

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

Proclamation presented to Denny Morrison upon his retirement

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

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

Mrs. Howard led the pledge and a moment of silence.

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

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

Mr. Hadley MOVED to untable the minutes for June 22, 2009, seconded by Mrs.
Howard the Motion PASSED by unanimous voice vote.

Mr. Hadley MOVED to approve the corrected minutes for June 22, 2009,
seconded by Mrs. Howard the Motion PASSED by majority voice vote (Jarvis and
Petrak abstained).

Mrs. Howard MOVED to approve the minutes for July 20, 2009, seconded by Mr.
Jarvis the Motion PASSED by majority voice vote (Petrak abstained).

ORDINANCE, RESOLUTIONS AND PUDS

Ordinance 09-21 Zoning Code (Third Reading)

Clerk Bucheit read an Ordinance repealing existing Chapter 158, Zoning Code,
and Adopting new Chapter 158, Zoning Code, of the Beavecreek Code of
Ordinances.

Mr. McGrath stated that this process took about two years from the time staff
started to review the Zoning Code, including Planning Commission six to seven
months of additional monthly meetings and public hearings which were attended
by the Board of Zoning for their input. Staff made a lot of changes from
complaints that were heard on a daily basis through the Planning Department.

Mrs. Howard thanked the Planning Staff for all the work they put into revising the
Zoning Code.

Mr. Hadley stated this is the most thorough review in the 29 years of the City.

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

Mrs. Howard MOVED to approve Ordinance 09-21 seconded by Mr. Hadley it
was approved by unanimous voice vote.

Ordinance 09-23 Amending Ordinance 08-08 Youth Development Committee
(Second Reading)

Clerk Bucheit read an Ordinance amending Ordinance No. 08-08 by amending
the number of senior members of the Youth Development Committee and to
expand those youths who may participate in the Youth Council.

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

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This Ordinance moves automatically to the Third Reading.

Resolution 09-29 Approval of Agreement to Appoint Director of Public Works
Clerk Bucheit read a Resolution authorizing the City Manager to enter into an employment agreement with David Beach the Director of Public Works/City Engineer.

Mr. Kucera said that Mr. Beach put in his retirement papers for July 31st after 18.5 years. He and his staff have made significant improvement in the Capital Improvement Funding. Since he began in 1997 he and his staff have gotten 55 million in grant funding, 47% of that has been received in the last two years and there are 18 grants still in the works for funding. If Mr. Beach were to leave right now there would be a great void in the Public Works and Engineering especially with these difficult economic times when grant money is available and we need to accelerate that process to receive as much as we can. They sat down and spoke with Mr. Beach and asked him to stay and he was most gracious and said he would. This is the new employment agreement that was negotiated if approved will be effective August 4th. He will come back as a new employee and his benefits will be greatly reduced because of changes in the new Employee Manual that were approved in April.

Mrs. Howard thanked Mr. Beach as a representative on MVRPC because she knows that his applications when filed are in good standing and have met the criteria that they are looking for which are racked and stacked with applications from 13 other counties which takes a lot of skill and experience.

Vice Mayor Giambrone is glad that Mr. Beach is willing to accept the offer but she wants to be sure that the City is planning for succession for the future so that they grow talent that can step into these positions. She was looking for return on investment because this is a tricky situation and people get concerned and want to be sure that they are looking at all the issues. She believes that Mr. Beach is a great return on investment especially with 26 million in grants with a 10% match. Vice Mayor Giambrone does not feel they are setting a significant precedent, this is a unique situation where you have someone that is so extremely valuable. Mr. Beach will return as a new employee with reduced benefits. This is not a precedent, it is done on a case by case basis and the analysis was very well done.

Mr. Hadley said he had attended a MVRPC meeting where they were discussing to reestablish the criteria under which the grants were awarded because they felt that Beaver Creek was being favored. He does not believe that Beaver Creek was favored but that Mr. Beach loved bringing back the money for Beaver Creek to spend on things that are needed here. He felt that it was very worthwhile to keep him on board because he has been very successful.

Mr. Petrak stated that he has been associated with City Council as long as Mr. Beach has been with the City and his work has always been very professional and he has always been very committed and dedicated to the City of Beaver Creek.

Mayor Vann stated that she appreciated everything that Mr. Beach had done for the City but felt that the retirement system is meant for those retiring and had a difficult time accepting double dipping.

Mr. Hadley MOVED to approve Resolution 09-29 seconded by Mr. Petrak it was approved by majority voice vote (Vann opposed).

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Ordinance 09-24 Levying Special Assessments for Phase II at the Greene and Declaring an emergency (First Reading)

Clerk Bucheit read an Ordinance levying special assessments for the improvement of East Stroop Road, Dorothy Lane, County Line Road, Indian Ripple Road, the interchange of Interstate Highway 675 and Indian Ripple Road, and extensions of other public roads and streets, including necessary storm water, sanitary sewer and water facilities, traffic signalization and other necessary appurtenances and declaring an emergency.

Mr. McHugh stated that this ordinance declares an emergency and is the final step in the process which follows the petition, resolution of necessity and the ordinance to proceed. The costs were not received by the City Engineer in time to make the State deadline which is controlled by Statute. He stated that they were requesting an emergency to be called at the third reading in order to make the deadline so that it does not have to wait another year for repayment.

There being no public input the Public Hearing was closed.

Mr. Jarvis MOVED to approve Ordinance 09-24 and send it to the second and third reading, seconded by Mr. Petrak it was approved by unanimous voice vote.

Ordinance 09-25 Supplemental Appropriation

Clerk Bucheit read to make Supplemental Appropriations for the fiscal year beginning January 1, 2009, and ending December 31, 2009, and to amend Ordinance 08-50, 09-02 and 09-06.

Mr. Beach stated this supplement is for several items, one being the 202 Fund for the Police to cover substantial increased costs for Court; it is also for the 204 Fund for Street Maintenance for an Issue II Grant the County was applying for on National Road, our share being 16% of the costs or 14,936. Then in the 205 Fund the request is for \$10,000 to repair a guardrail caused by an accident while we collect the money from the insurance company.

Mrs. Howard asked the Chief what has escalated the costs. Chief Turner stated that they are billed by the City of Fairborn in arrears on the percentage of cases and the first bill they got for this year was for the 4th quarter of 2008 and it was \$63,000 which was normally between \$20,000 and \$40,000 a quarter and the first quarter of this year was \$67,000, and he did not anticipate that kind of increase. Mr. Kucera contacted Fairborn to see if there were additional costs that they were charging us for and found that we were up about 141 cases from last year and Fairborn's cases are down this year alone 1722 cases. This includes tickets, civil cases, and criminal charges which is a dramatic change for Fairborn. The OSP, Beaver Creek, Sheriff's Office and Fairborn all pay by percentages and if Fairborn's percentage is down the rest of us are paying more.

Vice Mayor Giambrone stated that everyone was having to do more with less and wanted to know since the case load is down and revenue is down if they were also trying to cut expenses. She would like more information from Fairborn on the expenses and the operational expenses are being allocated because if Fairborn's case load goes back up now to what it was, we have been greatly over charged.

Vice Mayor Giambrone made a MOTION to have the City Manager and Mr. Kucera to look into the billing by the Fairborn Court, seconded by Mr. Hadley it was approved by unanimous voice vote.

Mrs. Howard MOVED to approve Ordinance 09-25 seconded by Mr. Petrak it was approved by roll call vote of 6 to 0.

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Ordinance 09-26 Chapter 159: Illicit Discharge and Illegal Storm Sewer System Connection (First Reading)

Clerk Bucheit read an Ordinance adopting Chapter 159 Illicit Discharge and Illegal Storm Sewer System connection control to the Beaver creek Code of Ordinances.

Mr. Moorman stated that there were several reasons why this illicit discharge and illegal storm sewer connections ordinance is needed. First of all the city is required to obtain a permit from Ohio EPA for the discharge of storm water every year and part of the condition of the permit is that we have an ordinance of this type on the books. The Ohio Administrative Code also requires this ordinance and to avoid any kind of formal enforcement action by Ohio EPA we are required to have this ordinance.

The Ordinance is required to have three key items; we must prohibit illicit discharge and illegal connections, establish a storm water monitoring program and to provide for the enforcement of the ordinance. Mr. Moorman stated that if a violation is observed a notice is sent to the owner of the violation and what steps they need to take to remedy the situation. If the owner does not take action then there is an administrative hearing with the Planning Commission to discuss reasons for noncompliance and try to bring them into compliance. If all else fails it will go to the Greene County Health Department to file a petition with Greene County Court to force compliance with the ordinance.

Mr. Hadley found three grammatical changes that needed to be made, the first is on page 2 (E) second line change order of "the and", pg 4 (12) paints should be paints and pg 5 (3) remove the second "or" on first line.

Mayor Vann asked how the public education was going to be handled. Mr. Moorman stated that in the past they have handed out brochures at the Popcorn Festival and they are planning to add a web page to make citizens aware and who to contact if they see someone dumping illegal substances in the water system.

Mr. Hadley MOVED to approve Ordinance 09-26 and send it to the second and third reading, seconded by Mrs. Howard it was approved by unanimous voice vote.

LIQUOR PERMITS

OSAKA LLC – New D5i

Chief Turner stated the Ohio Division of Liquor Control sent police notification of a request for a records check on an applicant applying for a new liquor permit. The applicant Yan C. Lin is applying for a D5i liquor permit for OSAKA LLC, DBA OSAKA 2476 Commons Blvd Suite G Beaver creek, OH, no criminal records were found with this agency or in the State of Ohio.

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

CITY MANAGER'S REPORT

Mr. Kucera stated that the U.S. 35 Ramp Closure Meeting will be held on August 27, 2009 at Carroll High School from 4 to 7 p.m. Mr. Beach stated the project adds a new lane from Smithville Road to I675. As part of the study for the U.S. 35 project Montgomery County and District 7 had to reevaluate every interchange within the project limits. They are going to be rebuilding the Smithville and Woodman interchanges and had to look at our ramps at Linden Avenue and Dayton Xenia Rd to see if they met their current criteria. The preferred alternate plans shows removing those two ramps, but there are other

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alternatives and citizens need to show up and voice their opinions if they want to keep the ramps open.

Vice Mayor Giambrone MOVED to draft a Resolution against the closing of the Linden Avenue and Dayton Xenia ramps, seconded by Mr. Petrak it was approved by unanimous voice vote.

Mr. Thonnerieux stated that there will be a Movie in the Park on July 31st at Dominic Lofino Park at dark. There is also a free Summer Concert Series on Sundays at 7:00 p.m. also at Dominic Lofino Park through August 23rd.

MAYOR'S REPORT

Mayor Vann stated that she had received a letter from a citizen that wanted the beaver displayed at a more prominent place at the Golf Course.

Mr. Hadley stated that he had receive a letter from the Valley Elementary neighborhood thanking the City for getting the Jonathan Drive Light regulated and it was signed by twenty three neighbors.

Mr. Hadley stated that he went over and helped with the parks project at Hunters Ridge that were being done by the Church of the Nazarene in the rain and there were 40 to 45 people who had volunteered and were truly having a good time and doing great things for the City.

Mrs. Howard wished her daughter Ashley a Happy 13th Birthday.

Mrs. Howard MOVED to adjourn the meeting at 7:32 seconded by Vice Mayor Giambrone. The motion PASSED by unanimous voice vote.

Mayor Vann

ATTEST:

Clerk
Cmin072709