

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING April 26, 2010 6:00 p.m.

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

ABSENT: Councilmember Petrak

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

Councilmember Howard MOVED to excuse Councilmember Petrak from the meeting, seconded by Councilmember Giambrone. Motion PASSED by unanimous voice vote.

Mayor Hadley led the pledge and said a prayer.

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

PUBLIC HEARING APPEAL – A-10-1, David Knox, 2925 Kemp Road

Clerk Gillaugh read the notice of public hearing on an application filed by David R. Knox, 2925 Kemp Road, Beavercreek, OH 45431, appealing a decision of the Beavercreek Board of Zoning Appeals in Case V-10-2 denying a variance from Chapter 158.104(E)(1) of the City of Beavercreek Zoning Code, requesting permission to allow a 194 square foot detached garage to remain on the property that in combination with four other existing accessory structures exceeds the 900 square feet permitted for this property by 201 square feet in a R-1A District. The property is located on the south side of Kemp Road five lots east of the intersection of Hanes and Kemp Roads further described as Book 4, Page 15, Parcel 7 on the Greene County Property Tax Atlas.

Mr. McGrath stated this is an appeal on a variance decision made by the Board of Zoning Appeals. He said Council was provided a packet of information that included all the facts and testimony of the case, so Council could consider what was discussed and decided by the Board of Zoning Appeals, as well as staff's recommendation which was provided in the staff report. Mr. McGrath explained tonight Council is reviewing the process the case went through at the Board of Zoning Appeal's meeting, and if there was any room for interpretations that may otherwise be construed by City Council when the variance request was denied by the Board of Zoning Appeals.

Mr. McHugh stated the next step would be to open the case up for public input. He explained after deliberation, Council will have to issue a written decision. Mr. McHugh said what Council is looking for is if there is substantial or reliable evidence introduced at the Board of Zoning Appeals meeting for the Board to make their decision.

Mayor Hadley questioned if the Board of Zoning Appeals made a decision on the variance case. Mr. McHugh stated they did, and reviewed the Resolution that was approved to deny the variance case.

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In public input, Art Woodhall, 2115 Hedge Gate Boulevard, stated he lives in a development that has codes, just like Beavercreek does, and they forced a neighbor of his to take down a structure that was built that was not in compliance. Mr. Woodhall thought that if the neighbors in his neighborhood had to take down a structure, then Mr. Knox should have to also.

Mr. McHugh questioned if the letter that was submitted to the Board of Zoning Appeals was his letter. Mr. Woodhall stated that was correct.

Councilmember Giambrone questioned if there was a reason the applicant was not present tonight, and wanted to make sure he was notified. Clerk Gillaugh stated the applicant was sent a certified letter, and the returned receipt was sent back.

Vice Mayor Jarvis stated he read through the materials, and it looked like proper procedures were followed by the Board of Zoning Appeals and there were no new circumstances or conditions that would have permitted this variance.

Councilmember Wallace agreed, and explained she read through the packet and watched the video. She stated she did not see any problems with what the Board of Zoning Appeals did.

Councilmember Howard stated she also agreed, and commended staff for enforcing the City's Ordinances and the Board of Zoning Appeals for making a deliberate decision. She referred to the staff report, and mentioned it stated there were other options available to the applicant so he could bring the property into compliance. She explained since the applicant was not here tonight, she concurred with the Board of Zoning Appeals and staff decision, and was not even willing to discuss the other options with staff at this point.

Mr. McHugh stated after hearing Council's comments, it would be a consensus to prepare a written decision for Council's adoption at the next meeting that will affirm the decision of the Board of Zoning Appeals.

Councilmember Giambrone asked if it was possible to include in the document that staff did have an option for remediation and to assist the homeowner, and questioned if that option would still be available. Mr. McHugh said that would certainly be available, and he would note that too.

#### ORDINANCES, RESOLUTIONS, AND PUDS

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

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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.

Councilmember Wallace MOVED to approve Ordinance 10-05, seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

Resolution 10-15 Approval to Apply for CDBG Funds

Clerk Gillaugh read a Resolution authorizing submission of an application for FY 2010 Community Development Block Grant.

Mr. Beach stated this is a resolution to have the City Manager sign for a Community Development Block Grant. He explained it is difficult every year to find a suitable project that meets the guidelines. Mr. Beach said this year they have designated a project at Virgallito Park, and several years ago the City used its own Community Block Grant Fund to build a handicap accessible playground. He explained there is a mulch surface below it, which meets safety guidelines, but their application this year would be to put poured rubber surface. Mr. Beach stated that will make the playground much more accessible to people/children with handicaps. He said the City share of this grant acquired is \$8,500, which is about 20% of the cost of the project, and the City will be putting in some of their own manpower in preparation of the project.

Councilmember Giambrone questioned if this would just be for the surface. Mr. Beach stated that was correct.

Mayor Hadley asked what kind of handicap vehicles it would allow. Mr. Beach explained currently a child in a wheelchair would not be able to navigate through the mulch surface. He stated the poured rubber floor is an all weather surface that would allow a child with a handicap to navigate through the playground.

Councilmember Giambrone said it is great for children in wheelchairs or other assistive devices.

Vice Mayor Jarvis asked if the County uses the same criteria that the State uses to disperse these funds. Mr. Beach stated the County program is a competitive program for all communities and organizations in the area that are not eligible for direct allocation. He said once the allocation got below a certain threshold then the County took the direct allocation away and put it into the County pot, which made the City eligible to apply for the County program.

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Vice Mayor Jarvis questioned if this will make Council appropriate funds next year. Mr. Beach said that is correct, and the City would hear about the grant prior to the actual need to appropriate funds.

Vice Mayor Jarvis referred to the Resolution, and said under Section 1 and Section 1A the amounts are not the same. Mr. Beach said the correct amount would be \$33,200.

Councilmember Vann stated in the future, there are a lot of seniors who need emergency type of improvements and asked if those are funded through Greene County. Mr. Beach said there are existing programs funded through Greene County, and literature is available at the Senior Center for Beavercreek residents.

Councilmember Vann MOVED to approve Resolution 10-15, seconded by Councilmember Giambrone. Motion PASSED by unanimous voice vote.

Resolution 10-16 Authorize the City Manager to entering into an agreement with the County Engineer for 2010 Resurfacing Program

Clerk Gillaugh read a Resolution authorizing the City Manager to enter into an agreement with the Greene County Engineer for the project known as the Collective 448 Overlay for 2010.

Mr. Moorman stated as the City has done over the past several years, the resurfacing program was bid through the Greene County Collective Bidding Program. He explained the benefit of this program is it allows several of the local jurisdictions to pull all of their resurfacing bids together in hope to get lower unit prices. He said the Greene County Engineer opened bids this year on April 13<sup>th</sup>, and it looked like everything will be able to proceed possibly the first week in May for the City's program. Mr. Moorman stated the pre-construction meeting is tomorrow, April 27<sup>th</sup>, and he would know more about the contractors' schedules after the meeting. He said before anything can proceed, a resolution has to be passed allowing the City Manager to execute the agreement with the County Engineer for the administration of this program.

Councilmember Wallace MOVED to approve Resolution 10-16, seconded by Vice Mayor Jarvis. Motion PASSED by unanimous voice vote.

#### CITY MANAGER'S REPORT

Mr. Cornell discussed the ODOT Bridge Project, just east of Factory Road. He explained this project will go through a lot of variations and adjustments through the construction period. He explained tomorrow will begin the striping and shifting of the lanes, which is work in preparation for the rehabilitation of the bridge along U.S. 35. He explained the right east bound lane will be closed tomorrow between 9 a.m. and 3 p.m. to make some repairs to the bridge deck, after the repairs are completed, they will shift

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both the east and west bound lanes towards the outside of the bridge, so work can begin in the middle of the bridge. Once work is completed on the inside, the lanes will be shifted towards the middle of the bridge so the outside of the bridge can be repaired. Mr. Cornell stated they are expecting construction to continue through the summer, and be completed around September.

Mr. Cornell said he and the Mayor had a discussion last week about the work session, and many citizens may not know what is occurring during the work sessions. He explained Council works very hard during the work sessions, and provided a list of the topics that were discussed at the work session on April 19<sup>th</sup>. Mr. Cornell stated a lot of the details that come forward to City Council via legislation begin in work sessions on a monthly basis. He said if anyone has any questions of what is occurring at the work sessions they may check the City's website. Mr. Cornell explained there is no legislation that occurs at the work sessions, however lots of times topics will then come forward at regular meetings and do turn into legislation.

#### MAYOR'S REPORT

Mayor Hadley stated there was a gentleman that used to come to City Council meeting once every month or every six weeks, and his message was to try to make the Country a better place. He said his name was Joseph Koussa who lived on Beaver creek Lane in Kettering, and his comments when he was finished speaking were "Thank you, thank you, thank you, and may God bless you or God bless America". Mayor Hadley stated he was killed in an accident on April 19<sup>th</sup>, and said he will be missed.

Mayor Hadley stated in 1857 the House of Representatives moved from the house they were in to the present house wing where they currently are, and explained the old house became known as Statuary Hall. He said in the hall there are statues, two provided from each state, and they are replacing one of the Ohio statues. Mayor Hadley reviewed a list of ten possible candidates, and stated they are asking for input from citizens of Ohio to vote. He recommended voting for the Wright Brothers because they did a lot of their development here in Ohio and they are from Ohio. Mayor Hadley read a letter from a friend of his about another consideration for voting for the Wright Brothers statue to be placed in Statuary Hall.

#### COUNCIL TIME

Councilmember Wallace urged people to vote for a statue, and stated there are very few women in Statuary Hall and recommended voting for one of the three women.

Councilmember Wallace stated Council did receive a notice from EPA regarding the Lammars Barrel Factory site, and thought it was an excellent narrative about the ownership, history, questions and answers of the site. She encouraged staff to write a thank you letter back, and she thought EPA was on the right track with getting the

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property cleaned up. She was pleased EPA was giving people information about the site, and allowing individuals to comment on what they are doing.

Councilmember Vann stated there is a topic that Council is going to have to get involved in soon. She said Bambi Saxe is Chair for Youth Council and the Youth Development Committee and has had many people approach her about strengthening youth programs in Beavercreek. Councilmember Vann explained she received a notification that a competition is out there for cities to be one of the top one hundred places for youth, and felt that would be a terrific recognition for Beavercreek to attain that title. She felt this was a topic that needed to be discussed at a future work session. Councilmember Howard asked if Council discusses this in a work session if Councilmember Vann could provide more information about the competition. Councilmember Vann stated she can prepare that information.

Councilmember Giambrone said this past week was Administrative Assistance Week, and felt it was a good time to recognize those individuals. She thanked Chris Bucheit, Diane Gould, and Melissa Gillaugh and felt they were amazing professionals to have at City Hall.

Councilmember Giambrone stated there is an event this Saturday, May 1<sup>st</sup>, at Brio at the Greene called Run for the Pink Roses. She explained it is a derby day party and all the proceeds benefit the Women's Wellness Fund, which provides funds and vouchers to women who cannot afford mammograms. Councilmember Giambrone stated it is only \$40, but the catch is a person has to wear a derby day hat. She said if anyone had questions they could email her at her City website address.

Councilmember Giambrone wanted to recognize Norma Ross who passed away this past week. She explained Ms. Ross was a great leader in our region, worked with Central State and Wilberforce, was an amazing woman business owner and a leader in the African American community as well as the region in a whole. She asked if Council and citizens would keep her family in their thoughts and prayers.

Councilmember Howard asked how a person could vote for the statue in Statuary Hall. Mayor Hadley stated he will provide the information to Mr. Cornell, and requested it be placed on Channel 5.

Councilmember Howard stated several of them will be attending the Dayton Development Coalition Fly-In, which is an opportunity for them to advocate on behalf of the region on many sectors. She explained they will get to meet with the congressional leaders, and looked forward to being one of the many representatives there.

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Vice Mayor Jarvis stated the statue that is being removed is the Ohio Governor William Allen, and there is a committee that has been set up to make the decision of which statue replaces his and one of the factors they will consider is the public input. He explained the public input is not the final say, but is one of the criteria they will use.

Councilmember Giambrone wanted to make a note that former past City Commissioner Dick Zimmer passed away this past weekend. She explained he and his wife were members of the Beaver creek Senior Citizens Center, and he too will be greatly missed.

EXECUTIVE SESSION

Councilmember Howard MOVED to enter into Executive Session at 6:55 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of consideration of the appointment of a public employee, seconded by Councilmember Wallace. Motion was PASSED by a roll call vote of 6-0.

Councilmember Giambrone MOVED to adjourn Executive Session, seconded by Councilmember Howard. Motion was PASSED by a roll call vote of 6-0.

Councilmember Giambrone MOVED to adjourn the meeting at 7:10 p.m. seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

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Mayor Hadley

ATTEST:

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Deputy Clerk  
cmin042610

BEAVERCREEK CITY COUNCIL  
WORK SESSION, April 26, 2010, Followed Regular Meeting

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

ABSENT: Councilmember Petrak

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

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

DISCUSSION ITEMS

MVRPC – Going Places

Mr. McGrath discussed an email that he received from Martin Kim, MVRPC, regarding the concerns Mr. McGrath expressed last Monday, April 19, 2010, at the Beavercreek Township Trustees meeting. He explained the Township Trustees did not feel it was necessary to have a joint resolution, but felt the Resolution that Council passes should be the same as what the Township Trustees approve.

After discussion, Mr. McGrath will provide Council with a draft resolution for their review, and it will be placed on a Council agenda as a resolution in the near future.

Draft Legislation – Snow Emergencies

Mr. McHugh stated last winter in a City Manager's staff meeting, the topic was discussed about creating an ordinance for vehicles to be removed from certain streets in the event of a snow event. Mr. McHugh explained this ordinance would not be tied to the County's Snow Emergencies, but would have residents move their vehicles parked on streets during a snow event to make it easier for the snowplows and police to access the street.

After discussion, Council agreed there should be an ordinance created. Mr. McHugh explained he would create a final draft for Council's consideration.

Councilmember Giambrone MOVED adjournment at 7:35 p.m., seconded by Councilmember Howard. Motion was passed by unanimous voice vote.

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Mayor Hadley

ATTEST:

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Deputy Clerk

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