

BEAVERCREEK CITY COUNCIL
REGULAR MEETING April 27, 2009 6:00 p.m.

Mayor Vann presented Janaki Venkayya with a Proclamation; she also presented a Motorcycle Awareness and Bike to Work Day Proclamation

PRESENT: Mr. Hadley, Mrs. Howard, Mr. Jarvis, Mr. Leonard Mr. Petrak, Mayor Vann

ABSENT: Vice Mayor Giambrone

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

Mr. Jarvis led the pledge and a moment of silence.

Mr. Leonard MOVED to excuse Vice Mayor Giambrone, seconded by Mrs. Howard it was approved by unanimous voice vote.

Mrs. Howard MOVED to approve the agenda; it was seconded by Mr. Petrak. The Motion PASSED by unanimous voice vote.

Mr. Hadley MOVED to approve the minutes for April 13, 2009, seconded by Mr. Jarvis the Motion PASSED by unanimous voice vote.

Mr. Hadley MOVED to approve the amended minutes for March 30, 2009, seconded by Mrs. Howard the Motion PASSED by unanimous voice vote.

PUBLIC HEARING – PUD 98-9 Amend 3/09 College Park South

Clerk Bucheit read on an application filed by Mills Morgan, 3500 Pentagon Boulevard, Beavercreek, OH 45431. The applicant requests approval of an amendment to the MX-PUD 98-9 Amendment 10/07 for 9.3925 acres of land located on the east side of Hibiscus Way and north of Park Overlook Drive to change the zoning from Medium Density Residential to permit office uses. The property is further described as Book 1, Page 10, part of Parcel 25 on the Greene County Property Tax Atlas.

Dominic Stolfo stated that Mills Morgan needs more land near the newly opened ATIC to extend College Park South and rezone east of the new apartments on Hibiscus.

Mr. McGrath stated that the applicant is requesting a PUD amendment to MX-PUD 98-9 Willow Creek to allow for additional office acreage where the concept plan and zoning conditions currently call for medium-density residential development. The proposed amendment would change the language of the existing zoning to read there shall be a maximum 25 acres of medium-density residential as opposed to the requirement within the existing ordinance that specifies a minimum of 20 acres of medium-density residential development within this PUD. This application would allow for the construction of additional office buildings within this PUD instead of the previously approved apartment complex that was to be located at the northeast corner of Hibiscus Way and Park Overlook Drive.

The original zoning for this project was approved by City Council in 1999 and an amendment concerning setback requirements was approved in 2002. In December of 2007, the conditions of the PUD zoning were amended to allow for a minimum of 20 acres of office as opposed to the restrictions in the original zoning that stipulated a maximum of 20 acres of office within the PUD. In order for additional office development to occur within this PUD the requirement of a

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minimum of 20 acres of medium-density residential development needs to be removed.

The request by the applicant to allow for the reduction of the requirement for medium-density residential to make way for additional office development in this location is consistent with the Land Use Plan changes that were recently approved by City Council, with the recommendation of approval by the Planning Commission, in March of this year.

There being no Public Input, the Public Hearing was closed.

Mrs. Howard MOVED to approve Ordinance 09-5 and move it to the second and third reading, seconded by Mr. Petrak it was approved by unanimous voice vote.

PUBLIC HEARING – PUD 93-3 MOD 2/09 Beaver Creek Shopping Center
Clerk Bucheit read on an application filed by Continental 44 Fund LLC, W134N8675 Executive Parkway, Menomonee Falls, Wisconsin 53051. The applicant requests approval of a major modification to allow for the construction of a 7,000 square foot retail building on a portion of the 30.394 acres associated with Beaver Creek Shopping Center. The property is located on the east side of North Fairfield Road, approximately 1200 feet south of Rex Drive in the northwest corner of the existing parking lot. The property is further described as Book 4, Page 4, Parcel 5 on the Greene County Property Tax Atlas.

Kara Smith of Continental Properties stated that they are requesting approval of a 7000 square foot shop building located in the parking lot of the Beaver Creek Shopping Center immediately in front of the LA Fitness. She stated that they had worked with staff to address some of the concerns including some architectural articulation and increasing landscaping in the parking lot.

Mr. Burkett stated that the applicant is requesting approval to modify the existing site plan, to allow for the construction of a 7,217 square foot retail building, created as an outlot west of the existing shopping center. The proposed retail building will be located approximately 800 feet south of the intersection of North Fairfield Road and Rex Drive, in front of the newly constructed L.A. Fitness Center. The retail building will be split into two separate tenants, each occupying about half of the building, with a small landlord utility room located on the eastern portion of the building.

This property was rezoned in December of 1993 from A-1 to C-PUD 93-3. The PUD zoning conditions stipulate that all buildings and uses are to be set back from North Fairfield Road by at least 70' and all buildings are to be set back at least 50' from the other property lines. This application upholds those requirements, in that the proposed building is 74.2' from the western property line (North Fairfield Road R-O-W) and 119.4' from the northern property line. In addition to building setbacks, the zoning also states "The total square footage of all buildings and structures allowed to be constructed in the development shall not exceed 375,000 square feet." With this proposal, the total square footage of building and structures will increase to 284,109 square feet.

The applicant is proposing to construct a single-story, brick and EIFS retail building. A majority of the construction material used on the building will be red brick veneer. The remaining portion of the building will be constructed of two different colors of EIFS. The intention of the two distinct colors is to highlight the two separate tenant spaces. The two colors are darker beige and lighter tan. On all four sides, the brick elevations have double rowlock recessed brick architectural features to help break up the elevations. These recessed features also carry over to the brick pilasters. Also, all four elevations have a metal cap

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flashing that will be painted to match the adjacent EIFS. Decorative gooseneck light fixtures have been used to light the exterior walls of the building.

The eastern elevation will be opposite North Fairfield Road, facing the existing retail center. This elevation, similar to the western elevation consists of brick and EIFS. The trash dumpster enclosure is located in the center of this elevation, and is shown as an extension of the principal structure. The gate to the dumpster enclosure is shown to be constructed of metal, and painted to match the brick. This elevation is also showing three service doors. Above each of the service doors are small service light fixtures to ensure compliance with the Zoning Code. Shown on the eastern elevation are two downspouts, which will be internally mounted within the brick pilasters on that elevation. Planning Commission was concerned with the large, open expanse between the two center pilasters; in particular, they were concerned with the lack of architectural features. The applicant has showed the two shade trees proposed along this elevation in the new elevation plans (stamped "Received April 22, 2009") that will help soften this elevation.

There are two existing small terminal landscape islands and one painted terminal island which will be replaced with a large landscape area west of the proposed building. The location of the building will require traffic exiting the larger retail center to slightly reroute from its current traffic pattern, but there will still be numerous drive aisles available to get access to the access drive along the western edge of the development. The proposed plans also show the installation of three new terminal islands east of the proposed building. These new terminal islands will create a new drive aisle east of the proposed building to help cars navigate around the site. Also, around a portion of the perimeter of the building, there is shown a 5' concrete sidewalk.

With this project, the applicant is proposing to modify the traffic flow patterns of the access drive that is west of the proposed building. Specifically, they are proposing to eliminate (by adding a stripped center lane) the unnecessary left turn lane which was necessary when there was access to North Fairfield at this point, and create a left turn lane south of the proposed building.

This project is located within the Impact Fee District, and therefore staff has added a condition that requires the applicant pay the applicable fee prior to the release of a zoning permit.

The construction of the proposed building will eliminate 80 existing parking spaces from the retail center. However, there will be construction of 24 new spaces (including four, 12-foot wide handicap van accessible parking spaces) and a net loss of only 56 spaces. There will still be 1,307 spaces for the entire property which is well above the 1,208 that would be required if a new 284,109 square foot retail center were constructed under the existing Zoning Code.

The proposed landscape plan includes a use of a mixture of decorative shrubs, trees and ground cover. Staff added a condition that requires the Planning Department to review and approve a final detailed landscape plan prior to the release of a zoning permit to ensure both compliance with the City's Landscape Manual and to ensure that the accent landscaping adds to the overall attractiveness of the site. The proposed landscape plan also shows two additional terminal landscape islands to be installed south of the proposed building. The inclusion of these two terminal landscape islands is a result of Planning Commission's desire to add more green/landscaping to the site as a whole.

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The plans call for two wall signs for each tenant, for a total of four wall signs on the building. On the northern and southern elevations, above each of the tenants' main entrances, the applicant is proposing a 5' x 8' wall sign. On the western elevation, two (2) 6.25' x 4' wall signs are shown. All four of the signs are conceptual, and will in their final form, be comprised of company logos or other symbols tailored to the needs of the specific tenant. The proposed conditions stipulate that there will be no temporary signage allowed, no more than 25% of the windows are to be covered in signage, all letters are to be individually mounted (no use of raceways) and no signage shall extend above the roofline. Staff has also added a condition that prohibits no more square foot of signage to be added to the pylon sign for this application.

There being no Public Input, the Public Hearing was closed.

Mr. Leonard asked if there were any restrictions on what type of tenants could occupy this building. Mr. McGrath said that if it was going to be a restaurant it would have to occupy the entire 7200 ft, these would be more retail or service in nature and there have been no leases signed yet. He stated that this PUD allows anything that is in a B3 or B4 districts, only the size would limit the use.

Mayor Vann asked Mr. McGrath to address the vacancies in Beaver Creek Shopping Center. Mr. McGrath stated that there has been some misperception about vacancies in this corridor and that there is no demand for retail, so why build more retail. He stated that long term leases are signed with the major tenants and when they go into bankruptcy for instance, the lease is still in effect and the owners are collecting even though they remain empty. There were changes in the shopping center when the City removed the right out only as part of the road widening on Fairfield Road and the connection was made to the Target development which changed the leases and opened them up and they are now reoccupied with LA Fitness and Gabriel Brothers.

Mr. Petrak stated that the City could not deny the application based on vacancies.

Mr. Jarvis questioned the setbacks and was concerned about it being right there by the main access drive. Mr. McGrath stated that it was not really a concern from a visibility aspect and since all the parking and traffic would be out of the rear of that building.

Mr. Hadley asked about the trees being removed and the addition of other trees, if that was a trade off. Mr. McGrath explained that Planning Commission wanted to see an effort to landscaping the parking lots in these types of developments to increase the green space.

Mr. Hadley MOVED to approve PUD 93-3 MOD 2/09

"I move, for the purpose of taking administrative action, approval of a PUD Major Modification for the Beaver Creek Shopping Center, PUD 93-3, MOD 2/09, 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 Major Modification approval as per §158.070 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. All conditions contained in PUD 93-3, SSP#1 and all subsequent modifications to PUD 93-3 not already completed are incorporated herein by reference to the extent they are not specifically amended or altered by any plans and conditions with this Major Modification.

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2. The approved site plan for this development shall be the plans dated "Received April 22, 2009", except as modified herein, and subject to staff working with the applicant to modify the plans of the building.
3. The approved architectural elevation drawings for this development shall be the plans dated "Received April 22, 2009." except as modified herein, and subject to staff working with the applicant to modify the architectural features.
4. 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. Pad mounted equipment must be screened with landscaping and/or masonry walls and shall not be visible to the public.
5. A PUD Agreement must be signed by the owner and a bond or letter of credit for the required 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.
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 the building or screened from view and enclosed within a permanent dumpster enclosure. All dumpster enclosures shall be constructed with the same brick used to construct the building.
8. The dumpster enclosure's gate shall be painted to match the adjacent brick.
9. Temporary signs shall not be permitted within this development.
10. 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.
11. All man doors and service doors shall be painted to match the color of the brick as to blend in with the proposed facade.
12. The signage approved for this retail building is as follows:
 - There shall be no wall signs permitted on the eastern elevation.
 - There shall be a maximum of one wall sign permitted on the northern elevation, and said sign shall be no taller than 5 feet, and shall be no larger than 40 square feet.
 - There shall be a maximum of one wall sign permitted on the southern elevation, and said sign shall be no taller than 5 feet, and shall be no larger than 40 square feet.
 - There shall be a maximum of two wall signs permitted on the

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western elevation, and each of the said signs shall be no taller than 4 feet, and shall be no larger than 25 square feet.

- All letters are to be individually mounted. The use of raceways is prohibited.
- Window signage, including advertising painted on or inside the window shall comprise no more than 25% of the window area for each tenant.
- No wall sign shall extend above the roofline.

13. The final design of all wall signs shall be generally consistent with the design of the wall signage shown on the approved plans. Any discrepancy between the applicant and the Planning Department on what constitutes "generally consistent" shall go back to Planning Commission for a decision.

14. No additional square footage of signage shall be added to the pylon sign unless otherwise approved by Planning Commission.

15. No portion of the building may be occupied for the first time or reoccupied later until and unless an application of 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 of Certificate of Zoning Compliance has been approved and issued by the City.

16. Gutters and downspouts shall not be visible on any elevation of the building. They shall be internally mounted.

17. The façade shall not be painted or altered without the express permission of the Planning Department and/or the Planning Commission.

18. A detailed landscape plan shall be reviewed and approved by the Planning Department prior to the execution of the required PUD Agreement and the release of a zoning permit for the building.

19. A final photometric plan shall be reviewed and approved by the Planning Department prior to the execution of the required PUD Agreement and the release of a zoning permit for the building.

20. Impact fees must be paid for the project, or a credit of the impact fees may be issued as directed by the City Manager and City Engineer.

21. The existing stop sign, located north of the proposed building shall be removed in the final construction drawings.

22. Outdoor sales are permitted in accordance with the Zoning Code. The applicant shall apply for and receive a permit for any outdoor sales.

23. The final landscaping plan shall include additional landscaping throughout the parking lot per the approval of staff prior to the issuance of a zoning permit.

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

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PUBLIC HEARING - Zoning Code – 158.001 to 158.044

Mr. McGrath stated that he was presenting for public hearing the changes to the Zoning Code Ordinance. This includes definitions which are being moved together into a single section 158.03 with many newly added definitions that had not been addressed before. The specific district regulations for straight zoning are also included and items that have been continually included in these districts in the process have been added to the code as well as removing things that have continually been a problem during the process. He asked that Council continue the first reading and public hearing to the next meeting for a continuation of this ordinance when the discussion ends this evening.

Public Hearing

David Wilkinson of 1489 Lemcke Rd. stated that he objected to the proceedings based on the fact that the Zoning Code is to be presented as an ordinance and that only the second reading is designated as the public hearing.

Mayor Vann stated that Council likes to be as transparent as possible and provide citizen input at every step of the process and that they will also be offered a public hearing at the second reading and that the Council is exceeding the minimum of the law. Mr. McHugh agreed with the Mayor and stated there is no prohibition on having multiple public hearings on this ordinance. Mr. McHugh stated that what the courts look at is that the public has been given the opportunity to address the ordinance.

Mr. Petrak had a question on page 2 Actual Start of Construction and wanted it to read "Either the first placement of an integral part or permanent construction of a structure on a site,"

Mr. Jarvis asked about the Adult Bookstores and thought substantial and significant portion were rather broad and wondered if it would be better to place a percentage. Mr. McHugh stated that you need to look at the overall concept of what the store is and what is being offered there as whether to define it as an adult bookstore.

Mr. Jarvis asked about the definition of Agricultural Activity and the sentence "Such activities are not permitted in residential districts." He wondered if that would not preclude someone from having a vegetable garden. Mr. McGrath stated that he would take a look to see how it could be made clearer.

Mr. Petrak questioned Bar, Tavern or Night Club on pg 5 and thought it should be major business rather than principal business. Mr. McGrath explained that what they were trying to do was to differentiate the business from a restaurant and where they could be located.

Mr. Jarvis questioned DBH Diameter at breast height and thought it should be four and one-half feet, Mr. McGrath stated he would check the ASLA to see what it should be.

Mr. Petrak questioned Drug and Alcohol Addiction Rehabilitation Clinic on pg 9 and thought it should read "An establishment for outpatient services for treatment and counseling for chemical addictions with no overnight or extended stay facilities." Mr. McHugh thought Chemical should also be in the title.

Mr. Petrak asked about Easement and stated it should read "A legal interest in real property" and Mr. McGrath agreed.

Mr. Jarvis questioned why the definition for family was struck. Mr. McHugh stated that the United States Supreme Court had issued several decisions defining

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family and family is a nebulous concept and at this point hard to define as a zoning classification for a regulatory basis. Mayor Vann stated that HUD has a definition of family and household which she will check into.

Mr. Petrak questioned on pg 13 Green Space Easement and thought it should read "An open space landscape area that is not a Woodland Easement in a legal form," Mr. McGrath thought the change would work.

Mr. Jarvis question Hospital or Sanitarium and wanted it checked because he believed that it should be Sanatorium. He also questioned Hotel which says "no provision made for cooking in any individual room" and thought it should be clarified say cooking facility.

Mr. Petrak questioned Front Yard pg 19 he stated that you start off speaking in the singular "an open space" and continue with the plural "depths, distances". Mr. McGrath explained that they are speaking about measuring a single area from multiple points. Mr. Hadley asked if it could be changed to read "Any open space" which Mr. McGrath agreed to.

Mr. Jarvis questioned Two Family Residential District under (D) number one states "Those conditional uses permitted in R-1 districts" and (2) thru (5) are already listed in R-1 districts. Mr. McGrath said that (2) thru (5) would be removed in this section.

Because this was only the first of several reviews of the Zoning Code Ordinance, Mr. Hadley MOVED to Continue the Public Hearing to the next regular meeting, seconded by Mr. Petrak it was approved by unanimous voice vote.

ORDINANCE, RESOLUTIONS AND PUDS

Resolution 09-10 Approval to MOU Police JAG Grant Funds

Clerk Bucheit read a Resolution by City Council authorizing the City Manager to enter into a Memorandum of Understanding with the City of Fairborn, the City of Xenia and Greene County authorizing the City of Fairborn to make an application for the Edward Byrne Justice Assistance Grant (JAG) Program from the U.S. Department of Justice, Bureau of Justice Assistance, on behalf of the Beaver Creek Police Department.

Chief Turner stated that he is asking to have an MOU approved by the City Manager for eligible funds through the Edward Byrne Memorial Justice Assistance Grant (JAG) Program made available by the Federal Recovery Act. These funds are based on reported Part 1 Crimes reported to U.S. Department of Justice by each jurisdiction within the county. The City was not eligible for these funds the last several years but they recently changed the criteria and are only allowing one jurisdiction in the county to file for all four cities. Greene County is allowing Fairborn to file since they are receiving the most money and we just need to have the MOU signed and will receive the money as a pass thru from Fairborn.

Mr. Petrak asked why the amount for Fairborn was so disproportionately large was it really just the crime or because they have a court. Chief Turner explained that he had spoke to Chief Barlow in Fairborn and he provided him the form from the FBI that showed all Part 1 crimes for Greene County and there is a remarkable difference in crime for their jurisdiction compared to the other three cities. Beaver Creek is ahead in larceny and theft because of all the shopping areas here but of the eight categories; motor vehicle theft, arson, burglary, aggravated assaults, robbery, rape and murders they are much higher in all the other categories.

Mr. Hadley MOVED to approve Resolution 09-10 seconded by Mrs. Howard and

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approved by unanimous voice vote.

Resolution 09-11 Application for EECBG Funds

Clerk Bucheit read a Resolution approving the submission of an Energy Efficiency and Conservation Block Grant (EECBG) Program application for funds available through the Federal American Reinvestment and Recovery Act (ARRA) of 2009.

Mr. Beach stated he has a Resolution for submission of an Energy Efficiency and Conservation Block Grant for approval. The funds were allocated through a formula process and one of the eligible activities for the money is for "Grants to nonprofit organizations and governmental agencies for the purpose of performing Energy Efficiency Retrofits". The Federal Government wants to help cities replace aging infrastructure with units that are more energy efficient. The City has 13 units in the four building locations that date back to 1985 for City Hall, 1998 for the Police building, Golf Club 1996 and early 1990's for CI Beaver Hall. These units are not at the end of their useful lives but are becoming maintenance problems.

Mayor Vann asked what the rating was on the new furnaces. Mr. Beach stated that they are typically 95% or better depending on the budget that we have.

Mr. Petrak MOVED to approve Resolution 09-11 seconded by Mr. Hadley and approved by unanimous voice vote.

Resolution 09-13 Apply for Safe Schools Grant and MOU with Beaver Creek City Schools.

Clerk Bucheit read a Resolution by Beaver Creek City Council authorizing the City Manager to apply for and sign a Memorandum of Understanding regarding the COPS Fiscal Year 2009 Secure Our Schools Program (SOS) Grant on behalf of the Beaver Creek Police Department and the Beaver Creek Schools.

Chief Turner stated that this is a Federal Policing Grant to help form collaborations and being proactive in trying to develop initiatives with community members within our City. The grant is a 50% match up to \$500,000 Federal money. The City did not have the matching funds so the Chief contacted Mr. Morrison from the schools to see if they would be interested in providing the matching funds. The Chief checked with the Federal Government and they said that it was fine and we would need an MOU with the schools to show that it was a collaborative effort.

The schools had a bond of \$360,000 to upgrade security cameras, another \$360K for a total of \$720,000. The City and Schools will sign a Memorandum of Understanding that the City will administer the grant for the schools with them providing the required 50% matching funds. This money will be used to connect the school camera system to the Beaver Creek Police Department via web connectivity and add not only additional cameras but better cameras, with the addition of multi-door vestibule wall panel at grade schools and middle school to prevent open access to the schools and require all visitors to pass thru the principal's office to sign in.

Mr. Morrison stated that they were very interested and that this would be a great collaborative effort and it would stretch the dollars of bond issue that was passed last November.

Mrs. Howard stated that she and the Chief had visited with Homeland Security and the States Command and Control Center and wondered if it would be worth checking with them on how to integrate the system more efficiently. She also wondered if they had discussed long term maintenance costs for the system. Mr. Morrison stated that maintenance and upkeep would be the responsibility of the school system.

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Mrs. Howard MOVED to approve Resolution 09-13 seconded by Mr. Hadley and approved by unanimous voice vote.

Resolution 09-14 Red Flag Identity Theft Policy

Clerk Bucheit read a Resolution adopting an identity Theft (Red Flag) Policy.

Mr. McHugh stated the Federal Trade Commission along with other organizations charged with rule-making authority have jointly adopted rules which become effective May 1, 2009, which requires the City to protect sensitive information to comply with the rules regarding identity theft protection. To ensure there are safeguards so that we are not the cause or a party unwillingly or unknowingly to identity theft and that if we suspect such, it is reported to the authorities.

Mrs. Howard MOVED to approve Resolution 09-14 seconded by Mr. Leonard and approved by unanimous voice vote.

Ordinance 09-6 Supplemental Appropriations

Clerk Bucheit read an Ordinance to make supplemental appropriations for the Fiscal Year ending December 31, 2009 and to amend Ordinance 08-50 and 09-2 as amended. This is a supplement to the Annual Appropriation Ordinance and so in accordance with Section 10.10 of the Beaver Creek City Charter will become effective immediately upon its passage.

Mr. Beach stated that he needs to make several adjustments to the budget. One is for the 712 Fund for the grant received for the ball diamonds to be used for purchasing a storage building and for some grading and improvements to reflect the revenue the City received from ODNR. The second is for the 299 Fund for the printing expense for the senior news letter which was inadvertently left out of the 2009 budget for an additional \$7200. For the 204 Fund the reimbursement of the FEMA dollars we received will increase the number of streets in the annual resurfacing program, it appears that an additional \$200,000 can be expended without endangering the fund balance. The 408 Fund and 432 Fund need to be adjusted to reflect expenses and reimbursement from the State and Federal Government; when they bid the Dayton-Xenia Rd. project that is ongoing in December the City got very good bids, which left amounts in the Federal Highway Grant and the Ohio Public Works Grant `available for use in inspection and testing services for this which otherwise would be at 100% local cost.

Mrs. Howard MOVED to approve Ordinance 09-6 seconded by Mr. Jarvis and approved by roll call vote of 6 to 0.

Resolution 09-15 Application for Funding through the Federal Earmark Process for the N. Fairfield Rd Ridge Project.

Clerk Bucheit read a Resolution authorizing the submittal of an application for funding through the Federal Earmark (High Priority Project) Process for the North Fairfield Road Bridge Widening Project

Mr. Beach stated that Congress will soon begin working on the new surface transportation bill to replace the existing surface transportation act. As part of the process of writing this new transportation bill, it appears that Congress is likely to include several High Priority Projects that are regionally significant into the bill for Federal funding. This resolution authorizes the submittal of a request that North Fairfield Road Bridge Reconstruction Project with widening or rehabilitation of the existing bridges over I675 and SR844 which will allow for an additional southbound lane to accommodate heavy traffic and reduce backups on the I675 ramps, along with traffic signal and pavement marking improvements

Mr. Jarvis MOVED to approve Resolution 09-15 seconded by Mr. Petrak and

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approved by unanimous voice vote.

Resolution 09-16 Application for Funding through Federal Earmark Process for the Grange Hall Rd Bridge Project

Clerk Bucheit read a Resolution authorizing the submittal of an application for funding through the Federal Earmark (High Priority Project) Process for the Grange Hall Road Bridge Reconstruction Project

Mr. Beach stated that this resolution also authorizes the submittal through the Federal Earmark Process for the Grange Hall Road Bridge Reconstruction Project which will widen the bridge just north of Patterson Road to three vehicles lanes and a bikeway on the east side and for reconstruction at the intersection to allow left-turn lanes at all approaches to the intersection and wider shoulders on Grange Hall to accommodate bicyclists.

Mr. Jarvis MOVED to approve Resolution 09-16 seconded by Mr. Petrak and approved by unanimous voice vote.

Resolution 09-17 Application through Ohio Highway Safety Program for improvement of Fairfield Rd

Clerk Bucheit read a Resolution authorizing the submittal of an application for funding through the Ohio Highway Safety Program for the North Fairfield Road Widening and Traffic Signal Improvement Project.

Mr. Beach stated that as a result of a safety study late last year several improvements were recommended by the consultant to enhance safety from Crossing Blvd to Kemp Road on North Fairfield Road. Change the signal at N. Fairfield Rd and Crossing Blvd to permit northbound left-turns on green arrow only and at N. Fairfield Road and Rex Drive on northbound and southbound left-turns on green arrow only and to modify the pavement markings and traffic signal at N. Fairfield and New Germany-Trebein Rd to create northbound and southbound double left-turn lanes and widen New Germany-Trebein to the east to allow adequate transition and merge distance.

Mr. Jarvis asked about the protected permitted left turns and how that worked. Mr. Beach stated that in the North Fairfield intersection there are arrows permitting left hand turns across more than two lanes of traffic which then turn to green and if there is a gap in traffic the driver is permitted to still turn left which works until traffic gets too heavy and people start making unwise decisions. The traffic study shows that it is now time to switch the intersection to a protected turn as opposed to the permitted left.

Mr. Leonard MOVED to approve Resolution 09-17 seconded by Mr. Petrak and approved by unanimous voice vote.

DECISION ITEM

MVRPC Letter of Support I675 Pedestrian Bridge

Mr. Cornell stated that Council had requested a letter of support which clearly stated this City's continuing commitment to the proposed I675 Pedestrian Bridge Project.

LIQUOR LICENSE

Tashman Oil Inc. – Transfer Permit

Chief Turner state that the Ohio Division of Liquor Control sent police notification of a request to transfer a liquor permit currently issued to Giant Dayton LLC, DBA Giant #486, located at 4362 Indian Ripple Rd to Tashman Oil Inc. at the same address. A records check was done on the applicant a Mr. Nicholas Tashman who was found to have a criminal record for misdemeanors in Montgomery Co.

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but not with this agency.

Mr. Hadley MOVED to accept without comment, seconded by Mr. Jarvis, it was approved by unanimous voice vote.

Brunings Clock Shop Inc – Disclosure of Stock Shares

Chief Turner state that the Ohio Division of Liquor Control sent police notification in reference to a disclosure of shares of stock concerning Bruning's Clock Shop Inc. 1481 North Fairfield Rd. The President, Michael L. Yegerlehner is seeking a D1 permit for the establishment, but at this time no permits are available. As part of the process for obtaining the permit Mr. Yegerlehner has completed the attached stock disclosure paperwork which was forwarded to the Clerk of Council. Mr. Yegerlehner has no criminal record with our agency or in the State of Ohio.

Mr. Hadley MOVED to accept without comment, seconded by Mr. Jarvis, it was approved by unanimous voice vote.

CITY MANAGER'S REPORT

Mr. Cornell stated he will attend the 25th Anniversary Dayton Region Community Leader D.C. Fly In the next two days to meet with the House and Senate members and senior government officials representing Ohio.

Mr. Cornell stated that Bike to Work Week is May 11 to 15 and there will be City Officials who will also ride to work.

Mr. Cornell stated that the City has received a lot of questions about continuing construction around the City. The most significant one is the Dayton-Xenia Road Widening Project west of Grange Hall Road. He encouraged residents to check out the website www.ci.beavercreek.oh.us for weekly updates on construction projects occurring around town. Staff has a meeting set with local businesses at Rockafella's on May 14 at 9:00 a.m. to talk about the project on Dayton-Xenia Road or for any other questions you may have.

MAYOR'S REPORT

Mayor Vann stated she was given the opportunity to facilitate having a Fulbright Scholar come to Beavercreek from Germany who was a teacher and participated in the classroom to learn about how we teach. The Mayor of the County where she resides in Germany gave Mayor Vann a plaque and letter and there is a possibility for the Beavercreek students to have an exchange with their school in the future.

Mayor Vann stated that Council had attended a Miami Valley Regional Planning Annual Dinner this weekend to bring together the elected officials and planners to discuss what has been accomplished for the year and that it is a great networking opportunity.

Mayor Vann stated that the Youth Council held their annual fundraiser last Thursday and raised \$500 for their operational budget.

COUNCIL TIME

Mr. Petrak thanked Mr. McGrath for all the hard work on the new Zoning Code, he said that he and his staff had done a wonderful job.

Mr. Petrak stated that they had a request for a Letter of Support for a free Home Makeover for one of the residents of Beavercreek Larry Engle who has a major disease. Mayor Vann sent the letter on behalf of Council and Mr. Petrak was quite proud that Council was involved in such a great opportunity.

April 27, 2009

Mr. Petrak stated that he had gone to the Greene County Transit Boards (Greene CATS) Program and Services Committee Meeting last week. He said that Greene Cats are very intent on extending the Montgomery County RTA bus system throughout Greene County. This is something he believes the City needs to be concerned about and citizens that are concerned can speak to the people in Xenia and the four Transit Board Members from Beaver Creek and Mr. Petrak will answer any questions you may have on this topic.

Mr. Leonard wanted to make citizens aware that the Ohio Division of Transportation is planning an upgrade at U.S. 35 and Woodman Drive. As part of the changes they plan to remove the exit off eastbound U.S. 35 to Linden Avenue and the entrance westbound onto U.S. 35 from Dayton Xenia Road. This is still in the planning stage and several years off but Dave Beach in Engineering has information about the project and now is the time for citizens to speak up at the upcoming meeting.

Mr. Beach stated that these ramps were added at the last minute when I675 was being constructed because of public concern about access to U.S. 35 and I675 at that point in time. Since that time with the adoption of newer and stricter standards and looking at accident rates ODOT District 7 which is in Sidney is running a Montgomery County project that extends just barely into Greene County. As part of the project they are upgrading the Smithville interchange, Woodman Drive interchange and the Linden Avenue interchange which includes eliminating some of the safety concerns by eliminating the on and off ramp there. They have done some of the preliminary engineering studies and are getting ready to have a public hearing on all three of the interchanges because there are some drastic changes in all three locations. He will inform the public and City Council when he gets information about a time and place for the meeting.

Chief Turner stated that the City has an All Hazard Plan that addresses health issues within the City of Beaver Creek. We have also adopted Greene County's Pandemic Response Plan for problems such as the flu and is addressed by Greene County Health District who will be the lead agency for any health emergency. Greene County puts out health advisories and suggestions on precautions to be taken. Chief Turner participated in two Pandemic Flu exercises that involved six counties, he was also able to get more of the police and fire in Greene County involved in the second round of exercises. This training lasted six or seven weeks and actually tracked the bird flu and how it was able to migrate into the U.S.

Executive Session

Mr. Petrak MOVED to enter into Executive Session at 8:35 p.m., pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of preparing for, conducting or reviewing negotiations or bargaining sessions with public employees. Seconded by Mrs. Howard it was passed by roll call vote of 6 to 0.

Mr. Petrak MOVED to adjourn Executive Session, seconded by Mrs. Howard it was approved by roll call vote of 6 to 0.

Mr. Petrak MOVED to adjourn the meeting, seconded by Mrs. Howard. The motion PASSED by unanimous voice vote.

Mayor Vann

ATTEST:

Clerk
Cmin042709