

BEAVERCREEK CITY COUNCIL
REGULAR MEETING June 8, 2009 6:00 p.m.

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

ABSENT:

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

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

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

PUBLIC HEARING – PC 09-3 Colonel Glenn Highway & Ashford

Clerk Bucheit read on an application filed by Colonel Glenn Limited, 4232 Colonel Glenn Highway, Beavercreek, OH 45431. The applicant requests an Administrative Site Plan Review and Approval (ASRA) for 5.77 acres of land for the construction of 62,059 square feet of asphalt pavement for the purpose of a dealership/automotive sales located on the south side of Colonel Glenn Highway near the intersection of Colonel Glenn Highway and Ashford Drive. The property is further described as Book 1, Page 2, Parcels 62 and 63 on the Greene County Property Tax Atlas.

Stephen Butler of Butler and Associates stated that he was representing Colonel Glenn Limited and Jason Dennis and stated they would be working on Phase I of a two phase project. They are planning to install landscaping, storm sewer, pavement and curbing which will be used to store the overflow vehicles from the dealership. Mr. Butler did not know when Phase II would come forward because of the economy, but at that time they would add the building for the new dealership.

Mr. McGrath stated the applicant is requesting approval through the ASRA process of a detailed site plan for Phase One of 5.77 acres of land located on Colonel Glenn Highway directly to the west of the Ashford Center and across the street from the existing Dave Dennis Auto Dealership. This would allow for the construction of an approximately 1.8 acre parking lot and display area for vehicles that cannot currently be housed at the existing dealership due to constraints on space.

The first phase would include the construction of the main parking lot/display area along Colonel Glenn Highway as well as a detention pond at the rear of the property. The second phase would consist of a 12,456 square foot building for a new dealership as well as additional sales and display areas, customer parking areas, access points onto Ashford Drive, and an increase in size to the detention pond due to an increased amount of impervious surface. This ASRA application will only encompass the first phase. This property is currently zoned B-4, Highway Business District and will remain as such. Automobile and truck sales and service (new and used) are permitted within this zoning district.

Prior to this property being designated as a planned development area, the applicant applied for and received a variance from the Board of Zoning Appeals that gave permission to deviate from the requirements to install islands and landscaping within the parking areas. This was due to the fact that it would make it very difficult in the positioning of vehicles on the site as well as snow removal and routine maintenance of the lot. In lieu of that landscaping in the interior of the lot, the applicant was required to show additional landscaping around the perimeter of the site to compensate for that missing landscaping. Staff would like

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to enforce that decision by the Board of Zoning Appeals and believes that the amount of landscaping shown within the landscape plan continues to uphold the original intent of the BZA's decision.

The applicant is required, by Ordinance, to detain the stormwater runoff generated by this development. The applicant is proposing to construct a detention pond at the rear of the property. This pond will be large enough to detain stormwater for Phase One only. The applicant will have to increase the size of the detention pond, prior to the construction of Phase Two in order to account for a substantial increase in the amount of impervious surface on the site.

The photometric plan included within the packet does show an adequate amount of lighting for the site. All light fixtures will be located around the perimeter of the parking area and will be full cut-off fixtures to prevent spillover of excess lighting. The applicant is proposing 25' light poles but because staff does not have a cut sheet showing the actual pole height, a condition of approval will be placed in the motion that will require the applicant to provide staff with final lighting cut sheets showing the actual height of light poles to be installed on the site.

There being no public input the Public Hearing was closed.

Mr. Hadley wanted to know after they built this facility if they would maintain the facility on the north side of the road. Mr. Butler stated they would keep that dealership and a new one would be at this location. Mr. Hadley was concerned about pedestrian traffic crossing the street to look at vehicles. Mr. Butler stated the salesmen would bring the cars over for customers to look at.

Mr. Leonard asked what the long term plans were for the traffic problems on Colonel Glenn. Mr. Beach stated that there were plans for Ashford Drive to be signalized when the traffic from the businesses surrounding that area was enough to warrant it. Mr. Leonard asked if the easement for Ashford Court was still in place. Mr. Butler stated that he had spoke with Mr. Dennis and was told that it was in place.

Mr. Jarvis asked if the detention area would be large enough to hold the runoff from the impervious surface. Mr. McGrath stated that the land area would be large enough to hold the runoff and that Mr. Beach would be approving it before a permit was issued. Mr. Jarvis wanted to know how much flow the people downstream would have in runoff. Mr. Beach stated that there were no downstream owners on this land before the ditch system along I675.

Mrs. Howard MOVED to approve PC 09-3 ASRA Detailed Site Plan.

"I move, for the purpose of taking administrative action, approval of an ASRA Detailed Site Plan for Dave Dennis, PC 09-3, ASRA Detailed Site Plan, 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 ASRA Detailed Site Plan approval as per §158.083 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. The approved plans for this development shall be the plans stamped "Received April 28, 2009", except as modified herein.
2. A Development Agreement must be signed by the owner and a bond or letter of credit for the required site landscaping must be submitted

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prior to issuance of a zoning permit for any portion of the project for the purpose, but not for the sole purpose, of insuring the installation of landscaping. Said bond or letter of credit must meet the requirements of the City's landscaping and screening regulations.

3. A final subdivision must be approved by Planning Commission and recorded prior to the release of a zoning permit for the parking lot
4. Perpetual maintenance of landscaping shall be provided and any dead or diseased materials shall be removed and replaced with similar types, species and sizes as originally planted, within three months, weather permitting.
5. No signage shall be permitted within this development until Phase Two is approved by Planning Commission and City Council.
6. 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 for the parking lot.
7. A detailed landscape plan shall be reviewed and approved by the Planning Department prior to the execution of the required Development Agreement and the release of a zoning permit for the parking lot.
8. Lighting shall match the type and height of lighting at the existing Dave Dennis Car Dealership. Final cut sheets for lighting shall be provided showing the actual height of the light poles, prior to the issuance of a zoning permit for the parking lot.

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

PUBLIC HEARING – PUD 96-2 MOD 4/09 The Vineyard

Clerk Bucheit read on an application filed by James M. Alt, Alt Architecture, 2440 Dayton-Xenia Road, Suite B, Beavercreek, OH 45434. The applicant requests approval of a major modification to allow for the construction of approximately a 37,000 square foot religious sanctuary on 20.601 acres. The property is located on the south side of Indian Ripple Road, approximately 250 feet west of Darst Road. The property is further described as Book 3, Page 10, Parcel 171 on the Greene County Property Tax Atlas.

Mayor Vann recused herself from the Public Hearing.

James Alt stated that they are here to take the next step in a multigenerational facility in Beavercreek; they are proud to be a part of this community and are investing enormous assets and energy in extending their facility. Pastor Doug Rowe of the Vineyard Church stated the church had been started by his wife and himself in Dayton, Ohio in 1991. They moved to Beavercreek after purchasing the Furrows building 2001, remodeled it and added a parking lot and have a three phase addition for the next fifteen years of the church's life. Mr. Alt stated that he appreciated working with the staff and that the final outcome is after considerable effort and compromise on both sides.

Mr. Burkett stated the applicant is requesting approval of a modification to the approved specific site plan for the construction of a 37,000 square foot church on approximately 9.5 acres of a 20.2 acre PUD known as the Vineyard Christian Fellowship. The 37,000 square foot structure represents the first phase of a three phase process that will ultimately create a 75,000 square foot structure in the

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PUD, which will be in addition to the existing 50,000 square foot church that is within the PUD currently.

This PUD was rezoned from R-1A to C-PUD 96-2 in June of 1996 for the construction of commercial and/or office uses. In October of 2004, the zoning of the PUD was amended to incorporate the area to the east that was zoned as PUD 141-86 and contained an older hardware store (Furrows). A specific site plan was approved in September of 2005, which converted the Furrows hardware store and its parking field to the Vineyard Christian Fellowship church, and allowed for the construction of a 229 space parking field south of the Furrows. A minor modification was approved in July of 2006 to allow for the addition of a small ground sign east of the western access point into the site.

This project is proposed in three phases. The first phase calls for the construction of the northern half of the building and most of the parking field required for all three phases. The second phase will call for the southern half of the building and the remaining parking required for all three phases. The third phase will be a small extension south of the building. The applicant has stated that building of Phase II will look very similar if not identical to Phase I. Staff has added a condition that the approval of Phases II and III of the building be approved as a minor modification to the site plan, reviewed and approved by the Planning Commission.

To the west of the proposed expansion area is a large (but narrow) R-1A single-family residential lot. It is currently being utilized as a rental house. Because this is a residentially owned property, there is a required 50' buffer between PUD 96-2 and the R-1A property. For this reason, the two rows of parking along the western property line are shown as hashed, and are designated as "future parking". The applicant will not be permitted to encroach into the 50' buffer with parking until the R-1A property to the west is rezoned to a commercial district. Immediately west of the R-1A property is a large, five acre lot owned by the Vineyard Christian Fellowship.

The proposed site plans show sidewalks and crosswalks to be installed along and between the terminal landscape islands in the proposed northwest parking field, along the proposed access drive west of the proposed building, and around the western edge of the new building. Staff has added a condition that additional sidewalk be installed along the proposed northern parking field. This sidewalk will help reduce conflicts between pedestrians walking along what will become the primary access point to the entire western parking field with automobiles.

The first phase proposed here will include a two tiered theatre-style church with a stage on the first floor and seating on both floors. The proposed building will be constructed in such a way that it will utilize the existing grade, which is a rolling hill that rises from east to west. The east end of the building, which will be at the bottom of the hill, will be 33.5' from the finished floor to the top of the elevation wall. The west end of the building, which will be on the top of the hill, will be 16' to the top of the elevation wall. This two-level building will have an upper-level with 327 seats and a lower level that will have 1,361 seats. Due to the building being designed to utilize the hill, each of the two levels will have at-grade entrances. The upper level will contain extra rooms for classrooms and a small kitchen area. Both floors will have restrooms, and for handicap accessibility, there will be an elevator between the floors.

The building will be constructed utilizing three colors of EIFS as the primary construction materials, and will have painted metal and faux-stone accent features. The three colors of EIFS include a tan color for the majority of the building, a brown accent strip in the center of the elevation and along the top of

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the building, and a dark brown EIFS used along a portion of the base of the building. The south and east elevations show the use of 36" metal panel siding, painted to match the building. The applicant has stated this material is intended to be temporary and will be replaced with EIFS upon the construction of Phase II of the building. Staff has added a condition in the proposed Motion that requires the material to be replaced with EIFS. As seen on all four elevations, the main entry points show a painted metal panel/faux-stone entry feature. Each of the four elevations also shows the use of vinyl awnings, used as accent features over the windows.

The proposed landscape shows the utilization of decorative and shade trees, shrubs and ground cover to add to the overall aesthetic quality of the site. The proposed plans call for the use of the existing wooded area and vegetation to be supplemented with additional evergreen trees along the southern and southwestern property lines as the landscaping for that corner.

There being no public input the Public Hearing was closed.

Mr. Jarvis asked about the surrounding uses zoning description, in the packet it was stated that in general it would not encroach upon the existing residents any closer than it already does? What areas might encroach closer? Mr. Burkett stated that the parking lot would be expanded to the west but will be no closer than sixty seven feet.

Mr. Jarvis said that even with the additional 86 spaces they will fall short of the required 1000 parking spaces. Mr. Burkett stated that there will be 984 parking spaces right now but they do not yet have the final seating numbers but they will double check to make sure they have the correct number.

Mrs. Howard stated that they had done a great job incorporating the natural features of the site. She wanted to know if there would be an exit to Sylvania Drive. Mr. McGrath stated that there were discussions for the Baptist Church to let out on Sylvania and with Vineyard the initial discussions were to let out at the new signalized intersection at Woodcroft, but there is a parcel that is not owned by the church and if that land develops that could be a possibility. There is also a parcel for sale on Darst that might give them a second access, during Phase II they will be looking at an additional access.

Mrs. Howard MOVED to approve PUD 96-2 MOD 4/09.

"I move, for the purpose of taking administrative action, approval of a PUD Major Modification for Vineyard Christian Fellowship, PUD 96-2, MOD 4/09, 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. The approved site plans for this development shall be those stamped "Received June 1, 2009", except as modified herein.
2. The approved building elevations shall be those stamped "Received April 29, 2009", except as modified herein.
3. All building mechanical equipment is to be screened from all directions with architectural features (roof forms or parapet walls) for each building. Metal screening will not be accepted. Pad mounted

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equipment must be screened with landscaping and/or masonry walls and no interference with traffic control signs and/or lines of sight will be permitted.

4. Final cut sheet details and photometric plans for the lighting of the site shall be reviewed and approved by the Planning Department, prior to the issuance of a zoning permit. Maximum mounting height for any parking lot fixture in the southern parking area, south of the new building, shall be 16 feet. Lights in the parking lot shall be reduced to no greater than 25 percent illumination level within two hours after closing.
5. All pole-mounted lighting shall be located within a landscaped or concrete island and shall not be permitted to be located within any designated parking stall for the site. This shall be reflected on the photometric plan prior to the release of a zoning permit.
6. There shall not be any downspouts, ladders and storage areas visible on the exterior of the building. Downspouts will be allowed over temporary metal siding, until the metal siding is replaced by Phase II, at which time, all downspouts will be internally mounted.
7. The traffic flow arrows and stop bars shall be painted per the approval of the Engineer's office.
8. A PUD Agreement must be signed by the owner of the building, and a bond or letter of credit must be submitted prior to the issuance of a zoning permit for any portion of the project, for the purpose, but not 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.
9. A detailed landscape plan shall be reviewed and approved by the Planning Department prior to the execution of the required PUD Agreement and release of a zoning permit for the building.
10. There shall be two additional landscape islands installed within the western parking area, as shown in Exhibit 1.
11. A 5-foot sidewalk shall be installed south of the northern access drive and parking spaces as shown in Exhibit 2.
12. The scored concrete foundation wall on the northern elevation shall be painted to match the dark brown EIFS color #3.
13. 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.
14. Debris and trash shall be routinely collected by the owner from the parking lots and grounds of all areas of the project, including the stormwater drainage facilities. The City reserves the right to require more frequent collection as necessary.
15. 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.

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16. The parking lot shall be kept in good condition. The City Engineer reserves the right to determine if the parking lot pavement condition is in disrepair and has not been maintained in a commercially acceptable condition, and that improvements are required. Those improvements shall be completed in a timely manner to the City Engineer's satisfaction.
17. The exterior of the building shall not be painted or altered in a way that varies from the approved elevations adopted with this approval. Any changes shall be reviewed and approved by the Planning Department, or if determined necessary by the Planning Director, by City Council and/or Planning Commission.
18. All trash collection containers shall be screened from view and enclosed within a permanent dumpster enclosure or completely kept within the building. Any dumpster enclosures shall be constructed of materials to match the building.
19. No portion of this 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 a prospective occupant. No such occupancy may occur until the application of Certificate of Zoning Compliance has been approved and issued by the City.
20. All man-doors, service doors and loading dock doors shall be painted to match the color of the building as to blend in with the proposed façade.
21. Any split-face block, EIFS, or concrete masonry unit block will be of integral color and not a material that is painted on the outside only.
22. Any portion of the site disturbed by grading and on which no construction occurs within three months after completion of the site grading shall be planted with appropriate ground cover and properly maintained.
23. The construction hours shall be limited to 7:00 AM to 7:00 PM, Monday thru Saturday.
24. The open area, which is designated as "Phase II" on the approved plans, shall be covered by grass seed and straw as part of the approved landscape plan.
25. There shall be a 50-foot buffer along the western property line until the residential property directly to the west is rezoned to a commercial use.
26. Barrier curbing will be required around the perimeter of the parking lot except along the western border. The border along the western property line may be constructed of extruded curb or other design approved by the City Engineer. The reasoning for not requiring barrier curbing in these areas is based on the practicable possibility of a PUD specific site plan modification that will call for the removal of curbing in this area for the expansion of the parking lot in the near future. The curbing shall be removed and replaced with barrier curbing upon the expansion of the parking lot into the "future parking area" or if the applicant fails to extend the parking field into the "future parking" area

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within 5 years of the issuance of a zoning permit for this expansion project.

27. Any plans for expansion of the proposed building into Phases II and/or III, or any expansion of the approved parking lot, including any alterations to the area labeled as "future parking shown dashed" shall be reviewed by the Planning Commission as a minor modification to the specific site plan.
28. Any changes or additions to the existing wall signs shall be reviewed and approved by the Planning Commission as a minor modification.
29. The metal-seam wall along the eastern elevation shall be replaced with EIFS material as part of Phase II of the building in such a way so as to create a seamless transition between Phase I and Phase II. If the construction of Phase II has not started within 8 years, the metal-seam wall must be replaced with EIFS material that contains the same design as the adjacent existing EIFS to create a seamless transition between the existing and new EIFS.
30. Prior to the grading of the site, the applicant shall install a temporary grading limit fence 50 feet from the southern property line. This fence shall be clearly marked as a grading limit fence, and shall be constructed of an orange plastic. Except for the installation of new landscaping or removal of dead or diseased landscaping as deemed by a licensed horticulturist, no construction activities shall occur south of the grading limit fence. The fence shall be removed immediately upon the completion of the construction of the southern parking field.
31. All conditions of PUD, except as modified herein, remain in full force, and effect.
32. Increase the number of handicap and special use parking spaces, such as expectant mothers, to four percent of the entire parking field while still maintaining ADA requirements.

Seconded by Mr. Hadley it was approved by majority voice vote (Mayor Vann recused).

PUBLIC HEARING – PUD 94-4 MOD 4/09 Shoppes of Beavercreek
Clerk Bucheit read on an application filed by Andrew Chrien, Paragon Consultants, 2036 Woodcreek Drive, Fairfield, OH 45014. The applicant requests approval of a major modification to remove, modify, and/or replace the screen wall along the eastern property line of the Shoppes of Beavercreek. The property is located at the southeast corner of New Germany-Trebein Road and Towne Drive. The property is further described as Book 4, Page 4, Parcel 2 on the Greene County Property Tax Atlas.

Jerry McDonald stated that he is here to address the modification to the "King Kong Wall" which was approved by the Planning Commission and which the owner has no objection to.

Mr. Burkett stated in 1996 when this property was rezoned from A-1 to PUD 94-4, there were concerns of surrounding neighbors, as well as the Planning Commission and City Council that the proposed shopping center building will be visible to the three single family residences immediately to the east of the development. At the time, these three residences were classified as future

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residential on the Land Use Plan. Currently, one of the residences is being used as a professional office, and all three are shown as office on the Land Use Map.

In response to the concerns at specific site plan stage, the plans were approved with the inclusion of an 8' 6" fence along the eastern property line, then toward the middle of the property, a 20' wall was constructed and an "infill" of 8'6" portions of fence was added to the top of the 20' wall. Over last decade, the 20' wall and portions of the fence have fallen into a state of disrepair and has created an unsightly situation.

In 2006, in response to complaints from citizens and a few members of City Council, staff met with the developments' representatives to communicate concerns of citizens and City Council to help fix the situation created by the wall and fence in its current state, while still achieving an appropriate level of screening with the residential properties to the east.

The applicant is proposing to repair and replace any damaged boards of the 8'6" portion of the fence, remove the 10' portion of the fence and replace with a new 8'6" high wooded fence, remove all of the "high wall" portions of the fence, and install a 12' wide gate just south of the existing detention pond. The 8'6" fence from where the existing gate is to the northern property line will be removed and not replaced. The existing vegetation and mounding will serve as screening between the Cadillac Jack's and the properties to the east.

For the Planning Commission meeting, the applicant had shown to replace the damaged fence between the existing gate and the northern property line with a new 8'6" fence tapered to a 6' fence, however, Planning Commission saw no need to have a fence at that location, and added a condition that it be removed.

As a result of the fence being removed along the north end of the property, the existing detention pond will now be visible from the parking lot. The landscaping plan shows additional landscaping to be installed around the detention pond to help make the pond more attractive. Staff has added a condition that the pond be repaired and maintained to appropriate aesthetic standards, and that Ash trees (because of the risk of disease and destruction from a bug, the Emerald Ash Borer) not be used in the final landscape plan.

There being no public input the Public Hearing was closed.

Mr. Petrak wanted to know what neighbors Mrs. Pierce and Jerry Throckmorton had to say about the changes. Mr. McGrath stated that both were notified and they have not heard from Mrs. Pierce, Mr. Throckmorton was in this morning and wanted to be sure that there would be no foot traffic coming through the area but did not have a problem with the changes. He said the area just behind the shopping center was changed to Office on the Land Use Plan and would be a barrier if that was developed.

Mr. Jarvis wanted to know what would happen with the area from the gate behind DSW to Cadillac Jacks. Mr. Burkett stated that the fence would be removed there and the vegetation and mounding will serve as screening.

Vice Mayor Giambrone MOVED to approve

1. All conditions of PUD 94-4, except as modified herein, shall remain in full force and effect.
2. The approved plans for this development shall be those stamped "Received June 1, 2009", except as modified herein.

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3. The existing fence shall be repaired to staff's satisfaction insuring it has a uniform appearance. The reuse of existing fencing is acceptable.
4. The fence along the eastern property line shall be kept in good condition. The Planning and Zoning Department reserves the right to determine if the fence condition is in a state of disrepair and has not been maintained to a commercially acceptable condition and that improvement is required.
5. The existing detention pond shall meet the generally accepted construction and aesthetic standards per the approval of the City.
6. The final landscaping plan shall not use any Ash trees.
7. The applicant must obtain a fence permit prior to the removal of any portion of the existing fence.
8. A PUD Agreement must be signed by the owner of the building, and a bond or letter of credit must be submitted prior to the issuance of a fence permit, for the purpose, but not 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.

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

PUBLIC HEARING (Continued)-Zoning Code – 158.135 to Appendix C

Mr. McGrath stated this is a continuation of the First Reading that was continued at the last meeting and is the fourth subsection of the code from 158.135 to Appendix C. The comprehensive first reading will be at the next meeting if Council is prepared to move forward with this section and will include all the changes that have been made. These sections include Landscaping and Buffering, Off Street Parking, Administration and Enforcement as it applies to Planning Commission and Board of Zoning and the Table of Uses.

Public Hearing

David Wilkinson of 1489 Lemke Rd stated he did not like variances and sees them as contrary to equal protection of the law. He thought the City should consider adding back a couple of phrases from an earlier version from 1992 language that might justify the variance. "Literal interpretation of the provisions of this Ordinance would deprive the applicant of property rights commonly enjoyed by other property owners in the same district under the terms of this ordinance." He also wanted to add "The granting of the variance will not confer on the applicant any special privilege that is denied by this ordinance to any other land, structure or buildings in the same district" for page 76 part (4).

Mr. Jarvis wondered if Mr. McGrath had followed up on the DBH as to whether it was 4 foot or 4 ½ foot. Mr. McGrath stated that they found that it was 4 ½ feet. Mr. Jarvis stated that it also needed to be changed in this section, page 2 number 12 and page 15 at the bottom of the table.

Mr. Jarvis stated on page 11 paragraph (b) says "The following three options may be used singly or in combination...", but there are only two options. Mr. McGrath stated they would double check that to see what changes needed to be made.

Mr. Petrak stated that at the bottom of page 17 the Plant Schedule Example needs to be attached to the table on the following page.

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Mr. Jarvis stated there was a numbering problem on page 20, (2) should be (3) which continued onto pages 23 and 25. Mr. Hadley stated that on page 24 the numbering should be moved to the bottom of the page.

Mr. Petrak stated on page 46 under Neon signs and Neon banding number (3) "Neon banding shall be allowed so long as the banding follows the roofline and the tubes are no larger than ½" in diameter" he sais that all makes sense but he suggested that it should only be a "single tube" and should be allowed only in B3, B4 or as otherwise approved in a PUD and not near residential areas.

Mr. Leonard asked about the campaign sign issue and if there were any changes. Mr. McGrath stated that they took out the time restrictions on the signs to be consistent with the ruling by the Supreme Court. Mr. McHugh stated that on page 48 Election signs should be changed to Political signs. He thought that he should sit down with Mr. McGrath to review this section one more time.

Mrs. Howard also wanted to be sure that nuisance was in the definitions of the code.

Mr. Jarvis wanted to know on page 50 section (B) it states "Only one temporary ground sign" if that would apply to political signs. Mr. McGrath stated that that does not include political signs; they are regulated in a separate section.

Vice Mayor Giambrone MOVED to continue the Public Hearing to the next regular meeting, seconded by Mrs. Howard it was approved by unanimous voice vote.

ORDINANCE, RESOLUTIONS AND PUDS

Ordinance 09-7 For the submission to the Electorate of an amendment to Article IV Section 4.04 (Third 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. Petrak MOVED to approve Ordinance 09-7 seconded by Vice Mayor Giambrone and approved by unanimous voice vote.

Ordinance 09-8 For the submission to the Electorate of an amendment to Article X Section 10.04 (Third 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. Jarvis MOVED to approve Ordinance 09-8 seconded by Vice Mayor Giambrone and approved by unanimous voice vote.

Ordinance 09-9 For the submission to the Electorate of an amendment to Article X Section 10.10 (Third 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.

Mrs. Howard MOVED to approve Ordinance 09-9 seconded by Mr. Jarvis and approved by unanimous voice vote.

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Ordinance 09-10 To Appropriate certain real property interests for Indian Ripple Road Imp. (Gary Daniels 4193 Indian Ripple Road) Second Reading
Clerk Bucheit read this Ordinance appropriates certain real property, parcels of real property interests owned by Gary Daniels with interest by others, for the Indian Ripple Road Widening Project in the City of Beavercreek, Ohio.

Mr. Beach stated that since the last meeting two of the remaining five parcels have accepted the City's offer and a third will meet tonight to discuss the offer. That leaves only the two McDaniel's parcels and Mr. McHugh stated that he has spoke to their attorney and he has been busy at trial but is willing to meet when he is free.

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

This Ordinance moves automatically to the Third Reading.

Ordinance 09-11 To Appropriate certain real property interests for Indian Ripple Road Imp. (Gary Daniels 3992 Indian Ripple Road) Second Reading
Clerk Bucheit read this Ordinance appropriates certain real property, parcels of real property interests owned by Gary Daniels with interest by others, for the Indian Ripple Road Widening Project in the City of Beavercreek, Ohio.

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

This Ordinance moves automatically to the Third Reading.

Ordinance 09-12 To Appropriate certain real property interests for Indian Ripple Road Imp. (Patricia Sturgill) Second Reading
Clerk Bucheit read this Ordinance appropriates certain real property, parcels of real property interests owned by Patricia Ann Sturgil with interest by others, for the Indian Ripple Road Widening Project in the City of Beavercreek, Ohio.

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

This Ordinance moves automatically to the Third Reading.

Ordinance 09-13 To Appropriate certain real property interests for Indian Ripple Road Imp. (Beaver Creek Elderly, Inc.) Second Reading
Clerk Bucheit read this Ordinance appropriates certain real property, parcels of real property interests owned by Beaver Creek Elderly, Inc. with interest by others, for the Indian Ripple Road Widening Project in the City of Beavercreek, Ohio.

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

This Ordinance moves automatically to the Third Reading.

Ordinance 09-14 To Appropriate certain real property interests for Indian Ripple Road Imp. (John T. Archer, Michael J. Messina and Jim Hund) Second Reading
Clerk Bucheit read this Ordinance appropriates certain real property, parcels of real property interests owned by John T. Archer, Michael J. Messina and Jim Hund with interest by others, for the Indian Ripple Road Widening Project in the City of Beavercreek, Ohio.

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

This Ordinance moves automatically to the Third Reading.

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Ordinance 09-15 Levying Special Assessments for Construction and Installation of Street Improvements for the Mission Point Project (First Reading)

Clerk Bucheit read an Ordinance levying Special Assessments for the purpose of Constructing and Installing certain Street and Improvements in the City (Mission Point Project).

Mr. Kucera stated that the first step of the process is that the participants sign a Special Assessment Petition indicating their desire to have the City construct capital infrastructure and willingness to finance the entire costs by assessment to the property owners benefitting from the infrastructure. The City then adopts a Resolution of Necessity indicating that it is conducive to the health, convenience and welfare of the City and then adopts the Ordinance to Proceed. Engineering then places the project on their capital plan for bidding and construction and Finance prepares legislation to sell Bond Anticipation Notes (BAN) to finance improvements for up to one year at the estimated engineering costs.

Engineering then develops specifications for the improvements and sends it out for competitive bidding and awards the project. When the final costs are determined by the City the BAN is paid off and financed by issuing long term bonds. Two of the projects are street assessments and will be assessed through the County Auditor for 20 years and the street lighting assessments will be 5 years.

The Mission Point Project and the Ballymeade Project are the two that have just been completed. The engineering costs and final costs are usually rounded up and the Bond Council use not to exceed totals. Ordinance 09-15 and 09-17 authorize the City to send letters to the property owners to give them a chance to pay the final costs before the City issues the bonds to save the cost of issuance, interest and the 5% fee from County Auditor.

There is one change to Ordinance 09-15 in Section I the amount reads \$417,604.33 but should be \$869,004.33 because the ROW costs were not included when it went to Bond Counsel.

Mr. Leonard asked what costs were covered for these projects, are attorneys costs included? Mr. Kucera stated that the attorney costs were covered in the closing costs of the BAN's and Bonds as well as sales costs. Engineering included costs for inspection for the project and Mr. Kucera included administration costs also. Mr. Leonard stated then that the citizens do not pay for any of these project costs at all.

Mayor Vann asked about our ratings and whether these affect our rating. Mr. Kucera stated our rating is A2 and stated that these would not affect our rating. She also wanted to know how many bonds the City could support for these types of projects. Mr. Kucera stated that these do not affect our ratings or ability to borrow; they are assessment bonds and are backed by the revenue of the assessment which ranks higher than taxes.

Vice Mayor Giambrone MOVED to approve Ordinance 09-15 with corrections and send it to the second and third reading, seconded by Mrs. Howard and approved by unanimous voice vote.

Ordinance 09-16 Issuance of Bonds Not To Exceed \$900,000 for the Mission Point Blvd Road Construction (First Reading).

Clerk Bucheit read an Ordinance providing for the issuance of not to exceed \$900,000 of bonds by the City of Beavercreek, Ohio, for the purposes of paying the costs of Constructing and Installing of Street Improvements to Mission Point Boulevard in the City of Beavercreek.

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Mr. Kucera stated that Ordinance 09-16 and 09-18 are for the issuance of bonds for the two projects to include all construction costs, right-of-way purchase, BAN issuance and interest costs, engineering costs and an administrative fee.

Vice Mayor Giambrone MOVED to approve Ordinance 09-16 and send it to the second and third reading, seconded by Mrs. Howard and approved by unanimous voice vote.

Ordinance 09-17 Levying Special Assessments for Construction and Installation of Street Improvements for the Ballymeade Project (First Reading)
Clerk Bucheit read an Ordinance Levying Special Assessments for the purpose of Constructing and Installing certain Street and Improvements in the City (Ballymeade Project)

Mr. Hadley MOVED to approve Ordinance 09-17 and send it to the second and third reading, seconded by Mrs. Howard and approved by unanimous voice vote.

Ordinance 09-18 Issuance of Bonds Not To Exceed \$210,000 for Ballymeade Road Construction (First Reading)
Clerk Bucheit read an Ordinance providing for the Issuance of Not to Exceed \$210,000 of Bonds by the City of Beavercreek, Ohio, for the purpose of paying the costs of Constructing and Installing of Street Improvements to Shakertown Road and North Fairfield Road in the City of Beavercreek.

Mr. Jarvis MOVED to approve Ordinance 09-18 and send it to the second and third reading, seconded by Mr. Hadley and approved by unanimous voice vote.

Ordinance 09-19 Issuance of Bonds by Consolidation Not To Exceed \$1,110,000 for the Mission Point Blvd Project and the Ballymeade Project (First Reading)
Clerk Bucheit read an Ordinance providing for the Issuance, by consolidating two separate bond issues, of not in excess of \$1,110,000 of bonds of the City of Beavercreek, Ohio, for the purposes of paying the costs of Constructing and Installing of Street Improvements to Shakertown Road and North Fairfield Road for the Ballymeade Project in the City; and paying the costs of Constructing and Installing Street Improvements to Mission Point Boulevard in the City.

Mr. Kucera stated that Ordinance 09-19 is the legislation to consolidate the two separate bond issues into one to save issuance costs and being over one million may allow for an institutional investor to buy and make it more marketable and possibly lower the interest rate on the bond.

Mayor Vann wanted to know what kind of interest rate Mr. Kucera expected to get on the bonds. Mr. Kucera stated that last year the one year 1.5 mm BAN was 2.45 percent and the BAN would come in at similar rate but the 20 year Bond would go anywhere between 3 and 6 percent.

Mr. Petrak MOVED to approve Ordinance 09-19 and send it to the second and third reading, seconded by Mr. Jarvis and approved by unanimous voice vote.

Ordinance 09-20 Issuance of Not to Exceed \$405,000 of Various Purpose Assessment BAN Series 2008, First (2009) Renewal (First Reading)
Clerk Bucheit read an Ordinance providing for the issuance of not to exceed \$405,000 Various Purpose Special Assessment Bond Anticipation Notes, Series 2008, First (2009) Renewal by the City of Beavercreek, Ohio in anticipation of the issuance of bonds.

Mr. Kucera stated that in September of 2008 the City had issued a BAN in the amount of \$1.525 million for six projects. The two street projects were completed

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but the street lighting projects have been deferred because of other priorities. Ordinance 09-20 splits out the 1.525 million to refinance the street lighting projects in the BAN which includes Fairfield Place \$124,000, Acropolis \$73,000, Centre Commons Phase I \$73,000, Centre Commons Phase II \$135,000 for a total of \$405,000. The Ordinances were prepared by Bond Counsel Peck, Schaeffer and Williams LLP and the bonds are expected to be sold in August and settled the first week in September to get the final costs for assessments to the County Auditor by the deadline of September 14.

Vice Mayor Giambrone MOVED to approve Ordinance 09-20 and send it to the second and third reading, seconded by Mr. Hadley and approved by unanimous voice vote.

Resolution 09-27 Authorize an application for the Bulletproof Vest 2009 Federal Grant

Clerk Bucheit read to authorize the application for the Bulletproof Vest 2009 Federal Grant Program on behalf of the Beaver Creek Police Department.

Chief Turner stated that he wanted to apply for a grant for the Bulletproof Vest 2009 Federal Grant that would pay 50% of the costs for vests needed for the officers.

Vice Mayor Giambrone MOVED to approve Resolution 09-27 seconded by Mr. Hadley and approved by unanimous voice vote.

DECISIONS

Appointments to Boards and Commissions

Environmental Advisory Committee

Vice Mayor Giambrone MOVED to open nominations for the Environmental Advisory Committee.

Mrs. Howard nominated Matt O'Halloran

Vice Mayor Giambrone MOVED to close nominations, seconded by Mrs. Howard, it was approved by unanimous voice vote.

Mr. Petrak MOVED to appoint Matt O'Holloran to Environmental Advisory Committee starting immediately till February 28, 2012, seconded by Mrs. Howard it was approved by unanimous voice vote.

Youth Development Committee (Five Needed)

Vice Mayor Giambrone MOVED to open nominations for the Youth Advisory Committee.

Mrs. Howard nominated Erin Sommers

Mr. Hadley nominated Felicia Hall

Mr. Jarvis nominated Jeannie Gregg

Vice Mayor Giambrone nominated Brian Jaster

Mrs. Howard nominated Rebecca Bracey

Vice Mayor Giambrone MOVED to close nominations, seconded by Mr. Hadley, it was approved by unanimous voice vote

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Mr. Hadley MOVED to appoint Erin Sommers, Felicia Hall, Jeannie Gregg, Brian Jaster and Rebecca Bracey the Youth Development Committee beginning July 1, 2009 till June 30, 2011, seconded by Mrs. Howard it was approved by unanimous voice vote.

CITY MANAGER'S REPORT

Mr. Cornell stated that Kemp Road would be closing Tuesday June 16th for thirty days. The road closure will be between I675 and Grange Hall Road and there will be no thru traffic during this closure. The detour will be Burkhardt Rd to Spinning Rd to Colonel Glenn Highway to Grange Hall Rd.

Mr. Cornell stated the Dayton-Xenia Road Project is still underway and east of Brook Lynn Dr they are behind schedule due to the relocation of overhead lines and awaiting AT&T to relocate their equipment before the next phase can be completed. West of Brook Lynn Dr the work is progress ahead of schedule. Updates are available on line at www.ci.beavercreek.oh.us .

Mr. Cornell stated that two additional storm crossings are being constructed on Dayton-Xenia and three additional on Grange Hall Rd, traffic will be maintained one lane at a time and travelers are encouraged to seek alternate routes.

MAYOR'S REPORT

Mayor Vann stated that St. Lukes School sent their eight grade Destination ImagiNation© team "DI Robots" to an Ohio State DI Tournament where they placed second. They were then invited to the DI Global Finals at the University of Tennessee campus in Knoxville where they placed tenth. Mayor Vann congratulated St. Lukes School eight grade team.

Mrs. Howard thanked employees with anniversaries in June; Paula Brooks 25yrs, Doug Lloyd 23 yrs, John Howlett 19yrs, Jacquelyn Conley 10yrs, Jason Mowery 9 yrs, Nick Cornett 9yrs, Scott Molnar 9yrs, Walt Sarapata 9yrs, Todd Snyder 9yrs, Christopher Earles 4yrs, Debbie Moyer 33yrs, Clint Kadel 16yrs.

Vice Mayor Giambrone thanked staff and Council for letting her represent the City at the ATK Grand Opening celebration. She said it was exciting to see a facility of that significance that has such an impact on the Air Force and globally. She said it was very impressive to see a company in this economy have the confidence that we have the talent and resources locally to locate here; that is great news.

Mr. Jarvis asked about the Greene County Family and Children First and who the representative was for the City, Vice Mayor Giambrone stated that she was but if he was interested he could help out with the meetings, he said yes he would.

Mr. Petrak stated that he had attended a Greene County Transit Board Meeting and there was an Executive Director Report about the Flex Routes (Fixed Routes-Fixed Schedules) which stated the new east-west Xenia route, new east-west Fairborn route, and the new Xenia to Dayton flex route should begin in September 2009. That route will connect with Sinclair Community College, hospitals and worksites downtown; Sinclair being one of the major transfers for RTA. There will then be a connection into all of Greene County with RTA at our own expense that everyone should be aware of. It also states that discussions with Beavercreek may delay the implementation of the routes serving Beavercreek.

UNSCHEDULED SPEAKERS

David Lemke of 1489 Lemke Rd read from the Charter in reference to open meetings and Executive Sessions and following the laws of the State of Ohio.

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He wanted to know if that meant that we were not permitted by ordinance to supersede those laws in conducting our meetings, whether we lacked the Home Rule power to modify this law. Mr. McHugh stated that the City follows 121.22 of the ORC which is the open meetings provision for the limitations on Executive Session. Does it mean that we are following 713.12 Zoning Code for providing Notice of Public Hearing? Mr. McHugh said that the Clerk is following the notice of Public Hearing procedures.

Executive Session

Mr. Petrak MOVED to enter into Executive Session at 8:40 p.m., pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of the appointment, employment, dismissal, discipline, promotion, demotion, or compensation of a public employee or official. Seconded by Mr. Jarvis it was passed by roll call vote of 7 to 0.

Mr. Petrak MOVED to adjourn Executive Session, seconded by Vice Mayor Giambrone it was approved by roll call vote of 7 to 0.

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

Mayor Vann

ATTEST:

Clerk

Cmin060809