoning permits.
11. All concerns of the City Engineer, Fire Department, Sanitary Engineer and the Planning Department shall be addressed and met prior to the release of any zoning permits.
12. The construction hours shall be limited to 7:00 am to 7:00 pm, Monday thru Saturday.
13. Stop bars and/or stop signs shall be installed and maintained, by the property owner, throughout the parking lot, in locations to be approved by the Planning and Engineering Departments.
14. Any portion of the site disturbed by grading and on which no construction occurs, within three months after completion of the site grading shall be planted with appropriate ground cover and properly maintained.
15. Pad mounted mechanical and HVAC equipment must be screened with landscaping and/or masonry walls and shall not be visible to the public.
16. All trash collection containers shall be enclosed within the building or screened from view and enclosed within a permanent gated dumpster enclosure. Any dumpster enclosure shall be constructed with brick to match the building.
17. Prior to the release of any zoning permits, park fees shall be paid in-lieu of dedication of parkland.
18. The brick used to construct the ground signs shall be the same brick used to construct the buildings.
19. The applicant shall increase the number of handicap parking spaces to eight parking spaces while still maintaining all other applicable ADA requirements.

Motion was seconded by Councilmember Vann and PASSED by unanimous voice vote.

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ORDINANCES, RESOLUTIONS, AND PUDS

Ordinance 10-03 Amending Section 95.21 Concealed Carry License (Third 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.

Councilmember Vann stated the primary reason of this Ordinance is so Beavercreek's law will represent the State's law.

Councilmember Vann MOVED to approve Ordinance 10-03, seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

Ordinance 10-04 Water Booster Station (Third 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.

Councilmember Giambrone MOVED to approve Ordinance 10-04, seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

Ordinance 10-05 Mills Morgan Medical Campus Street Lighting Assessment (Second Reading)

Clerk Gillaugh read an Ordinance to proceed with the repair, maintenance, replacement, and providing energy for, and operation of street lighting improvements in the City of Beavercreek, Ohio, and on the street known as Pentagon Boulevard.

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

This Ordinance will move automatically to the Third Reading.

Ordinance 10-06 Supplemental Appropriations Ordinance for Fiscal Year January 1, 2010 through December 31, 2010

Clerk Gillaugh read an Ordinance to make supplemental appropriations for the fiscal year beginning January 1, 2010, and ending December 31, 2010, and to amend Ordinance 09-40, and 10-2.

Mr. Kucera stated during the course of the year there are expected expenditures or revenues that come in, and the budget has to be adjusted to let the County now and also for the City's records. He explained the items and reasons why the appropriations were necessary.

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Mayor Hadley stated this has been an on-going process that the City uses money from one fund then it has to be appropriated back into the correct fund. There was a discussion between Mr. Kucera and Council regarding the Greene TIF and the assessment, and how it was set up.

Councilmember Wallace questioned if the \$18,800 was a typo on the Ordinance. Mr. Kucera explained it was not, and they are two separate items.

Vice Mayor Jarvis asked how old the mower was that's engine failed, and is having to be replaced. Mr. Kucera said it was purchased in 2001.

Councilmember Vann thought the amount going to the Street Fund was significant, but felt it would be well used.

Councilmember Howard questioned how quickly the mower will be able to be in service if this Ordinance is passed tonight. Mr. Kucera thought the City would receive the parts quickly. She requested a letter of appreciation be done to Wal-mart for the donation, and asked Chief Turner for an update on the COPPs. Chief Turner explained at the last Council meeting he introduced the graduating class of COPPs. He also stated he could provide Council with a monthly report regarding activities the COPPs do.

Councilmember Vann MOVED to approve Ordinance 10-06, seconded by Councilmember Giambrone. Motion PASSED by roll call of 7-0.

LIQUOR LICENSES

BL Restaurant Operations LLC (Transfer)

Ohio Department of Commerce, Division of Liquor Control sent notification of a request to transfer a D5J, D6 liquor permit currently issued to Bar Louie Dayton, Inc., DBA Bar Louie, 4492 Glengarry Drive & Patio, Beavercreek, OH 45440 to BL Restaurant Operations LLC, DBA Bar Louie at the same address. A record's check was done on the applicants: Mr. Roger Greenfield, DOB# 10/14/51, Mr. Theodore Kasemir, DOB# 09/24/61, Mr. Donald Mueller, DOB# 09/24/63 and Mr. David Mezzanotte, Jr., DOB# 01/22/54. They were found to have no criminal record with this agency or in the State of Ohio.

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

Lofinos Inc. (Stock Transfer)

Ohio Department of Commerce, Division of Liquor Control sent notification of a request in change of corporate stock on a D2, D2X and D6 liquor permit from Lofinos Inc., DBA

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Lofinos Food Store, 3245 Seajay Drive, Beavercreek, OH 45430. A request check was done on the applicants, a Mr. Michael D. Lofino Sr, a Ms. Christine M. Lofino and Mr. Michael D. Lofino Jr. They were found to have no criminal record with this agency or in the State of Ohio.

Councilmember Howard questioned if Michael Lofino, Sr. should be Michael Lofino, Jr. on the last page. Chief Turner stated it is Michael Lofino, Sr.

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

CITY MANAGER'S REPORT

Mr. Cornell explained Council received several upcoming agendas in their packets, which will become a regular occurrence so Council is aware of what topics will be discussed at future meetings.

Mr. Cornell stated he requested Mr. Frazier to give Council and citizens an update on the improvements to the City's media. He said Mr. Frazier is going to discuss the Video on Demand, which would allow citizens to access what is occurring at the City.

Mr. Frazier stated the City has been offered video streaming on the website for several years, but have had issues with several items. He said the formatting of the stream has been changed so it is a higher quality stream currently. Mr. Frazier reviewed the steps of how a person can access the live stream and explained how to use it. He defined live streaming, and discussed the program schedule. Mr. Frazier stated the new feature that was just launched is Video on Demand, and explained how to access and use it on the website. He stated since this was new, if any citizens had any questions or comments to contact the City. Mr. Frazier explained one item the City wanted to offer citizens was downloads of the meetings, but because the files are so large it would be best for the citizens to contact the City and get a copy of the DVD.

Vice Mayor Jarvis asked if the video is able to go full screen. Mr. Frazier stated a citizen can, and explained the steps on how to do it.

Councilmember Vann stated it would be great to have videos of interviews posted of issues or information for citizens, and thought this was a great opportunity.

Mr. Cornell gave construction updates for the Dayton-Xenia Road Improvements. Mr. Moorman stated it is anticipated towards the end of June they will be finishing the project.

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Mayor Hadley questioned if sidewalks were going to be installed on the south side of Dayton-Xenia Road. Mr. Moorman said on the south side there will be a 5-foot sidewalk and on the north there will be a bikeway.

Mr. Cornell said the Colonel Glenn Highway Resurfacing Project will begin in mid April, and stated it will be funded by federal stimulus funding. Mr. Moorman explained the whole project will use federal stimulus money, and the City share of the project is \$0. He stated paving will occur in the evening to minimize the disruption of traffic.

Mr. Cornell discussed the Indian Ripple Road Improvements, which will also utilize federal and state funds. He explained it is currently being advertised and the bids will be opened at the end of the month. Mr. Moorman stated this will be a major improvement for this corridor, and explained the components of the project.

Mr. Cornell stated it was not too late to return the 2010 Census forms. He said nationally the count is approximately 65%, and said Beavercreek, depending on the quadrant of the City, the return rate is between 75% to 80%.

MAYOR'S REPORT

Mayor Hadley stated Council passed an Ordinance to reduce the speed limit in the Dayton-Xenia Road Construction Project, and encouraged drivers to slow down because the construction workers are starting to work again.

Mayor Hadley acknowledged four Scouts in Beavercreek that have become or are about to become Eagle Scouts. He stated they have met all the requirements and congratulated them.

COUNCIL TIME

Councilmember Petrak mentioned at a previous Council meeting, there was a vacancy on the Greene CATS Board. The member being replaced was from Beavercreek. He stated there were a couple of very qualified individuals from the City of Beavercreek who put in their application to fill the position. Councilmember Petrak explained the County Commissioners elected to not fill the position with a Beavercreek resident, which was a disappointment to him because a significant portion of Greene CATS activities has been focused on Beavercreek and the City should have as much representation as possible. He explained in the work session meeting to follow, Council will be discussing a survey that may reaffirm some of the findings contained in a mass transportation study in Greene County that was completed in 1995. He explained some people have been discounting the survey saying there are flaws in it, but he believed there are no flaws in it and Greene County residents don't want a general purpose mass transit system.

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Councilmember Giambrone stated she is a proponent in public transit, and explained there were a few questions that were unanswered for her that she is hoping to get answered by the survey results. She said her first question is, is there are large groups of Beavercreek citizens that are going without their transportation needs met. She questioned if there were businesses that are not able to recruit qualified workers because they don't have transportation. She felt it was important to let people know Beavercreek is not anti-transit, but it is about looking at the needs of the citizens and businesses and making appropriate policy decisions.

Councilmember Petrak stated one item that has never been looked at is the possibility of extending the door-to-door services already provided by Greene CATS. He thought that could very possibly be the most economic way of providing transportation, but the County want to press forward with mass transit with scheduled stops.

Councilmember Giambrone felt Council needs to be open to what the data tells them, and Councilmember Petrak agreed.

Vice Mayor Jarvis stated that is why the new survey is so important, that it will or will not reaffirm the 1995 decision, but it will state what the citizens want now.

Councilmember Vann explained she read the article from the Dayton Daily News about golf courses, and thought it was wonderful to see Beavercreek's Golf Course doing so well. She was hoping to see an ad enticing people to come to Beavercreek, and suggested getting our golf course highlighted next year when the article comes out.

UNSCHEDULED SPEAKERS

Toby Underdown, 3729 Kemp Road, stated he had concerns with the City regulating a texting law and felt it was something that needs to be left to the State. He explained there is proposed legislation in place already, and believed there were only three cities that have that type of ban in Ohio. Mr. Underdown did not feel it was necessary to waste Council time, City time, and the expense if something is put in place to enact legislation. He commented the students on being involved in local issues, but felt this issue should be left to the State. Mr. Underdown said there are about 20 states that have bans, and thought that the ban is coming for Ohio.

EXECUTIVE SESSION

Councilmember Petrak MOVED to enter into Executive Session at 7:40 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of consideration of the sale of property at competitive bidding, seconded by Councilmember Giambrone. Motion was PASSED by a roll call vote of 7-0.

BEAVERCREEK CITY COUNCIL

REGULAR

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

Councilmember Giambrone MOVED to adjourn the meeting at 8:12 p.m. seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

Mayor Hadley

ATTEST:

Deputy Clerk
cmin041210

BEAVERCREEK CITY COUNCIL
WORK SESSION, April 12, 2010, Followed Regular Meeting

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 Giambrone MOVED to approve the agenda. Motion was seconded by Vice Mayor Jarvis and PASSED by unanimous voice vote.

DISCUSSION ITEMS

Draft Fallon Survey Questions

Mr. Cornell stated Paul Fallon has been preparing the questions for the 2010 Citizen Survey that will be completed in May. He explained Council was provided a draft of the questions, and has had an opportunity to review the questions.

Paul Fallon stated the 2010 survey is a byproduct of the 2009 survey, and discussed the interest in several topics and items that were not addressed in the last survey.

Mr. Fallon was given feedback and concerns about several questions from Council, and will re-evaluate the survey and provide another draft of questions to be addressed at a future work session.

Miller Valentine TIF Discussion (Continued)

Council was provided a preliminary term sheet for Miller Valentine's project, Mission Point. Eric Yoo, Miller Valentine, presented a PowerPoint presentation, City of Beavercreek, Ohio, Public Infrastructure Financing, March 19, 2010.

MVRPC Going Places Draft Resolution

Council was given a copy of the MVRPC draft Resolution. After discussion, Council agreed to present the document to the Township Trustees.

Councilmember Giambrone MOVED adjournment at 10:02 p.m., seconded by Councilmember Wallace. Motion was passed by unanimous voice vote.

Mayor Hadley

ATTEST:

Deputy Clerk

cmin041210worksession