

BEAVERCREEK CITY COUNCIL
REGULAR MEETING May 11, 2009 6:00 p.m.

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

ABSENT:

Mayor Vann presented a Proclamation to John Ankeney for the Creek Classic.

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

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

Mr. Hadley MOVED to approve the agenda; it was seconded by Mr. Jarvis. The Motion PASSED by unanimous voice vote.

Mrs. Howard MOVED to approve the amended minutes for April 27, 2009, seconded by Mr. Hadley the Motion PASSED by majority voice vote (Giambone abstained).

Mr. Jarvis MOVED to approve the amended minutes for April 20, 2009, seconded by Mrs. Howard the Motion PASSED by unanimous voice vote.

Mrs. Howard MOVED to approve the minutes for March 26, 2009, seconded by Vice Mayor Giambone the Motion PASSED by unanimous voice vote.

PRESCHEDULED SPEAKER

Judge Root introduced her Clerk of Courts Susan Anderson who she brought with her to answer questions. She stated that they have the second busiest case load for a single judge court in the State of Ohio and are only 61 cases behind the leader about 20,000 a year. Judge Root as a Municipal Court Judge hears misdemeanor cases with the highest sentence being 6 months in jail or a \$1,000 fine and her magistrate hears civil cases up to \$15,000 along with small claims and eviction cases. Their territorial jurisdiction is the City of Beavercreek, Beavercreek Township, City of Fairborn and Bath Township or the western side of the county.

Since Greene County Sheriff has closed one of their Pods they will have issues of overcrowding and some non-violent people may be released from jail. Judge Root and Judge Murray decided to look for some alternate form of sentencing besides jail and because of their specialized docketing they know if there are underlying problems with alcohol, drugs or mental health issues and attack those issues first. They started their Traffic Intervention Program (TIP) last year to tackle the issues of driving without a license or without insurance. If someone has a license that is suspended they have 120 days to get a valid license and insurance and if they get it taken care of they will amend it to a lesser degree and they won't get as many points on their license; they must not have any accompanying OVI, criminal case or accident along with it. Since they started the program in August they had 312 cases accepted into the program with a 58% success rate overall and for Beavercreek there were 132 total with a 66% success rate.

Judge Root stated they also have ACT or Alternative Court and Treatment sentencing which is their mental health docket in which they partner with TCN. She said these types of programs give you a real sense of satisfaction at the end because people appreciate it and when they succeed its terrific. People in that program have gotten a promotion, been able to get employment, go back to college to work on degrees and are now in treatment and back on their

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medications and have successful lives but just have mental health issues that they must address. This keeps them out of court and on track.

The Municipal Court has also participated in the Greenleaf Program over at the jail which was started at the common pleas court level; they can be in jail facility treatment center for 6 months. This is used primarily for third OVI or DUI in six years or people who have not succeeded in their treatment and this is a last ditch effort. If they succeed they are back on probation with a community support system and if they fail they are in jail for six months with the general population.

Another option is the electronic home monitoring which monitors their whereabouts or an alcohol monitor so that the courts know if they are drinking and have broken terms of probation and go back to jail. In 2008 there were 79 cases where monitoring was used and already this year there have been 43 cases and they will probably continue to use it more and more since there is a lack of jail space. They are also using community service where they would serve their time picking up trash on highways or working with non-profits.

Judge Root stated that they have changed their docketing and have arraignments four days a week instead of two which accommodates the general public a little more. They will be getting a new computer system at the end of this year or beginning of next and will be able to accept payments online. She is also looking forward to going paperless in the next few years after checking out Garfield Municipal Court and this system will help towards that goal.

PUBLIC HEARING (Continued)-Zoning Code – 158.060 to 158.084

Mr. McGrath stated this is a continuation of the First Reading that was continued at the last meeting. This section of the code covers PUDs and ASRAs and the main changes have stemmed from the applications that were received in the last couple of years especially for single family PUDs. He said they eliminated the requirement for PUDs for residential properties to be mandatory and will go with the straight zoning instead. Under RPUDs there is qualified green space and open space that is counted towards the density which will no longer include ravines or wetlands or other land with large costs to convert to usable land. Lot sizes for single family residential is being changed to 80' width and is non-negotiable to protect the streetscapes. Conditional use cases will go before Planning Commission as a decision item and PDA areas will have to go before Planning Commission and Council as Public Hearings.

Public Hearing

David Wilkinson of 1489 Lemke Rd wanted to bring a few things to Council's attention including covenants of a PUD. He was also concerned about taking the requirements of the PUD out of the ordinance and making them a checklist, he thought they should all be listed in the ordinance. On page 11 (D) "Mailed, newspaper publications, electronic media, and any other forms of notice utilized in lieu of mailed notice shall set forth the time and place of the public hearing and the nature of the propose development", is entirely too broad. Mr. Wilkinson also had a question about variances and he did not think it belonged in this section of the code.

Mayor Vann stated that the Public Hearing would be continued to the next meeting since there was no further input tonight.

Mr. McGrath spoke about the elimination of criteria for application being removed from the ordinance because it is not a definitive set of criteria for each type of case; some cases are much more controversial and require more information. He stated that it has been a well established process that they do not have problems with and no one looks up the code to find them because they are already online,

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also if they need to be updated it will not have to go back through the ordinance process.

Mr. McHugh stated that there is a baseline of common information that everyone must submit and then as different projects have different issues there may be different information required.

Mr. Jarvis asked that Council be provided copies of the checklists so that they can see it and be sure that every thing is covered.

Mr. McGrath stated that the notification process has not changed except Planning Commission suggested that they add electronic media so that they can provide e-mails to those that request them. Vice Mayor Giambrone stated that these are in addition to those that we mail. Mr. McGrath stated that he would change this section to read "Mailed or hand delivered notices shall be provided to all owners of property within 500 feet from the exterior of the area associated with the proposed PUD zoning classification or PUD amendment proposal. The City, at its discretion outside the 500 foot boundary may provide notice by other alternative means such as hand delivery of written notice, newspaper publication, electronic media, and any forms of notice utilized in lieu of mailed notice..."

The third subject was variances which Mr. McGrath explained that an individual home owner could request a variance from BZA on setbacks for a shed for example in a hardship case. The new language will allow individual home owners within a C-PUD to apply for a variance on an individual basis which was not allowed previously because they were under the regulation of an ordinance. This will allow a variance without going through a PUD amendment for one lot.

Mr. Petrak asked about pg 19 (J) why it was changed from ten to thirty days. Mr. McGrath explained that we require 15 days for an advertisement and the way the schedules fall between the Planning Commission and Council the agendas are sometimes schedule too far out and there is no way to get them on right away.

Mr. Jarvis asked Mr. McGrath to explain the covenant as used at the top of page 4. Mr. McGrath stated that this is in reference to PUDs; to insure the integrity of the conditions that have been added through the approval process of the Planning Commission and City Council are reiterated and not contradicted by the covenants and restrictions placed on a plat. The City retains the right to review the covenants and restrictions before they are filed by the HOAs.

Mr. Jarvis asked about pg 26 (1) at the bottom of the page and wondered when a sound study would be necessary. Mr. McGrath stated that it is the proximity to the highway and you take an inventory of the natural buffers or existing buffers. If the development is located behind a sound barrier wall then a study would not need to be done or if it is behind a wooded area it probably would not need to be done. He explained that they wanted to be sure that it is the applicant that is responsible for the mitigation of noise so that down the road the homeowners do not go to MVRPC to build sound walls.

Mrs. Howard asked about pg 3 (A) it first states "are under single ownership" and the next sentence reads "by either one or more persons" which is a little confusing, Mr. McGrath said he would look at it to be sure it is correct.

Mayor Vann asked Mr. McHugh if he had thought any further about the Single Family Developments, she thought that it should say Detached Residential Unit Developments and remove any notation of family. Mr. McHugh stated that he needed to sit down and speak to Mr. McGrath because there are some policy questions about whether they want to define it or not.

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ORDINANCE, RESOLUTIONS AND PUDS

Ordinance 09-5 PUD 98-9 Amend 3/09 College Park South (Second Reading)
Clerk Bucheit read this Ordinance adopts a recommendation to amend Ordinance #99-4, 02-21 and 07-56 (MX-PUD 98-9) by changing the zoning and concept plan for 9.3925 acres located on the east side of Hibiscus Way and north of Park Overlook Drive from medium density residential to permit office uses. This is not an emergency ordinance and will become effective 30 days after passage.

There was no public input so the Public Hearing was closed.

This Ordinance moves automatically to the Third Reading.

Resolution 09-18 Rotary Park Fence Agreement

Clerk Bucheit read a Resolution authorizing a Memorandum of Agreement between the City of Beavercreek, Greene County, The Greene County Sanitary Engineering Department, Beavercreek Township Park District, and Beavercreek Township and further authorizing the City Manager to sign the agreement on behalf of the City of Beavercreek.

Mr. Thonnerieux stated that they are looking to enter into an agreement with Greene County Sanitary Engineering, Beavercreek Township Park District and Beavercreek Township to provide a fenced corridor between Hunters Ridge and Rotary Park as part of Beavercreek Bikeway Advisory's Pedestrian and Bikeway Network.

Vice Mayor Giambrone MOVED to approve Resolution 09-18 seconded by Mr. Hadley and approved by unanimous voice vote.

Resolution 09-19 LPA Federal Agreement Creekside Trail

Clerk Bucheit read a Resolution authorizing the City Manager to enter into a LPA Federal Project Agreement with the Ohio Department of Transportation for the project known as the Creekside Trail Bikeway Resurfacing Project, PID No.86224.

Mr. Beach stated that he has two items that are similar in nature, the City was awarded a grant for Stimulus Funding for resurfacing Creekside Trail within the City's corporation limits and the Ohio Department of Transportation has moved this project ahead in time. They requested the plans be ready by June and City has already received proposals for this project, the next and one for resurfacing Fairfield Road which was in the budget and we were able to receive good pricing. Mr. Beach stated that he is requesting to be allowed to enter into an LPA Federal Agreement to design and construct this project. It will be 15,000 for Engineering Fees which will 100% local cost and \$220,000 in construction costs which is 100% Federal costs.

Vice Mayor Giambrone MOVED to approve Resolution 09-19 seconded by Mr. Hadley and approved by unanimous voice vote.

Resolution 09-20 LPA Federal Agreement Colonel Glenn Highway

Clerk Bucheit read a Resolution authorizing the City Manager to enter into a LPA Federal Project Agreement with the Ohio Department of Transportation for the project known as the Colonel Glenn Highway Resurfacing Project, PID No 86223.

Mr. Beach stated this is the second project awarded for Stimulus Funding and is for resurfacing Colonel Glenn Highway from Grange Hall to the City's western corporation limit and the local share will be \$40,000 for engineering and \$550,000 Federal share for construction.

Mr. Hadley MOVED to approve Resolution 09-20 seconded by Mr. Jarvis and

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approved by unanimous voice vote.

Vice Mayor Giambrone thanked Mr. Beach and his staff for accessing all these funds for resurfacing and construction projects which need to be done but we do not have the money for. Mr. Beach stated that the City is involved in quite a few projects right now and that National Road is slated to be opened tomorrow and looks very nice.

Ordinance 09-7 For the submission to the Electorate of an amendment to Article IV Section 4.04 (First Reading)

Clerk Bucheit read this Ordinance provides for the submission to the Electorate of an Amendment to Article IV, The Council, Section 4.04 Officers of the Council, Amending Section 4.04 of the Charter of the City of Beavercreek, Ohio, and to place the same on the ballot at the general election, November 3, 2009.

Mr. McHugh stated that the three Charter Amendments that follow were recommendations by the Charter Review Commission which Council reviewed and decided to proceed with. The first Section 4.04 is to recognize the Mayor as the Chief Executive Officer during declared emergencies.

Mr. Petrak MOVED to approve Ordinance 09-7 and move it to the second and third reading, seconded by Mrs. Howard and approved by unanimous voice vote.

Ordinance 09-8 For the submission to the Electorate of an amendment to Article X Section 10.04 (First Reading)

Clerk Bucheit read this Ordinance provides for the submission to the Electorate of an Amendment to Article X, Finance, Taxation and Debt, Section 10.04 Transfer of Appropriations Amending Section 10.04 of the Charter of the City of Beavercreek, Ohio, and to place the same on the ballot at the general election, November 3, 2009.

Mr. McHugh stated Section 10.04 is a clarification of language for the State Auditor which resulted in an opinion that he wrote last year to clarify when the City Manager can transfer funds and when it takes Council action to transfer funds.

Mr. Jarvis MOVED to approve Ordinance 09-8 and move it to the second and third reading, seconded by Mrs. Howard and approved by unanimous voice vote.

Ordinance 09-9 For the submission to the Electorate of an amendment to Article X Section 10.10 (First Reading)

Clerk Bucheit read this Ordinance provides for the submission to the Electorate of an Amendment to Article X, Finance, Taxation and Debt, Section 10.10 Annual Appropriations Ordinance, Amending Section 10.10 of the Charter of the City of Beavercreek, Ohio, and to place the same on the ballot at the general election, November 3, 2009.

Mr. McHugh stated in Section 10.10 there has always been a question of procedure with the Annual Appropriation Ordinance and Supplementals taking affect upon adoption with a vote of five Council members. There is also a question about Section 4.10 where a Council member must get a resolution adopted to pay for expenses of going to a conference. But the City of Beavercreek passes it by a line item budget in the Annual Appropriation or by supplement which is one step up in the legislation and this states the resolution is not required if it is done in this manner. These ordinances will have first, second and third readings, 30 days and then will go to the Board of Elections to be presented to the electorate in November and to be passed by a majority.

Vice Mayor Giambrone thanked the Charter Review Commission which consisted

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of Hal Lewis, Tony Corvo, Chad Whilding, Joe Barty, Adrienne Rexroad and Steve Hummel, the Clerk and the City Attorney for all the time they had spent working on the Charter. She thought the process was successful, that there was good dialogue and diverse opinions and that the process was thorough. Vice Mayor Giambrone stated that they had promised the Charter Review Commission that they would provide some community resource information on the website pertaining to the Initiative and Referendum process and they have the first draft for review and it should be up on the website soon.

Mrs. Howard MOVED to approve Ordinance 09-9 and move it to the second and third reading, seconded by Mr. Jarvis and approved by unanimous voice vote.

CITY MANAGER'S REPORT

Mr. Cornell stated he had attended the Dayton Region Community Leadership Fly In Washington D.C. along with Mrs. Howard and Vice Mayor Giambrone and a total of 116 local area leaders on April 28 and 29. They spoke to Senate and House Representatives to let them know what Beavercreek thought were important issues. They also attended briefings on Defense and Legislative issues and met with representatives from Ohio including Steve Austria, Sherrod Brown, George Voinovich, Mike Turner and John Boehner. Mr. Cornell thought the trip was worthwhile for the City and hoped to attend next year.

Mrs. Howard stated that they had the opportunity to tour the Capitol Building with Congressman Turner's staff. She said that all the officials stressed the fact that every voice counts and if you have an issue to please contact them. Mrs. Howard liked meeting with the politicians face to face to find out their viewpoints. She stayed an extra day and on behalf of the region she met with the Federal Aviation Administration to talk about regional issues including Unmanned Aerial Vehicles. Mrs. Howard also met with Lt. General Wyatt the Chief and Director of the International Guards about the changeover from F16's to F35's and the continued sustainability of the Springfield International Guard.

Vice Mayor Giambrone stated that she thought it was important for us to be represented there as a city that borders the base and has a vested interest in seeing how Wright Patterson Air Force Base progresses as it grows. It is also important to understand that the Dayton Development Coalition along with the members such as Beavercreek have a very coordinated approach to asking for regional priorities and will never have a bridge to nowhere. She said that every single elected official there spoke about the fact that we are unique in this country in that we have an open debated community priorities process. She said this is why she thinks we were so successful in the BRAC process and continue to be. She spoke about the focus the Dayton VA Center is going to get from the Federal Government and how that affects Beavercreek and the surrounding area. Vice Mayor Giambrone wanted to applaud the congressional leaders for doing Earmarks in the right way, she said that Federal Earmarks only equate to about 2% of the Federal Budget and do not increase spending, the congressional leaders just direct a certain amount of spending.

Mrs. Howard stated she had heard that some of the congressional leaders were impressed with the briefing that General Bedke from the Air Force Research Laboratory had with General Schwartz showing some of the cool toys that they had. She said she was quite proud to have that organization right here in town and congratulated them.

Mr. Cornell stated there would be a construction update Thursday May 14 at Rockafellas at 9:00 a.m. for the property and business owners on Dayton-Xenia to discuss the time schedules and completion of the roadway project.

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Mr. Cornell stated that there would another Coffee with City Officials on May 21st at 8:00 a.m., for business leaders at Woolpert Engineering at 4454 Idea Center Road at the corner of Shakertown and County Line Roads regarding improvements and development in the surrounding area. Staff from Engineering, Planning and Parks will be in attendance to answer questions.

Mr. Cornell stated that some Council members had been contacted about a Runoff Control Issue in the west central area of the City by a citizen and he asked Mr. Beach to give a quick summation. Mr. Beach stated that there has been some natural drainage on Woodlawn Drive that has existed since as far back as 1965. Mrs. Hembree who owns the lot insisted that the runoff has been worse since the construction of the new subdivision. Mr. Beach stated the developer of the Stonegate II Subdivision had properly submitted and met the state and local requirements for storm water detention.

Mr. Cornell stated that this coming week is Bike to Work Week and on Wednesday there will be an event at Gateway Park and events Thursday and Friday at Xenia Station and he will be riding all three days weather providing and encouraged everyone else to ride also.

Mr. Cornell stated that this weekend is the Annual Greene County Heart Walk on Saturday May 16th. Gussies Jones is one of two coordinators for the event and the proceeds will go to the Heart Association to fund research, education and advocacy in fighting heart disease and stroke which are the number one and three killer in the U.S. The walk will be 3 miles around the Wright State University, assembly starts at 8:00 a.m. at the Nutter Center and the walk will begin at 9:30 a.m. and will be over by 11:00 a.m.

Mr. Cornell said that Beaver creek Athletic Association will have their opening Saturday morning 9:30 am for little league at E.J. Nutter Park on Factory Road which he will also be attending.

COUNCIL TIME

Mrs. Howard said that she and Chief Turner took some personal time off and went on a tour with a group of delegates to Lackland Air Force Base which included a briefing by the 37th Training Wing, a coin ceremony, tour of the Basic Expeditionary Airman Skills Training (BEAST), Security Forces Museum, dinner at River Walk, observed a graduation parade, Medina Annex Firing Range, fired some talcum powder grenades, Camp Bolus Military Operations and Urban Terrain Area for expeditionary training and a demonstration of Security Forces combat skills. She said they had taken a lot of pictures and would like to share them at the next meeting.

Mrs. Howard congratulated the employees with anniversaries in May and thanked them for their service; James Wuebben 30 yrs, Dennis Evers 27 yrs, John Williams 15 yrs, Rachel Burkett 14 yrs, Faith Lammert 11 yrs, Jeffrey McGrath 9 yrs, Michael Thonnerieux 9 yrs, Douglas Seitner 9 yrs, Heather Jolly 6 yrs, Melissa Stewart-Gillaugh 5 yrs, Joseph Moore 5 yrs, Robert Dow 4yrs, Rita Phillips-Yancey 3 yrs, Patrick Tilt 2 yrs and Kimberly Farrell 1 yr.

Mr. Petrak attended the Greene CATS monthly meeting about two weeks ago and spoke to several people and found out that nothing was decided on issues associated with Beaver creek. He thought all Council who signed the letter to Greene CATS should have a meeting with Mr. Rich Schultz for some face to face discussions. Vice Mayor Giambone stated that unless he had some new information for them, they had just met with him six months ago and she didn't think they would have anything to gain and she wanted to be sure that they were setting appropriate expectations. Mayor Vann thought there would be some new

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information and that Mr. Schultz had asked Mr. Cornell for a meeting. Mr. Cornell stated that he had asked for a meeting but did not indicate what it was about and he said that if it was for a policy decision he should be meeting with Council and that he is still waiting to hear back.

Mr. Jarvis stated that he had some calls from citizens that lived on Sunbeam asking if there was going to be some kind of construction work done because maintenance men were out marking gas lines. Mr. McGrath stated there was none that he was aware of that would be driving installation of utilities and he had spoke to Vineyard who informed him that DP&L was cutting some trees on their property.

Mr. Hadley MOVED to adjourn the meeting at 8:07 p.m. seconded by Mrs. Howard. The motion PASSED by unanimous voice vote.

Mayor Vann

ATTEST:

Clerk

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