

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING June 28, 2010 6:00 p.m.

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

ABSENT: None

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

Councilmember Petrak led the pledge and a moment of silence.

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

Councilmember Howard MOVED to approve the minutes of the June 14, 2010 Regular meeting. Motion was seconded by Councilmember Wallace and PASSED by majority voice vote. (Petrak abstained)

ORDINANCES, RESOLUTIONS, AND PUDS

Ordinance 10-07 Repealing Sections 35.17 and 35.18, and Enacting New Sections 35.17 and 35.18 [Purchasing Policy Amendment] (Third Reading)

Clerk Gillaugh read an Ordinance repealing Sections 35.17 and 35.18 of the City of Beavercreek Codified Ordinances and enacting new Sections 35.17 and 35.18 in order to revise the purchasing requirements, increase the minimum contract threshold amount required for competitive bidding in compliance with the Ohio Revised Code, and remove the term responsible from Section 35.17(A).

Councilmember Giambrone MOVED to approve Ordinance 10-07, seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

Ordinance 10-08 Snow Emergencies (First Reading)

Clerk Gillaugh read an Ordinance adopting and implementing Section 76.15, entitled "Emergency During Heavy Snow Events", and Section 76.16, entitled "Parking Regulations During Heavy Snow Events", of the City of Beavercreek, Ohio Code of Ordinances.

Mr. Beach stated at the previous Council meeting, it was decided this ordinance would start again with the first reading. He explained the ordinance is to permit the City Manager to have emergency powers in events where the snow is in excess of four-inches and the City needs to clear the streets free of parked cars. He said it is not mandatory that those powers are enacted in every snow storm, but it is up to the City Manager's discretion.

Councilmember Vann said if there is a snow storm in excess of four-inches, potentially the citizens would have to park off the street. Mr. Beach stated that was correct.

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Councilmember Vann MOVED to approve Ordinance 10-08 and to send it to second and third reading, seconded by Councilmember Petrak. Motion PASSED by unanimous voice vote.

Ordinance 10-09 Special Assessment Bond Renewal, Series 2008 (First Reading)

Clerk Gillaugh read an Ordinance providing for the issuance of not to exceed \$445,000 various purpose special assessment bond anticipation notes, series 2008, second (2010) renewal by the City of Beavercreek, Ohio in anticipation of the issuance of bonds.

Mr. Kucera stated this is reoccurring BANS that the City has for some street lights. He explained the process of a BAN, and the street light projects that are included in the BANS. Mr. Kucera said this ordinance allows the City to sell the Bond Anticipation Notes (BAN) maturing in one year to refinance the four approved improvements. He stated instead of issuing four separate BANS, they would be consolidated into one BAN and he explained the advantages of this. He explained the figures that were presented to Council were prepared by Bond Counsel, Peck, Schaeffer, and Williams, LLP and were then reviewed by the Finance Department. Mr. Kucera said the BAN is expected to be sold in the first week of September and settle on September 14<sup>th</sup>. He explained the projects are expected to be completed before September of next year, and everything would be finalized and submitted to the County Auditor and would start being assessed to the property owners on the 2012 tax bills.

Mayor Hadley stated this is a BAN, Bond Anticipation Notes, which is paid for by the confronting property owners and not by the rest of the tax payers in Beavercreek. Mr. Kucera stated that was correct.

Ms. Wallace questioned if Mr. McHugh had a chance to review the documentation. Mr. McHugh stated he did, and everything looked appropriate to him.

Vice Mayor Jarvis stated the principal amount is higher than the previous one, and questioned why that was. Mr. Kucera explained the City added more for just the contractual cost and the interest from the previous BAN to the total also. Vice Mayor Jarvis questioned why the work was unable to be completed in time, and how to prevent it from happening again. Mr. Beach explained the money was borrowed last year, and the construction was scheduled in the spring of 2010. He stated with the amount of other projects occurring, staff fell behind on these projects but plan on having them completed well before the next deadline. Vice Mayor Jarvis had a concern with the language "part of" in Section 1 of the ordinance and recommended it be removed. Mr. Kucera agreed.

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Councilmember Giambrone MOVED to approve Ordinance 10-09 removing “part of” from Section 1 and to send it to second and third reading, seconded by Councilmember Vann. Motion PASSED by unanimous voice vote.

Ordinance 10-10 Regional Street Light Negotiations (First Reading)

Clerk Gillaugh read an Ordinance expressing the City’s intent to negotiate jointly with other cities in the region on a one price schedule under which electric light services shall be furnished to the residents of the City of the purpose of street lighting.

Mr. Cornell stated last week at the June 21<sup>st</sup> work session, Mr. John Weithofer talked to Council about the pending street light negotiations that are to occur in the region. He explained this is an effort that includes a consortium of approximately 16 to 17 communities, and as part of that consortium, Mr. Weithofer asked if the City would participate in the next negotiation process. Mr. Cornell said he provided Council with the summary of the key components of Mr. Weithofer’s discussion last week, but what is intended to be negotiated with this negotiation is a series of consideration that will lower rates for the communities in regards to street lights. He stated even though the City’s contract ends in 2012, he felt by participating in this it will ultimately impact what the City pays for street lights. Mr. Cornell explained as part of this negotiation process, they are requesting that one Greene County City Manager participate in the negotiation as part of a consortium of five City Managers, and the request came his way. He said at last week’s work session, Council did endorse that participation.

Councilmember Howard stated she noticed in the packet, the City can join a consortium not only for the purpose of electricity but for gas. She said at this time, the City is just looking at electric rates. Mr. Cornell stated that was correct. Councilmember Howard asked if that was something that the City may look at in the future. Mr. Cornell said he believed so because with the tight budgets the cost-savings are going to become more important.

Councilmember Wallace wanted to make sure the citizens understood they chose Mr. Cornell to represent Greene County, and felt it was a fantastic move on the City’s part to participate in the consortium to save money for the citizens.

Vice Mayor Jarvis asked for clarification if it was a 16 or 17 size consortium or a five or six size consortium. Mr. Cornell explained the negotiating team is five City Managers, and the consortium is made up of 16 or 17 cities.

Councilmember Vann questioned how many street lights the City owns and how many are covered by this process. Mr. Beach explained there are 425 poles under DP&L’s contract and the City owns 522 poles and fixtures that are metered. He said it is a mixture of poles, owned poles, not owned poles, assessed and not assessed poles.

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There was a discussion between Mr. Beach and Councilmember Vann on energy efficient lights.

Councilmember Howard MOVED to approve Ordinance 10-10 and to send it to second and third reading, seconded by Councilmember Petrak. Motion PASSED by unanimous voice vote.

#### Resolution 10-22 Safety Grant Application

Clerk Gillaugh read a Resolution authorizing the submittal of an application for funding through the Ohio Department of Public Safety, Ohio Traffic Safety Office, for Indian Ripple Road Safety Study Project.

Mr. Moorman stated the Ohio Traffic Safety Office administers a grant program where they provide funding to local jurisdictions to conduct traffic safety studies on various roadways across the state. He explained the purpose of the program is both safety and traffic flow. Mr. Moorman said the grant application is for the Indian Ripple Road Corridor between County Line Road and Sylvania Drive, and explained the components of the traffic study would consist of the review of the crash reports, traffic counts, some modeling to look at the existing traffic flows, the existing signal timings, and they will come up with recommendations to improve the traffic flow. He stated the estimated cost is \$20,000, and the grant will pay 100% of the cost.

Councilmember Petrak asked if the City knows or thinks there is a problem in that area. Mr. Moorman said it is a high density area, and has a high crash rating.

Councilmember Vann explained the traffic problems with the area she experiences daily. Mr. Moorman stated the final report is going to be in the format so the City can go ahead and submit for safety funding with the Ohio Department of Transportation.

Councilmember Petrak MOVED to approve Resolution 10-22, seconded by Councilmember Wallace. Motion PASSED by unanimous voice vote.

#### Resolution 10-23 Authorizing the City Manager to sign an agreement with Beaver Creek Township regarding the Factory Road Project

Clerk Gillaugh read a Resolution to authorize the City Manager to enter into an agreement with Beaver Creek Township for cooperation in the improvement of Factory Road at U.S. Route 35.

Mr. Beach stated this is a cooperation agreement for a project that is going to occur on Factory Road this summer/fall. He explained Beaver Creek Township with cooperation of Greene County Engineer had applied for Issue 2 Funds, and they received those as well as some points during the selection process because it was a multi-jurisdictional

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process. Mr. Beach said the cooperation agreement gives them permission to enter into the City and perform some modifications on Factory Road north of U.S. 35, as well as, signal modifications. He explained the project extends to the south of U.S. 35 also, and they will be able to raise the dip that is just south of Alpha Bellbrook Road. Mr. Beach stated there are a number of safety issues that will be achieved by this road improvement.

Mayor Hadley stated the portion of Factory Road that is south of U.S. 35 is the part that always floods. Mr. Beach stated unfortunately this road improvement will not fix the flooding problems.

Councilmember Wallace requested that the City work with the people in charge of the TEPPCO line since it runs through that location. Mr. Beach stated they are on the notification list, and he explained where the line is located in relationship to the project.

Vice Mayor Jarvis questioned what the time frame was of the project and when it was going to begin. Mr. Beach stated the project should be approximately 30 days to 45 days. He explained the plans have been completed, and the Township is at the phase where they have to ask some adjoining property owners for a five-foot strip of land.

Vice Mayor Jarvis referred to Section 1 Number 5, and asked what the process was if the Township was unable to acquire the easements. Mr. Cornell stated in that provision there is the ability for the City agreeing with the Township to participate in the acquisition, and the language used is eminent domain powers. He explained if the Township has a difficult time of obtaining the easements, then the Township can ask the City to participate. Mr. Cornell said the eminent domain process is something that may take a substantial amount of time. Mr. Beach said the only reason they would have to acquire right-of-way would be if the Township is unsuccessful for an area that is in the City. He explained the corporation line is 30-foot from the centerline of Factory Road, and the vast majority of the acquisitions are in the Township. Mr. McHugh said road projects are a lengthy process, but once Council adopts legislation and the City deposits the money, the City has immediate right to take the property even though it may be months or years that the value of the property will be set based upon a jury. He explained it will not delay the road work. Mr. Beach stated the Township is sending the 30 day advance notice letters, and the project should not be delayed from being completed this fall.

Councilmember Vann questioned if Yellow Brick Road would not be aligned with Alpha Bellbrook Road. Mr. Beach stated it would not be because there were not enough funds available and it would be approximately an additional \$300,000. Councilmember Vann asked how this project will blend with the proposed U.S. 35 Interchange project. Mr. Beach explained very little will be affected because it will stay in its current location.

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Councilmember Vann stated there is a significant amount of traffic at Factory Road and Alpha Bellbrook Road, and she believed eventually there will have to be a stop light. Mr. Beach said those are both Township roads, and are outside the City's jurisdiction to put traffic signals in or control them.

Mayor Hadley asked what the time period was. Mr. Beach stated because they are still acquiring right-of-way there is no start date yet, but it is anticipated to be a 45 day project at most.

Vice Mayor Jarvis MOVED to approve Resolution 10-23, seconded by Councilmember Giambrone. Motion PASSED by unanimous voice vote.

Resolution 10-24 Authorizing the City Manager to sign a Memorandum of Understanding for the Beavercreek/Fairborn Victim Witness Program  
Clerk Gillaugh read a Resolution authorizing the City Manager to execute a Memorandum of Understanding (MOU), between the City of Fairborn and the City of Beavercreek for the Fairborn/Beavercreek Victim Assistance Program to provide direct services to all misdemeanor crime victims and witnesses in the Fairborn Municipal Court Jurisdiction in Greene County.

Captain Sampson stated the resolution tonight will authorize the City Manager to enter into a MOU with the City of Fairborn or the Fairborn/Beavercreek Victim Assistance Program to continue to provide services to misdemeanor crime victims and witnesses through the Fairborn Municipal Court, which court also serves the City of Beavercreek. He said the victim advocate provides 24-hour crisis intervention, court escorts, and information to a victim or a witness regarding their case status. They also provide referrals, emotional support, counseling, and assistance with victim compensation in the criminal justification advocacy program. Captain Sampson explained this has been a program and service that the City of Beavercreek has received since 1991, however, it has been recommended at this point that a MOU be entered into defining the services and the cost associated with those services. He said the cost associated with this program annually is the same that has been in place for approximately the last ten years, which is approximately \$24,000.

Councilmember Petrak said this is for the Fairborn Court, and questioned where the Sheriff takes their cases. Captain Sampson said Beavercreek Township Sheriff's cases go through the Fairborn Municipal Court. He stated the MOU they are requesting would be for only the cases that are filed through the City of Beavercreek.

Councilmember Giambrone asked how the cost is calculated. She questioned if it was based on the number of cases Beavercreek has, and where the amount of \$24,000 comes from. Kim Seubert stated their services are provided through the municipal court,

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but they are not part of the court. She explained her and Chief Turner sat down and discussed the amount, and explained when Steve Stapleton was the City Manager he asked her what was the amount they need to keep the program going which is how they generated the figures. Ms. Seubert said in regards to cases, she provides services to so many people that do not get a case because the offender may never be apprehended. She said the \$24,000 provides two advocates on call, and explained when a person calls, she has never asked he/she is calling from. She said when she has provided Council with statistics before she used the actual number of cases that come through court. She said her and Chief Turner discussed the services, and determined the \$24,000 was a good amount for the services that are provided.

Councilmember Giambrone stated it is a wonderful service and is greatly needed, but Council has had multiple conversations about paying a fair share and how the money is calculated. Ms. Seubert stated their total operating budget is only \$127,000, which covers two full-time salaries and only \$4900 is set aside for program cost. Councilmember Giambrone felt with Beavercreek providing \$24,000 of the \$127,000 it seemed reasonable to her. She asked if they receive any grant funds. Ms. Seubert said she does receive several grants, and they were one of the first misdemeanor programs to be funded by the state for misdemeanor services. Councilmember Giambrone asked if they take in as much as they spend. Mr. Seubert stated they do, and there is no carry over.

Councilmember Wallace asked out of the \$127,000 what Fairborn was going to be paying. Ms. Seubert stated Fairborn pays approximately \$38,000 to \$42,000 annually.

Councilmember Vann asked if Mr. Cornell knew if the City of Fairborn was comfortable with the program. Mr. Cornell said the two Chiefs have spoken often regarding this topic.

Councilmember Giambrone MOVED to approve Resolution 10-24, seconded by Councilmember Vann. Motion PASSED by unanimous voice vote.

Resolution 10-25 Appointing the Clerk of Council and Setting the Salary

Clerk Gillaugh read a Resolution appointing Dianne Lampton as the City of Beavercreek Clerk of Council and setting the salary.

Councilmember Petrak MOVED to approve Resolution 10-25, seconded by Vice Mayor Jarvis. Motion PASSED by unanimous voice vote.

#### DECISION ITEMS

Boards and Commissions Investment Committee and Youth Development Committee Appointments

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Investment Committee (2 Vacancies)  
3 Year Term

Councilmember Vann nominated John Marrinan. Councilmember Giambrone nominated William Johnson.

Councilmember Howard MOVED to close nominations, seconded by Councilmember Petrak. Motion PASSED by unanimous voice vote.

Vote by show of hands was William Johnson 6, John Marrinan 1.

Councilmember Giambrone MOVED to appoint William Johnson to Investment Committee for the term July 1, 2010 through June 30, 2013, seconded by Councilmember Vann. Motion PASSED by unanimous voice vote.

2 Year Term

Councilmember Vann nominated John Marrinan.

Councilmember Giambrone MOVED to close nominations, seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

Vote by show of hands was John Marrinan 7.

Councilmember Vann MOVED to appoint John Marrinan to Investment Committee for the term July 1, 2010 through June 30, 2012, seconded by Councilmember Giambrone. Motion PASSED by unanimous voice vote.

Youth Development Committee (Unlimited Number of Senior Members)

Councilmember Giambrone nominated Joseph Veneziano. Councilmember Wallace nominated John Langenderfer.

Councilmember Petrak MOVED to close nominations, seconded by Councilmember Giambrone. Motion PASSED by unanimous voice vote.

Vote by show of hands was Joseph Veneziano 7, John Langenderfer 7.

Councilmember Vann MOVED to appoint Joseph Veneziano and John Langenderfer to Youth Development Committee for the term July 1, 2010 through June 30, 2012, seconded by Councilmember Howard. Motion PASSED by unanimous voice vote.

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#### CITY MANAGER'S REPORT

Mr. Cornell stated the June 2010 City of Beavercreek Employee of the Month is Kenny Boyd. Mr. Cornell explained he is the Building Attendant.

Mr. Cornell said he spent a lot of time this weekend volunteering at the John Ankeney soccer complex for the Region II tournament. He stated it was phenomenally ran and operated, and the preparation truly showed the success of the tournament. Mr. Cornell explained today was the last of the three very active days as it relates to still having all the teams involved. The semi-finals are being held on Tuesday and the finals will be held on Wednesday.

Mayor Hadley stated all the reports he has heard have been excellent, and it was well managed and performed.

Councilmember Wallace said the spectators could not believe Beavercreek, Ohio had such a nice facility that was like a pro soccer facility. She thought the City received national attention, and believed they would look at the facility to hold more events nationally.

Councilmember Howard thanked the workers in the streets and parks department for all their hard work in preparing for the tournament and making it a successful event. She stated the banner was very professional and looked great.

Mr. Cornell asked Mr. Moorman to give a status report on the Dayton-Xenia Road Project. Mr. Moorman thanked everyone for their patients when driving through the construction zone. He explained the contractor has elected to commit the manpower to the project to meet the contractual deadline but not much sooner at this point. The contractual completion date for the project is September 7, 2010, and after that date the City can start assessing damages to the contractor and they will start paying a penalty back to the City. Mr. Moorman reviewed the major work items that have been completed, and the major work items remaining.

Councilmember Giambone asked if this is a contractor the City will use again. Mr. Moorman stated a lot of times the City doesn't have a choice because it is based on the lowest bidder.

Vice Mayor Jarvis questioned if this wasn't a case of the lowest and best bidder or if it was the lowest bid that the City has to comply with. Mr. Moorman stated with the federal and state money, the City has to follow their rules with the lowest and best bidder. There was a discussion regarding the language of lowest and best bidder between Mr.

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McHugh, Mr. Moorman and Vice Mayor Jarvis, and Mr. Moorman stated ODOT pre-qualifies contractors so the City is not able to choose.

Councilmember Wallace asked if the City has money in the budget to go in and fix the rough spots if the work was contracted out. Mr. Moorman stated the money would come from the project money itself. Mayor Hadley said the City would not pay over the 7%. Mr. Moorman said that was correct. Mayor Hadley stated we would not be spending money out of our budget for it.

#### MAYOR'S REPORT

Mayor Hadley announced the City was recognized and thanked at Tattoo last Friday for their contribution.

Mayor Hadley extended his condolences to two families, the families of Scott Brogli and Sean Williams.

#### COUNCIL TIME

Councilmember Giambrone stated she attended Tattoo, and it is a free event and there were an estimated 70,000 people there. She said they got to witness an 88 year old man who flew 39 missions in 1944 receive his medal that he had never received, approximately 50 young men get sworn in the Air Force, and some veterans of the Korean War. Councilmember Giambrone stated everyone in Beavercreek should be very proud of the investment the City made.

Councilmember Giambrone thanked Melissa Gillaugh for serving in the role of Clerk as Council went through the process of hiring a clerk.

Councilmember Vann stated there was a grand opening for a new restaurant, Cherry House Café, 1241 Meadow Bridge Drive.

Councilmember Wallace agreed with Councilmember Giambrone on her comments about Tattoo.

Vice Mayor Jarvis stated it was a big week for the Parks Department. He stated the City had their first movie at Rotary Park on Friday, *Madagascar 2*. Vice Mayor Jarvis said Saturday the City held its Fishing Derby, and believed it was very successful. He stated the City held its annual picnic on Friday, June 25<sup>th</sup> and said the food was good and he enjoyed the Cornhole tournament.

Councilmember Petrak agreed with Councilmember Giambrone regarding Tattoo and complimented everyone on the great work for the soccer tournament. He thanked Melissa Gillaugh for everything she has done.

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Councilmember Howard thanked Mrs. Gillaugh and said she has done an incredible job and has been very efficient with all of Council's information.

**EXECUTIVE SESSION**

Councilmember Petrak MOVED to enter into Executive Session at 7:13 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of consideration of the employment of a public employee, seconded by Councilmember Howard. Motion PASSED by a roll call vote of 7-0.

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

Councilmember Wallace MOVED to adjourn the meeting at 7:37 p.m. seconded by Vice Mayor Jarvis. Motion PASSED by unanimous voice vote.

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Mayor Hadley

ATTEST:

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Deputy Clerk  
cmin062810