

BEAVERCREEK CITY COUNCIL
REGULAR MEETING May 10, 2010 6:00 p.m.

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

ABSENT: Councilmember Wallace

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

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

Vice Mayor Jarvis led the pledge and a moment of silence.

Councilmember Petrak MOVED to add a Decision Item to the agenda for the Morningview Drive/Nightingale Way Road Connection. Motion was seconded by Vice Mayor Jarvis and PASSED by unanimous voice vote.

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

Councilmember Giambrone MOVED to approve the minutes of the April 12, 2010 Regular meeting as handed out tonight. Motion was seconded by Vice Mayor Jarvis and PASSED by unanimous voice vote.

Councilmember Petrak MOVED to approve the minutes of the April 12, 2010 Work Session. Motion was seconded by Councilmember Howard and PASSED by unanimous voice vote.

Vice Mayor Jarvis MOVED to approve the minutes of the April 19, 2010 Work Session. Motion was seconded by Councilmember Giambrone and PASSED by unanimous voice vote.

Councilmember Howard MOVED to approve the minutes of the April 26, 2010 Regular meeting. Motion was seconded by Councilmember Petrak and PASSED by majority voice vote. (Petrak abstained)

Councilmember Giambrone MOVED to approve the minutes of the April 26, 2010 Work Session. Motion was seconded by Councilmember Howard and PASSED by majority voice vote. (Petrak abstained)

PRESCHEDULED SPEAKERS
Wright Brothers – Neil (Skip) Raymond

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Skip Raymond stated he was here tonight to discuss with Council why he believes the Wright Brothers statue is the proper choice to be placed in Statutory Hall in Washington DC. A PowerPoint presentation named "Sending Orville and Wilber to Washington" was reviewed. After discussion, Council agreed to have ballots placed in the City facilities and information regarding this topic put on the City's website.

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 158-105(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.

David Knox provided several pictures of his property to Council. He stated he wished Mr. Woodall would have elaborated on what he meant by eyesore. Mr. Knox said as property owners in the City of Beavercreek they feel they maintain a rather high appearance of their property, and if they do not have adequate storage many of their belongings will be left out and exposed. He stated another resolution is a 20-foot by 24-foot trailer in the driveway, and preferred not to do that.

Mr. Knox commented on Mr. Woodall's neighbor not being allowed a particular structure in his year, and believed Hedge Gate Boulevard is a community and anyone buying in that area agreed to buying and building regulations. He stated Mr. Woodall did not elaborate on what type of structure it was and Mr. Knox thought if they lived outside the community the Board of Zoning Appeals would have allowed the structure. Mr. Knox did not believe a decision should be based on eyesore because he believes his property is far from that.

Mr. Knox referred to Paragraph Five of the Board of Zoning Appeals minutes, and stated he did not receive three "Stop Work" orders. He explained he only received one and stopped work immediately. Mr. Knox stated he did not construct all five of the structures, and three already existed when he purchased the property. He said he was not given other feasible alternatives or several different options from the Board of Zoning Appeals. Mr. Knox found it difficult to believe no exceptions had been granted on square footage based on acreage, and discussed several calculations he had done regarding square footage and acreage.

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Mayor Hadley stated it was his understanding from the report he read, it was staff's recommendation to remove two small structures and leave the new structure.

Mr. McHugh explained what Mr. Knox's appeal was, and explained in the staff report it listed three alternative options the applicant had to bring his property into compliance. He stated the Board of Zoning Appeals only considers what is before them and what Council is reviewing tonight is to determine if there was substantial and reliable evidence that was heard by the Board of Zoning Appeals to affirm or modify their decision.

Councilmember Giambrone wanted to confirm the Board of Zoning Appeals did offer other alternatives. Mr. McHugh stated that was correct.

Mayor Hadley stated Council's decision tonight is if the Board of Zoning Appeals acted correctly in reaching the decision that they did.

Councilmember Giambrone questioned if there were any regulations on allowances over a certain acreage amount. Mr. Burkett stated for lots over an acre, the owner is allowed 900 square feet or 50% of the footprint of the main structure, whichever is greater.

Councilmember Vann asked if there were any complaints by neighbors about overbuilding this four acre lot. Mr. Burkett explained in January, the Code Enforcement Officer went to the property based on a complaint that was received from a neighbor.

Mr. Knox stated to his knowledge the Code Enforcement Officer just stopped by when he saw it being constructed. He explained none of his neighbors had a problem with it and none of his immediate neighbors have a problem with it now. Mr. Knox said the only gentleman that had an issue with it was Mr. Woodall, and the first time he came out and spoke was when he received the legal ad regarding the variance request.

Vice Mayor Jarvis stated he reviewed the Board of Zoning Appeals meeting and minutes, and he did not see any new circumstances or conditions that would permit the variance.

Councilmember Giambrone requested Mr. Knox receive the packet of information that was provided to Council and the Board of Zoning Appeals.

Councilmember Howard MOVED to reaffirm the decision of the Board of Zoning Appeals in Case V-10-2, and deny the appeal Case A-10-1, seconded by Councilmember Petrak. Motion PASSED by unanimous voice vote.

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ORDINANCES, RESOLUTIONS, AND PUDS

Resolution 10-17 Parks Master Plan

Clerk Gillaugh read a Resolution to adopt a Parks, Recreation and Culture Master Plan for the City of Beavercreek.

Mr. Thonnerieux gave a final presentation on the Parks Master Plan, which explained the need for the plan, the existing park service areas, the public input, the results of the stakeholder meetings, and the household needs assessment. He discussed the parks visited the most in the past 12 months, the top 10 highest unmet facility needs, and the top 10 highest unmet program needs. Mr. Thonnerieux reviewed the vision for the future based on the public input, the park concepts and capital facilities priority ranking, and the capital improvement priorities. He thanked everyone for their time, energy and efforts in putting this plan together, and explained there is a resolution ready for adoption. Mr. Thonnerieux stated he will be making the same presentation to the Beavercreek Township Trustees.

Mayor Hadley stated there is a statement in the plan that says Beavercreek is in the top 50 cities as the best places to live in the United States. Mr. Thonnerieux stated that is in the visioning section and is where the Steering Committee wanted the City to be in 2020.

Councilmember Howard said it is incredible to see the level of detail in this plan, and thanked Mr. Thonnerieux for such a wonder plan. She requested a copy of the document be available to residents to review when they come into City Hall.

Councilmember Petrak stated he has reviewed many plans while he was on Council, and thought this was one of the most thorough and easily understood plans. He said those that worked on the plan deserve to be commended for the true professional work that stands out. Councilmember Petrak explained with the continuation of working with plans like this, the City will be in the top 50th spot, and believed they did a professional, first rate job.

Councilmember Giambone thought the process was great, and said while Council will be endorsing the resolution tonight; she wanted people to understand this is just the beginning.

Councilmember Vann was excited to see Beavercreek has grown so the planning process could be completed. She stated the plan is a guide, and it shows where the City wants to go in the future. Councilmember Vann thanked everyone who participated.

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Vice Mayor Jarvis stated the process was great, and it is important that it includes the citizen input. He was impressed with the amount of public input, and looked forward to seeing the plan happen.

Mayor Hadley felt the presentation and preparation was outstanding. He explained the plan is the input of the people of Beavercreek, and that speaks highly of the plan that has been put together.

Councilmember Giambrone MOVED to approve Resolution 10-17, seconded by Councilmember Howard. Motion PASSED by roll call vote of 6-0.

DECISION ITEM

Morningview Drive/Nightingale Way Road Connector

Councilmember Petrak stated Council received a formal request at a Council meeting by way of a petition which had 25 names on it to hold a public hearing to consider opening up the Morningview Drive/Nightingale Way connector. He said since that time, there has been a lot of input from staff and there was a work session that had the issue as a discussion item. At the work session, a number of individuals formally presented, through the Clerk of Council, a petition with 187 names opposing the public hearing and opening the connector. Councilmember Petrak explained that is a 7.5 to 1 ration, and tells him the issue is not going to be favorably heard. He believed at this point, Council could make a decision that they are not going to have a public hearing on the matter because Council knows what the outcome is going to be. Councilmember Petrak proposed Council make a decision to deny a public hearing at this time until the traffic project is complete at Kemp and Hanes Roads.

Mayor Hadley said some of the discussion at the work session meeting was Council was not going to be able to make a qualified decision on this matter until the construction project was completed at Hanes and Kemp Roads and have it studied for a period of time to see what impact that light had on the issue under discussion. He stated he did not believe a public hearing was necessary until after the construction project was completed.

Councilmember Howard stated hearing from the residents made the big difference, regardless of the light because it was clear what the residents wanted. She said she heard good reasons to open it, but did not hear compelling reasons the City had to open it. Councilmember Howard stated there were many residents that wanted to keep it as it is.

Councilmember Petrak stated in the future another person could request a public hearing, and the court decision that was made said it was a possibility.

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Mr. McHugh believed the court reading stated Council would have to have a public hearing before anything could be done.

Councilmember Giambrone stated what she read in the court hearing was if Council decided to open the road, there had to be a public hearing held. She agreed with Councilmember Petrak about the two different petitions, and like Councilmember Howard she did not hear anything new or compelling that would want Council to go through the process of opening the road. She agreed there should be a decision made about the two petitions.

Councilmember Petrak MOVED to not have a public hearing at this time regarding the Morningview Drive/Nightingale Way road connector, seconded by Councilmember Vann. Motion PASSED by unanimous voice vote.

LIQUOR LICENSES

BVB Investment Inc./DBA Cold Beer & Cheeseburgers (New)

Ohio Division of Liquor Control sent police notification of a request for a records check on an applicant applying for a new liquor permit. The applicant, Mr. Robert Byers is applying for a D5 liquor permit for BVB Investment Inc., DBA Cold Beer and Cheeseburgers, 2495 Commons Blvd. Ste. A., Beavercreek, OH 45431. A records check on the applicants revealed no criminal record with this agency or in the State of Ohio.

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

Stella Echo LLC/DBA Choes Asian Gourmet (New)

Ohio Division of Liquor Control sent police notification of a request for a records check on an applicant applying for a new liquor permit. The applicant, Mr. Young Choe is applying for a D1, D2, D3 liquor permit for Stella Echo LLC, DBA Choes Asian Gourmet, 4394 Juniper Way, Beavercreek, OH 45440. A records check on the applicant revealed no criminal record with this agency or in the State of Ohio.

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

CITY MANAGER'S REPORT

Mr. Cornell stated the Beavercreek School District held a three day Strategic Planning Initiative. He explained the initiative was put on by the Ohio School Boards Association, and the schools did invite a number of representatives from the community.

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Mr. Cornell discussed several updates of the Dayton-Xenia Road construction project. Mr. Moorman stated Council may have noticed numerous picketers at the corner of Dayton-Xenia Road and Grange Hall Road. He explained the contractor on the project, RB Jergens, is currently negotiating a new labor agreement with the union that represents the labors on this project. He said as part of the dispute, the union decided to go out and picket several jobs RB Jergens is currently constructing as well as their home office.

Mr. Cornell explained Colonel Glenn Highway Resurfacing is scheduled to begin May 9th, and is expected to be completed the week of May 17th. He said the Creekside Trail resurfacing should begin in the next two weeks. Mr. Cornell stated contracts are in the process of being awarded for the Indian Ripple Road Widening Project. The Beavercreek Station project is underway and the building pad is currently being constructed. Mr. Cornell gave an update on the MMF Fuel Island Project, and explained construction is expected to be completed in June.

Mr. Moorman stated with the Colonel Glenn Highway Resurfacing Project and the weather forecast tonight, they are going to postpone the start until tomorrow. He explained the construction will be done in the evening, so it does not interfere with the heavier traffic during the day.

Councilmember Vann asked how much of Creekside Trail would be resurfaced. Mr. Moorman said the whole length of Creekside Trail in the City of Beavercreek will be resurfaced. Councilmember Vann questioned if the project was being funded by a grant. He explained the City received stimulus money to pay for the project. Councilmember Vann asked what the purpose was of the large pipes at the Beavercreek Station project. Mr. Moorman stated there was an existing ditch that drains to the public storm sewer on North Fairfield Road, and since they are grading to construct Beavercreek Station it was necessary to fill the ditch in and have the water run through the pipes. Councilmember Vann asked if the building is going to be raised with the parking lot located behind. Mr. Moorman discussed the issue with the soil, and explained the building has to be two feet above the base foot elevation of the Little Beaver Creek because of the floodplain.

Councilmember Vann asked about the stop light at Beaver Vu Drive and North Fairfield Road. Mr. Moorman explained there are several changes that need to be made before it can be approved, and then the developer of the Frisch's site will be installing a temporary signal. Councilmember Vann asked if that would be before the end of the year. Mr. Moorman said it would be installed before Frisch's opens, which is expected to be sometime near October. He explained the City did receive a grant though MVRPC to install a permanent light, which will come about a year later.

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Councilmember Petrak questioned if the City was doing prep work before the resurfacing is done on Creekside Trail. Mr. Brown explained there was a tile that kept going down and it was excavated today. He stated the public service workers are going to temporarily fix the problem, and look at pushing a liner through the tile so it will hold.

Mr. Cornell stated the April 2010 City of Beavercreek Employee of the Month is Sandra Pereira. He explained she is the Associate Planner in the Planning Department and she has been with the City since 2002.

Mr. Cornell noted the next Council Work Session will be May 17, 2010 at 5 p.m., and reviewed the topics that will be discussed.

MAYOR'S REPORT

Mayor Hadley said Neil Raymond spoke earlier tonight about the statue replacement at Statutory Hall and encouraged Beavercreek to vote. He said the vote is very important to the committee and felt it was extremely important Beavercreek support the Wright Brothers.

COUNCIL TIME

Vice Mayor Jarvis stated he had the opportunity to attend numerous National Day of Prayer events that were held in the area, and was very grateful for the participation that was shown.

Councilmember Vann stated the City had the Park Volunteer Recognition Event, and said Beavercreek is so blessed with people who care about making this the best City ever. She explained without the volunteers, the City would not have such strong programs. Councilmember Vann thanked everyone who tries to make Beavercreek a better place.

Councilmember Vann said two weeks ago they had the Beavercreek Forward Foundation Presentation, and recommended at the next meeting the slide show be presented.

Councilmember Vann stated Council was notified that there is an issue with the amount of geese in Beavercreek. Mr. Cornell explained the City is internally investigating what other communities are doing regarding this issue. He stated an update should be provided to Council in the next several weeks.

Councilmember Petrak explained a method they are using in the vicinity of the Dayton Mall.

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Councilmember Howard said Council had a presentation regarding this topic four years ago, and several options were discussed at that time.

Vice Mayor Jarvis said geese are protected species, and the options the City can do have to meet federal guidelines. Mr. McHugh explained there are a number of regulations.

EXECUTIVE SESSION

Councilmember Petrak MOVED to enter into Executive Session at 7:34 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of consideration of employment and discipline of a public employee and conference with the city attorney concerning disputes involving the City that are subject to pending or imminent court action, seconded by Councilmember Howard. Motion was PASSED by a roll call vote of 6-0.

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

Councilmember Howard MOVED to adjourn the meeting at 8:18 p.m. seconded by Councilmember Petrak. Motion PASSED by a roll call vote of 6-0.

Mayor Hadley

ATTEST:

Deputy Clerk

cmin051010