

## MINUTES

### REGULAR MEETING OF COUNCIL

OCTOBER 26, 2009

#### Call to Order

Mayor Ronald A. D'Epifanio called the Regular Meeting of Council to order at 7:00 p.m. at the Fairfield Municipal Building, 5350 Pleasant Avenue.

#### Prayer/Pledge

Councilmember Rhodus led in prayer followed by the Pledge of Allegiance.

#### Roll Call

Clerk Johns called the roll of Council. Present members were Councilmember Abbott, Councilmember Rhodus, Councilmember Meyers, Councilmember Judd, Councilmember Snyder, Councilmember Senger, and Councilmember Oler.

#### Agenda Modifications

No modifications were made to the agenda.

#### Executive Session Requests

Councilmember Judd, seconded by Councilmember Oler moved to approve an executive session to discuss pending and imminent litigation. A roll call vote was taken by the Clerk. Motion Carried 7-0.

#### Special Presentations and Citizen Comments

Mayor D'Epifanio recognized Coach Brinker and the 8th Grade Football Team for their undefeated season.

#### Public Hearing(s)

#### Rezoning of part lot 354 for Creekside Manor Planned Unit Development

Clerk Johns called the roll of the Planning Commission. Present members: Jerry Dailey, Dan Murray, Deborah Rhees, Jeff Holtegel, Don Hassler and Councilmember Terry Senger. Planning Commission member Scott Lepsky was absent. Clerk Johns read the public hearing notice as published on Tuesday, October 13, 2009. Development Services Director Tim Bachman commented the name of the project is Creekside Manor and the proposed zone change is a Planned Unit Development, the existing zoning on the property is R-0 residential. He further explained R-0 allows for a minimum lot size of 14,000 square foot and the proposed project is around 7,000. Mr. Bachman gave a brief overview of the property and the surrounding area, noting the property is approximately 11 acres in totality. He further commented on a section of the property that is not developable due to being in the flood zone. Mr. Bachman showed the elevations and floor plans from the brochure. He explained the remaining schedule and process for this project. Dave McFarland of McFarland Properties stated these are not condominiums or landominiums; they will be fully deeded detached single family homes. He explained the proposal is for 16 single family homes on 5.1 acres. He further explained these homes are being geared toward active seniors known as single income no kids and dual income no kids. Mr. McFarland discussed if you follow existing zoning laws in place now the density cannot exceed 3.63 dwellings per acre, and his usage would be about 3.11 units per acre. He explained the reason he is asking for the PUD is to waive a 90 foot frontage minimum that is the current R-0 zoning and front yard and rear yard setbacks. He commented the lots are smaller, but the density of units per acre is below what is allowed in that zoning. Mr. McFarland explained according to the Butler County Engineer's Office and the US Census Bureau an empty nester has about 1.5 cars and makes about three trips per day, which is 4.5 trips per day times 16 homes, is about 72 trips per day. However, if someone purchased the entire property of 11 acres, the current zoning could allow 39 homes based on density, but with the creek would probably be only about 22 homes. He stated with these homes being geared toward families there could be up to 220 trips per day. He commented if the property was to go for sale in the open market, what would keep someone from coming in and building cheap homes. Mr. McFarland explained Planning Commission and Council have control with approval of architectural homes. He discussed property values in Rolling Hills and the starting price of his homes. He briefly discussed the types and quality of homes. Mr. Dailey stated comments would be reserved for the Planning Commission Meeting.

Councilmember Meyers recused himself from the discussion and readings tonight at 7:24 PM because he is on the Rolling Hills board.

Mr. McFarland clarified the difference between condominiums, landominiums and his proposed homes. Pam Lerer, 5446 Kingsbury Road, discussed her experience as a member of the original Charter Commission in 1978 and the focus on the zoning for commercial and residential properties. She further explained back in 1979 people did not want residential neighborhoods changed and she does not think that is any different today. Walter Jackson, 5699 Genevieve, discussed his experience with owning a condo in the Fairfield area. Mr. Jackson stated he has found from experience the rules that would apply to this area are set mostly by the developer and the condo fees are also established in most cases by the developer. He explained the fees are set low and the rules are very loose and impossible to enforce. Mr. Davis explained his problems with the enforcement of the condo rules. He asked that City Council work with the Swim Club to find an alternative use for that land that will benefit Fairfield as a whole. George Liles, 845 Story expressed his opposition to the high density rezoning because he feels it will be of no benefit to the pool to have no direct income from the neighborhood except for memberships. He commented that the pool will not be able to sustain itself and they will be stuck with a high density area that will eventually be turned into a larger high density area. He commented that pool members do not have a long term commitment to the neighborhood like all of the people here tonight. Gail Suiter, 5602 Kingsbury Road, stated she has lived there for over 35 years and the thing that attracted them to Rolling Hills was the nice size homes and lots. She further stated it troubles her if that is going to change. She commented it will directly affect the character of the neighborhood and asked that the zoning change not be supported. Sue Grimes, 14 West Knoll Court, expressed her concern for the future of the Rolling Hills Swim Club since she and her family are residents of the Rolling Hills neighborhood and her children swim on the Rolling Hills Swim Team. She voiced her support for the zoning change. She stated a community pool is an amenity many new subdivisions offer, but it is hard to find an established neighborhood like ours with a variety of houses and designs. She further stated the housing demand for empty nesters will increase as the population ages and the proposed single family ranches on slightly smaller lots will appeal to that demographic. She further commented she does not feel that these homes will be in direct competition with those that have existing homes if they are trying to sell their homes explaining the upscale ranches with low property maintenance requirements will also be slightly above the current sale price in Rolling Hills. She stated her support for the zoning change. Gene Smith, 5647 Kingsbury Road, 45 year resident and member of Rolling Hills Swim Club stated if the Swim Club finds it necessary to sell property to a developer for financial reasons he would have no objection provided the developer followed the R-0 zoning code. Mr. Smith discussed the R-0 zoning requirements and he commented it will not be fair to existing homeowners to change the zoning to PUD when the vast majority of the existing lots have been sold, developed and lived in for many years with the R-0 zoning. Mr. Smith commented once the zoning has changed many more units could follow on the rest of the property. He recommended that this request for zoning change be rejected as there is no compelling reason to change it. David Clinton, 5 Wilhelm Court, Fairfield resident since 1974, stated he noticed on the plan metrics that there is no evidence of existing residences around the project and the no indication of the immediate effect of the existing residence buffer plans to separate the project from the larger existing homes. He questioned the quality of the housing stock, the back elevations, and roof cuts. Mr. Clinton stated there could be more density in here; there is probably room for four more homes with a proper redesign. He further commented the demographic for purchasers of these homes will be local, possibly aging current Rolling Hills residents. He commented an advantage to a neighborhood like this is it creates an additional tax base for the school district without contributing children to the school district. Mr. Clinton stated quality should be a deciding value. Tom Covert, 2096 Harrowgate Hill Lane, discussed the flooding that occurred when he was a resident on King Arthur Court and he questioned the flooding issues that may be created by this project. He further questioned the lack of a retention basin. He further questioned how empty nesters would feel about swim meets and pool parties because he lives up the hill and he can hear everything from his yard. Ernie Slaughter, 5637 Chatfield Drive, commented his property goes from Chatfield Drive to the access of the condominiums. He commented he has been there 28 years and he does not think it is right for a pool to use properties to affect us. He further commented his house will lose its value. He stated there are no provisions for the property line. He further stated he does not think it is right for high density housing to affect his property and others and for the pool's financial situation to penalize homeowners. Bobby Thomas, 5636 Kingsbury Road, commented he has been in Rolling Hills since 1971, a former member of the Swim Team, but this deal being proposed does not put a half million dollars in the pool's pocket. He asked what will happen five years down the road and how the pool will stay open. Marc Ragan, 1844 Gloucester, commented that the current pool business model is unsustainable. He further commented the pool property is a high value property that is exploitable and there are ways of exploiting that property to raise the overall property value without using that value to fix a business model that is fundamentally unsustainable. He asked Council to consider that this business model is broken and exploiting a valuable property to fix a broken business model is not in the long term interests of maintaining the overall high value property value of Rolling Hills. Steve Barrett, 1605 Parliament Court, discussed some of the other developments in this community that are unfinished including Emerald Lake, Fairview Hills on Mack Road, Lunsford Estates, and Olde Winton. He asked if we need to rezone to try to build more of something we don't need. Mr. Barrett questioned the occupancy rate of existing condos in this community including how many have been repossessed, how many are in foreclosure and how many are vacant. He questioned the demand of high density housing. Mr. Barrett

commented if the pool fails, the precedent is set for more high density housing. Marilyn Ruwe, 5626 Kingsbury Road, stated she compares Rolling Hills with Highland Park in Hamilton, which is prettier today than it was when built in the 30's and 40's. Ms. Ruwe further stated we are probably middle age and senior here and as our property changes hands it can be made to look prettier. Gail Budkie, 5656 Kingsbury Road, commented many of residents are the original builders and owners of their home and have made this community and neighborhood what it is and they have also shaped Fairfield into what it is. Ms. Budkie discussed the many improvements in the community including the Aquatic Center. She commented on the proposed Spray Ground for the Aquatic Center and stated she doesn't know how the Swim Club can compete with the Aquatic Center. She asked that Zoning not be changed. Deb Liston, 7 Marcel Court, stated the upgrades and improvements Mr. McFarland is willing to do for our pool will give our pool a brand new life and it won't be gone in five years. She stated she does not want to leave Rolling Hills and these small homes would be attractive to many people who otherwise leave Fairfield and take their tax money with them. Ms. Liston further commented folks who live in the neighborhood or in the general facility will buy these homes and their homes will then be bought by other families and improved. She stated she also sees a great benefit to the Fairfield schools because of the property values that will increase. Larry Tischler, 1809 Gloucester Drive, commented Planning Commission and Council are here to represent their constituency and he commented he thinks the constituency is asking not to change the zoning law to keep the community the way it is. He stated the right thing for the community is to not change the zoning law and to allow this community to grow and flourish. John Wendt, 4 Hidden Hills Court, commented change is coming; Fairfield isn't the farming community that it used to be and plenty of other areas have been rezoned over the years so Fairfield clearly has a precedence of re-zoning land to either decrease density or increase it. He stated clearly one of the changes coming to the City of Fairfield is age, it is an older city now and the population is aging. He asked where do these empty nesters go. He clarified these are single family homes, not condominiums. Mr. Wendt commented only a couple have average sale prices above these. He also commented on the need for upper end housing. Mr. Wendt stated 80% of the members who live in Rolling Hills who are members of the Rolling Hills Swim Club voted in favor of this. Will Arledge, 2210 Rolling Hills Drive, discussed the lot size and the unit size. He expressed his concern with the possibility that additional homes could be added to the property. He discussed the property value for the proposed homes versus the current homes. Mr. Arledge commented he did not see how homes could be sold for \$250,000 in this economy. He further stated homes being proposed are not equal value homes. Mary Coon, 5689 Windemere, stated she loves the swim club and wants it to stay there. She encouraged looking at other options including fixing the working business method of membership for the club to perhaps boost the membership again. She commented she is an empty nester, but does not know that this is a guaranteed empty nester lot. She further commented on the proximity to the swim club which is high volume children. Jim Weickert, 5761 Windemere, commented 35+ years ago Council voted no regarding a zone change for an area from the corner of Gloucester to Resor and Pleasant for a strip mall and condominiums. Mr. Weickert further commented that is currently the Baptist Church at the Corner of Resor and Pleasant. He asked that Council stay with their master plan and not putting in spot zoning. Clare Schneider, 204 Hidden Hills Drive, President of the Rolling Hills Swim and Tennis Club, stated they are a business model constrained by nonprofit status and cannot profit from the sale of this property otherwise they are strapped with at 25% tax. She explained if this club goes under, the proceeds go to other nonprofit organizations in the area. She read from section 3.01 of the City's 20 Year Comprehensive Plan Draft on the agenda tonight regarding housing. She commented in this development, an empty nester community, they already have nine concrete names of people who want to purchase units out of sixteen. She noted five of those people are residents of the Rolling Hills subdivision. Ms. Schneider commented on the membership and accomplishments of the Rolling Hills Swim Club. She commented that the membership is increasing; the problem with the club is that it is a 46 year old infrastructure that needs immediate improvement as mandated by the Health department. She discussed the mortgage and needed capital improvements. Mayor D'Epifanio thanked everyone for the professional manner in which they presented themselves tonight. Per Ms. Schneider's request, Development Services Director Tim Bachman pointed out the retention or detention basins for stormwater management. He commented this will go to Planning Commission on Wednesday, October 28, 2009 at 6:00 p.m. The Public Hearing Closed at 8:42 p.m.

The meeting adjourned for a brief recess at 8:42 p.m.

The Regular Meeting reconvened and Councilmember Meyers returned to the meeting at 8:49 p.m.

#### Mayor/Council Reports

Councilmember Meyers commented on the TV program Hook and Look fishing show taped at Marsh Lake which will air in March of 2010.

Councilmember Snyder recognized Pastor David Phillips and his wife Shirley for over 60 years in ministering on October 18, 2009. Mayor D'Epifanio stated he attended the service and gave Pastor Phillips and his wife a proclamation.

Councilmember Judd commented this will be the last week for the scheduled brush pickups. He explained we will still have available year-round Operation Dump Truck for residents to use by calling the Public Works Department. He further commented Monday, November 2nd will be the beginning of the leaf pickup program.

Councilmember Senger announced on Saturday, November 7 at Waterworks Park will be the 5th Annual Lance Corporal Taylor Prazynski 5k run, walk and roll where all proceeds go to his memorial scholarship fund.

#### Approval of Minutes

The minutes from the Regular Meeting of October 13, 2009 were approved as written.

### **OLD BUSINESS**

#### **DEVELOPMENT SERVICES COMMITTEE**

Income Tax Administration Agreement: Councilmember Senger presented the third reading of an Ordinance to authorize the City Manager to enter into an Income Tax Administration Agreement with the West Chester Township JEDD-1 Joint Economic Development District and declaring an emergency. Councilmember Senger, seconded by Councilmember Abbott moved to Adopt. Motion Carried 7-0. ORDINANCE NO. 129-09 ADOPTED AS AN EMERGENCY 7-0.

Patterson Drive Redevelopment Easement Agreement: Councilmember Senger deferred third reading of this ordinance.

North Town Center Community Reinvestment Area: Councilmember Senger presented the third reading of an Ordinance implementing Sections 3735.65 through 3735.70 of the Ohio Revised Code, establishing and describing the boundaries of the North Town Center Community Reinvestment Area in the City of Fairfield, Ohio, designating a housing officer to administer the program, and creating a Community Investment Housing Council and a Tax Incentive Review Council. Councilmember Senger, seconded by Councilmember Rhodus moved to Adopt. Motion Carried 7-0. ORDINANCE NO. 130-09 ADOPTED 7-0.

Creekside Manor Planned Unit Development: Councilmember Senger deferred second reading pending Planning Commission's recommendation.

#### **PARKS & RECREATION & ENVIRONMENT COMMITTEE**

Aquatic Center Spray Ground Park: Councilmember Meyers presented the third reading an Ordinance to authorize the City Manager to enter into an agreement with Robert P. O'Brien Enterprises, Incorporated DBA Shamrock Enterprises for the construction of the Fairfield Aquatic Center Spray Ground. He commented that he has received assurances from Parks Director Jim Bell and the City Manager that prior to the opening of the pool that the heater will be fixed as part of a separate project. Councilmember Judd commented that he sees this more as a want than a need for the City and he thinks we have a lot of other ways that would much better serve the City right now. He explained we have asked the departments to tighten their belts for 2010, which they have done nicely and he does not see the need to spend what all they have saved on something we do not need at the Aquatic Center. Councilmember Meyers commented the Aquatic Center has about 40,000 guests/visitors per year. He explained it is a revenue source for the City and has a return on investment of less than ten years. Parks and Recreation Director Jim Bell explained approximately 90% of the season passes are purchased by residents of Fairfield; however, records are not kept of the daily visits. Councilmember Rhodus explained that the pool and the golf courses are enterprise funds, so the revenue generated in those are meant to stay in those funds. Councilmember Meyers, seconded by Councilmember Abbott moved to Adopt. Motion Carried 6-1. ORDINANCE NO. 131-09 ADOPTED 6-1, Councilmember Judd dissenting.

### **NEW BUSINESS**

#### **DEVELOPMENT SERVICES COMMITTEE**

20 Year Comprehensive Plan: Background: City Manager Pizzano explained that a Joint Public Hearing will be held on Monday, November 9 regarding the adoption of the updated comprehensive plan that is a 20 year look out. Legislative Action: Councilmember Senger, seconded by Councilmember Meyers moved to read the following ordinance by Title Only. Motion Carried

7-0. Councilmember Senger presented the first reading of an Ordinance to adopt the 20 Year Comprehensive Plan of the City of Fairfield, Ohio dated October, 2009 and include it as a part of the official comprehensive plan of the City of Fairfield, Ohio pursuant to §8.01(C)(2) of the Fairfield City Charter. Councilmember Senger scheduled the Joint Public Hearing on November 9th at 7:00 PM in the Council Chambers. Ordinance approved for first reading only.

#### **PUBLIC SAFETY COMMITTEE**

Liquor Permit: Motion requesting that no hearing be held on the liquor permit application in the name of VFW Post 1069 Campbell Gard DBA VFW Post 1069, 465 Patterson Blvd., Fairfield, OH 45014 (Permit Class: D4 and D6).

Councilmember Oler, seconded by Councilmember Meyers moved to request that no hearing be held on the liquor permit application in the name of VFW Post 1069 Campbell Gard DBA VFW Post 1069, 465 Patterson Blvd., Fairfield, OH 45014 (Permit Class: D4 and D6). Mayor D'Epifanio commented that they have moved to where the old post office used to be. Councilmember Senger commented that he is happy that we have a good tenant for that old building and the improvements will be very beneficial. Motion Carried 7-0.

Liquor Permit: Motion requesting that no hearing be held on the liquor permit application in the name of Ohio CVS Stores LLC DBA CVS Pharmacy 6080, 590 Nilles Rd, Fairfield, OH 45014 (Permit Class: C1).

Councilmember Oler, seconded by Councilmember Meyers moved to request that no hearing be held on the liquor permit application in the name of Ohio CVS Stores LLC DBA CVS Pharmacy 6080, 590 Nilles Rd, Fairfield, OH 45014 (Permit Class: C1). Motion Carried 7-0.

#### **FINANCE & BUDGET COMMITTEE**

Appropriation Ordinance (Non-Contractual Items): Background: City Manager Pizzano explained the following non-contractual appropriation: \$25,000 for Fire Department personal protective equipment and \$6,774 for emergency generators for traffic signals. Councilmember Abbott, seconded by Councilmember Meyers moved to read the following ordinance by title only. Motion Carried 7-0. Councilmember Abbott, seconded by Councilmember Oler moved to suspend the rules requiring three readings of the ordinance. Motion Carried 7-0. Councilmember Abbott, seconded by Councilmember Meyers moved to Adopt. Motion Carried 7-0. ORDINANCE NO. 132-09 ADOPTED 7-0.

#### Meeting Schedule

Monday, November 9	Council-Manager Briefing, 6 p.m.; Regular Meeting and Public Hearing, 7 p.m.
Monday, November 23	Council-Manager Briefing, 5 p.m.; Regular Meeting, 7 p.m.
Monday, December 7	Council-Manager Briefing, 5 p.m.; Regular Meeting, 7 p.m.

#### Executive Session of Council

Council recessed to Executive Session to discuss pending and imminent litigation at 9:04 p.m.

#### Adjournment

The Regular Meeting adjourned at 9:30 PM.

ATTEST:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
Mayor's Approval

Date Approved \_\_\_\_\_