

## MINUTES

### REGULAR MEETING OF COUNCIL

May 11, 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 Community Arts Center, 411 Wessel Drive.

#### Roll Call

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

#### Prayer & Pledge

Councilmember Judd led in prayer followed by the Pledge of Allegiance. Mayor D'Epifanio asked that everyone keep Fairfield Police Officer Rob Corner and Probation Officer Scott Zeller who have both been activated to Iraq as well as all of our heroes in harms way in their prayers.

#### Executive Session

Councilmember Judd, seconded by Councilmember Abbott, moved for an executive session to discuss pending and imminent litigation and purchase of real estate. A roll call vote was taken by the clerk. The executive session was approved by a 7-0 vote.

#### Public Hearings

Clerk Morsch called the roll of the Planning Commission. Present members were Jerry Daily, Jeff Holtegel, Diana Bailey, Scott Lepsky, Terry Senger, Don Hassler and Deborah Rhees.

#### Hearing No. 1

Clerk Morsch read the Joint Public Hearing notice for the proposed rezoning of Part Lot 170 from M-2, General Industry, to B-1, Office and Institution. The property in question is located directly south of United Auto Workers (UAW) Union Hall located at 1233 Symmes Road. Development Services Director Tim Bachman displayed a vicinity map and aerial of the area. He stated its current use is athletic fields and it was the open space for the UAW Hall directly north across the creek on Symmes Road at that location. He further stated with regard to the zoning that surrounds the property as mentioned in the hearing notice this is indeed M-2 Industrial. He explained directly to the west is C-3 zoning, which is a commercial zone. He pointed out an area of B-1 Office/Institution and that is the zoning classification being requested to allow for a church to be developed on the eight acre tract of property. Mr. Bachman discussed the schedule explaining the next step will be a Planning Commission Meeting on Wednesday, May 13, 2009 at 6 PM. Mr. Derek Orr, with Prudential Commercial Real Estate, representing the owners of the Union Hall, stated with him is David Clevenger of the UAW Hall and Wallace Miller, Bible Baptist Church. Mr. Orr explained the union has owned the property for roughly fifty years and the church is a tenant of the UAW Hall. Mr. Orr stated the UAW hall granted a ten foot right of way easement in front of their property as a concession to the City as well as a twenty feet right of way additional for the new parcel. Councilmember Meyers questioned if the proposal for an overpass, which is currently in the CIP around 2012 will be affected. Mr. Bachman stated there shouldn't be any problem with the execution of that particular Public Work project. Mr. Bachman explained part of what Mr. Orr was talking about is the additional right of way that was requested as part of the cut up. He further explained this lot currently is one piece; the UAW would like to cut off or sell off a portion. Mr. Bachman stated as part of the review of that cut up plat the city has asked for some additional right of way to accommodate the expansion of Symmes Road. Ray McDaniel, 249 Palm Springs Drive, asked where the church would be built. Mr. Clevenger explained topographical maps are still being considered, but he pointed out where as of right now the building would be located and stated the attempt is to keep the ball fields.

Hearing No. 2

Clerk Morsch read the Joint Public Hearing Notice for the proposed rezoning of Part Lot 12 for Brown's Tree Service from R-1 Residential and A-1 Agriculture, to Planned Unit Development. The property in question is located directly north of Oberson Nursery. Mr. Bachman displayed a vicinity map and aerial and briefly described the area. Mr. Bachman displayed and discussed the conceptual Planned Unit Development, the actual conceptual drawing of the particular property as submitted by Mr. Brown. He explained it is Mr. Brown's desire to keep the operation pretty much as it is with a few changes, including the relocation of the driveway, he would like to keep his area for unloading of woodchips in the front part of the property, in the middle of the property he would also like to have his processing of mulch and the third portion he would like to have it reserved for the storage of firewood. He is also proposing a screening mechanism between the property line of 3-4 foot tall white pines that are on the property line about five foot off to be planted ten feet on center. Mr. Bachman discussed the schedule for this particular item, noting this item will be discussed at the Planning Commission Meeting on May 13, 2009 at 6 PM before coming back to Council. Mr. David Robertson, representative of the applicant, stated this operation has been going on for ten years. He briefly explained the process noting a lot of waste is recycled here and turned into a usable material. Mr. Robertson explained from a topographical standpoint, there is a downgrade that makes it such that you can see none of this material on River Road. He stated you will see the top of the nursery, you will see the house and you will see what looks like an empty field with a couple of roads on it that looks like it has woodchips on top of it and then you will see a tree line and the neighbor's house on the other side of a privacy tree line that exists up top. He stated the problem was until this property was recently surveyed they believed that this road was part of his property and it was used that way for the ten years that he has been there up until a few months ago. He further stated what he found is that a portion of this road is actually not on the property line, which is what prompted him to cut a new road so that he could extend the tree line that already exists on his property along the property line. He explained the trees he is proposing to plant are about three feet high when they are planted, but will grow to 20 plus feet to provide a privacy line for the neighbor that would go all the way back. Mr. Robertson discussed the location of the PUD and Agriculture line. Councilmember Senger asked if there have been complaints about the way things look in that area. Mr. Robertson explained only one recently by one neighbor. He commented he believes the reason why there haven't been concerns expressed previous to this by anybody in this area is since from driving on the road or even standing on the property you can't see any of the rest of this operation you wouldn't know it is there unless you drove up to the edge and looked down to where the operation is. Mr. Bachman discussed the portion of this property that is in the flood plain.

Kenny Baker, 3901 River Road, stated he is the neighbor to the north where he lives with his wife and four children. He stated he has complained from the first week he has been there. He explained his property has been used by Mr. Brown without his permission and he has been left with tremendous property damage. Mr. Baker referred to a map showing that 80% of the property is residential and 20% is agriculture. He further stated very little of the 20% is not even in the floodway that's A-1. Mr. Baker commented that his property value has been destroyed due to no one who would want to buy a house next to an operation like this as unsafe as it is. Mr. Baker stated his wife has asthma and they have tremendous health concerns about the amount of dust created from this operation. Mr. Baker explained his concerns with the dust created, smell of the mulch, the drinking by employees and operating of equipment, and the trash that is blowing over onto his property. He expressed his concern with the danger of mulch fires with facilities such as this. Mr. Baker further discussed his concern with the debris that comes off of the machinery. Mr. Baker stated he has lived at this location since 1995.

Dick Jones, 3971 River Road, stated he has lived there for about thirty years. He explained his concern with the dust flying and the property value when you go to sell. Mr. Jones further expressed his concern with the flood plain and noted it did flood 5-6 years ago.

Susan Sauerwein, 4185 Bedford Avenue, she stated she is almost directly south the very first street. She explained she can look out her bedroom window and see the mulch piles and see the trucks coming in and out all hours of the day. She expressed her concern with the dangerous curve at that point resulting in numerous accidents. She stated the trucks are in and out of there all the time and it does take time to get the trucks in and out. She stated it is very noisy and she cannot open her windows because of the dust and dirt. Ms. Sauerwein stated she has been there since October of 1995.

Mr. Robertson stated there are two big operations, one is the mulch but there is also a considerable amount being done with the nursery as well. He further explained there is a cover on the equipment to prevent debris from flying out and the water that flows into the mix as well. Mr. Robertson commented that perhaps some of the smell is a result of the lime pits. Mr.

Robertson explained when he found the road was not on his property arrangements were made to no longer be trespassing on what he thought was his property.

Both public hearings closed at 7:45 PM

#### Special Presentations

Councilmember Oler presented a proclamation to Jen Campbell of the Coalition for Safe and Drug Free Fairfield declaring May 2009 as "Parents Who Host, Lose the Most" Month in the City of Fairfield. Ms. Campbell stated the Coalition for Safe and Drug Free Fairfield recently got a big federal grant to start working with the community sector in providing a very positive healthy environment for our kids around alcohol and drug prevention. She explained the Coalition provided \$2,000 to the Afterprom. She further explained that 25 kids from Fairfield High School were brought to the prom and graduation summit where they bring kids from the high schools in the county to plan strategies that the kids are going to implement so that youth do the positive thing and make the right choices. Sara Samples, participant of the prom and graduation summit, explained the activities and strategies to encourage high school students to make good decisions throughout prom and graduation.

Councilmember Meyers presented a proclamation to Taylor Cox declaring May 2009 as "National Water Safety Month" in the City of Fairfield. Mr. Cox, Aquatic Center Pool Manager, asked that everyone with a backyard pool or body of water take a look and make sure that it is safe. He further commented the Fairfield Aquatic Center is primarily a recreational facility and the two things we have under that are fitness and safety. He commented on the swim school which teaches water safety and an appreciation of water. He further commented most recently they have gone into the schools to offer a classroom environment that teaches about water safety.

#### Executive Session

Council recessed to executive session at 8:00 p.m. to discuss pending and imminent litigation. and the purchase of real estate.

#### Regular Meeting Reconvenes

The Regular Meeting reconvened at 8:45 p.m. No announcements were made as a result of the executive session of Council.

#### Citizen Comments

Ray McDaniel, 249 Palm Springs Drive, suggested placing windmills in Harbin Park to reduce the cost of power and to use geothermal and solar panels for heating the Justice Center and the city building. Mr. McDaniel suggested e-mailing the Annual Report instead of printing and mailing copies.

#### Mayor/Council Reports

Councilmember Snyder stated there was a nice article about the new Wake Nation that just opened in the Cincinnati Enquirer and the Journal news had an article about one of Council's primary goals, Property Maintenance. Councilmember Snyder stated Fairfield Community Foundation has a ten year anniversary this year and was recently recognized by the Washington, DC based Council on Foundations and has given it a top rating in their top tier of philanthropic organizations. Councilmember Snyder congratulated Bill Klamo who is an educator in the area was recently inducted to the Ohio High School Athletic Association Officiating Hall of Fame.

Councilmember Judd stated Barrett Paving is scheduled to start the Pleasant Avenue Overlay Project on Tuesday, May 26<sup>th</sup>. He explained the manhole adjustments will be done during the day and the grinding and overlay will occur at night. He stated Prus Construction is scheduled to begin the Sidewalk Repair Project this week. He further commented Prus Construction should finish the curb repairs in the Rolling Hills area and will move to the Southview and Southwind area. Councilmember Judd stated our Public Works Director Dave Butsch has had his one year anniversary with the City of Fairfield and commented on the great addition he has been to this City's staff.

Mayor D'Epifanio asked anyone knowing of individuals who live in the Fairfield School District who are returning from the military to contact the Mayor's Office.

Councilmember Abbott stated staff has been reviewing the numbers year-to-date and we are slightly below the projected figures. He further stated staff will analyze the data. He commented it is not a significant amount, but we need to get our arms around why we are not at the projected levels. Councilmember Abbott stated he is glad to see that staff is doing a tremendous job with the amount of property maintenance violations that we are seeing.

Mayor D'Epifanio stated we are very solid financially here in the city.

Councilmember Meyers stated the Joe Nuxhall Pavilion at Waterworks Park will open June 14.

Councilmember Oler commented on the tenth annual Kiwanis Safety Fair held last Saturday at the Justice Center. He further commented it is well attended each year. He offered kudos to Kiwanis, the Fire Department and Police Department.

#### Approval of Minutes

The minutes from the Regular Meeting of April 27, 2009 were approved as written.

### **OLD BUSINESS**

#### **PUBLIC WORKS COMMITTEE**

Seward Road Widening: Legislative Action: Councilmember Judd presented the third reading of an ordinance to authorize the City Manager to enter into a contract with Northwest Consultants, Inc. for the design of the Seward Road Widening- Port Union Road to Union Centre/Symmes Road Project. Councilmember Judd, seconded by Councilmember Snyder, moved for adoption. ORDINANCE NO. 62-09 ADOPTED 7-0.

Mack Road @ CFC Driveway Traffic Signal Upgrade: Legislative Action: Councilmember Judd presented the third reading of an ordinance to authorize the City Manager to enter into a contract with Capital Electric Line Builders, Inc. for the Mack Road @ CFC Driveway Traffic Signal Upgrade. Councilmember Judd, seconded by Councilmember Snyder, moved for adoption. ORDINANCE NO. 63-09 ADOPTED 7-0.

Easements for Port Union Road Storm Sewer Detention Basin: Legislative Action: Councilmember Judd presented the second reading of an ordinance to authorize the City Manager to accept easements for the Port Union Road Storm Sewer Detention Basin from the Fairfield City School District and Aurgroup Credit Union and declaring an emergency. Councilmember Judd, seconded by Councilmember Snyder, moved to suspend the rules requiring three readings of the resolution. Rules Suspended 7-0. Councilmember Judd, seconded by Councilmember Snyder, moved for adoption. Keith Davis, 1853 Vernon Place, asked if this retention basin would be over on the Aurgroup side or is that strictly on the property where it already is. Public Works Director Dave Butsch stated the retention basin itself will actually be located on the school property and that is what the easement is for, for a section of there property down along Port Union Road and that will be retention area. He explained it will carry the water that goes through that channel now, enclose some of it, and to get that water to a retention basin. Mr. Butsch clarified that there could be an access further down Port Union at the other end of the property. He stated the retention basin will go all the way down the full length and leave the end open. Mr. Butsch stated the size of the basin was factored in as to the development of the school property as part of the agreement with the school that that basin would be expanded enough to offer retention for their future development. ORDINANCE NO. 64-09 ADOPTED AS AN EMERGENCY 7-0

Partial Reimbursement of the Port Union Road Storm Sewer Detention Basin Project: Legislative Action: Councilmember Judd, seconded by Councilmember Abbott, moved to remove this Ordinance from the agenda due to recent developments that have deemed it unnecessary. Motion Carried 7-0.

Contract for the Port Union Road Storm Sewer Detention Basin Project: Legislative Action: Councilmember Judd presented the second reading of an ordinance to authorize the City Manger to enter into a contract with Broshear Contractors for the Port Union Road Storm Sewer and Detention Basin Project and declaring an emergency. Councilmember Judd, seconded by Councilmember Snyder, moved to suspend the rules requiring three readings of the

Ordinance. Rules Suspended 7-0. Councilmember Judd, seconded by Councilmember Snyder, moved for adoption. ORDINANCE NO. 65-09 ADOPTED AS AN EMERGENCY 7-0.

#### **PUBLIC UTILITIES COMMITTEE**

HVAC System at Wastewater Treatment Plant Maintenance Buildings: Legislative Action: Councilmember Rhodus presented the third reading of an ordinance to authorize the City Manager to enter into a contract with GRW Engineers, Inc. for the replacement and upgrade of the HVAC system to the maintenance buildings at the Wastewater Treatment Plant. Councilmember Rhodus, seconded by Councilmember Oler, moved for adoption. ORDINANCE NO. 66-09 ADOPTED 7-0.

Purchase of Single-Axle Cab and Chassis: Legislative Action: Councilmember Rhodus presented the second reading of an ordinance to authorize the City Manager to enter into a contract with Miami Valley International Trucks, Inc. for the purchase of one single-axle cab and chassis for the Water Division. Ordinance approved for second reading only.

Hicks Manor Subdivision Water Line Replacement Project: Legislative Action: Councilmember Rhodus presented the second reading of an ordinance to authorize the City Manager to amend and extend the contract with Rock River Construction LTD for the Hicks Manor Subdivision Water Line Replacement Project, Phase Three and declaring an emergency. Councilmember Rhodus stated he and Councilmember Judd have been out there and everything the Contractor is doing in the first phase is to our agreement and satisfaction. Councilmember Rhodus, seconded by Councilmember Judd, moved to suspend the rules requiring three readings of the resolution. Rules Suspended 7-0. Councilmember Meyers, seconded by Councilmember Judd, moved for adoption. ORDINANCE NO. 67-09 ADOPTED AS AN EMERGENCY 7-0

#### **DEVELOPMENT SERVICES COMMITTEE**

JEDD-I: Legislative Action: Councilmember Senger presented the third reading of an ordinance approving the West Chester Township JEDD-I Joint Economic Development District contract and declaring an emergency. Councilmember Senger, seconded by Councilmember Abbott, moved for adoption. Councilmember Abbott stated this JEDD brings General Electric as the ninth largest employer inside the City of Fairfield bringing income tax into our City. He offered kudos to Tim Bachman, Art Pizzano, staff and this Council for making this project happen. ORDINANCE NO. 68-09 ADOPTED AS AN EMERGENCY 6-0, Councilmember Meyers abstaining.

Right-of-Entry Agreement: Councilmember Senger presented the third reading of an ordinance to authorize the City Manager to enter into a right of entry agreement with Fair Plaza Center, LLC and Neyer Properties Acquisitions. Councilmember Senger, seconded by Councilmember Abbott, moved for adoption. ORDINANCE NO. 69-09 ADOPTED 7-0.

Pleasant Meadows Planned Unit Development: Legislative Action: Councilmember Senger presented the second reading of an ordinance amending Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio, Section 1141.02, the City of Fairfield, Ohio, Zoning Map by approving the concept and final development plan for the Pleasant Meadows Planned Unit Development. Councilmember Senger stated as an update this has been at two Planning Commission meetings and it has had extensive debate and the Planning Commission recommended 4-3. Ordinance approved for second reading only.

River Road Planned Unit Development: Legislative Action: Councilmember Senger deferred second reading pending Planning Commission's recommendation.

Amendment to the Zoning Map: Legislative Action: Councilmember Senger deferred second reading pending Planning Commission's recommendation.

#### **NEW BUSINESS**

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

July Fireworks Program: Background: City Manager Pizzano recommended a contract with Rozzi's Famous Fireworks, Inc. for the annual 3<sup>rd</sup> of July fireworks program. Legislative Action: Councilmember Meyers, seconded by Councilmember Abbott, moved to read the following ordinance by title only. Motion carried 7-0. Councilmember Meyers

presented the first reading of an ordinance to authorize the City Manager to enter into a contract with Rozzi's Famous Fireworks, Inc. for the July Fireworks Program and declaring an emergency. Councilmember Meyers, seconded by Councilmember Judd, moved to suspend the rules requiring three readings of the resolution. Rules Suspended 7-0. Councilmember Meyers commented the reason for suspension is to get this under contract. Councilmember Meyers, seconded by Councilmember Abbott, moved for adoption. ORDINANCE NO. 70-09 ADOPTED AS AN EMERGENCY 7-0.

#### **PUBLIC SAFETY COMMITTEE**

Liquor Permit: Legislative Action: Councilmember Oler, seconded by Councilmember Meyers, moved that a hearing be held on the liquor permit application in the name of Three B's Tavern LLC, DBA Beer 30 Bar and Grill, 101 Bacher Square & Patio (Permit Class: D5/D6). Motion Carried 7-0.

EMS Billing Services: Background: City Manager Pizzano recommended a contract with MBI Solutions, Inc. for EMS billing services. He explained in negotiations with them since their contract was up for renewal, they did agree to reduce the percentage that they receive from the fees collected from 10% down to 7%, which is a savings of about \$25,000 annually. Legislative Action: Councilmember Oler, seconded by Councilmember Meyers, moved to read the following ordinance by title only. Motion carried 7-0. Councilmember Oler presented the first reading of an ordinance to authorize the City Manger to enter into a contract with MBI Solutions, Inc. for EMS billing services and declaring an emergency. Councilmember Oler, seconded by Councilmember Meyers, moved to suspend the rules requiring three readings of the ordinance. Rules Suspended 7-0. Councilmember Oler, seconded by Councilmember Meyers, moved for adoption. ORDINANCE NO. 71-09 ADOPTED AS AN EMERGENCY 7-0.

#### **PUBLIC WORKS COMMITTEE**

Reading's (3) by Title Only: Councilmember Judd, seconded by Councilmember Snyder, moved to read the following three ordinances by title only. Motion Carried 7-0.

Traffic Signal Power Backup Upgrade Project: Background: City Manager Pizzano recommended a contract with Capital Electric Line Builders, Inc. for the 2009 Traffic Signal Power Backup Upgrade Project. City Manager Pizzano explained this will provide generator hookups and battery backups at key intersections that do not currently have that capability. Legislative Action: Councilmember Judd presented the first reading of an ordinance to authorize the City Manger to enter into a contract Capital Electric Line Builders, Inc. for the 2009 Traffic Signal Power Backup Upgrade Project. Ordinance approved for first reading only.

Resor Road Improvement Project: Background: City Manger Pizzano recommended a contract with ME Companies for the design of the Resor Road Improvement Project. He explained this project will lower the hill in that vicinity, resurface the area and try to make the situation safer for the residents. Legislative Action: Councilmember Judd presented the first reading of an ordinance to authorize the City Manager to enter into a contract with ME Companies for the design of the Resor Road Improvement Project. Ordinance approved for first reading only.

Seward Road Widening Project: Background: City Manager Pizzano recommended a contract W.G. Stang for the Seward Road Widening Project at Symmes road/Union Centre Blvd. area in conjunction with the new project that Takumi Stamping is doing in their relocation. He stated it will include a new center left turn lane and some additional work including the removal of a "hump" that sits in the road. Legislative Action: Councilmember Judd presented the first reading of an ordinance to authorize the City Manager to enter into a contract with W.G. Stang LLC for the Seward Road Widening Project and declaring an emergency. Councilmember Judd, seconded by Councilmember Abbott, moved to suspend the rules requiring three readings of the ordinance. Rules Suspended 7-0. Councilmember Judd, seconded by Councilmember Abbott, moved for adoption. ORDINANCE NO. 72-09 ADOPTED AS AN EMERGENCY 7-0.

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

Reading's (2) by Title Only: Councilmember Abbott, seconded by Councilmember Meyers, moved to read the following two ordinances by title only. Motion Carried 7-0.

2009 Budget Amendment: Legislative Action - Councilmember Abbott presented the first reading of an ordinance to amend Ordinance No. 161-08 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2009, and ending December 31, 2009." City Manager Pizzano explained the following contractual appropriations: \$34,525 traffic signal power backup upgrades; \$35,860 Resor Road improvements; \$530,214 Seward Road Widening Project. Councilmember Abbott, seconded by Councilmember Senger, moved to suspend the rules requiring three readings of the ordinance. Rules Suspended 7-0. Councilmember Abbott, seconded by Councilmember Meyers, moved for adoption. ORDINANCE NO. 73-09 ADOPTED 7-0.

2009 Budget Amendments (Non-Contractual Items): Legislative Action - Councilmember Abbott presented the first reading of an ordinance to amend Ordinance No. 161-08 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2009, and ending December 31, 2009." City Manager Pizzano explained the following non-contractual appropriations: \$24,978 video detection equipment for traffic control; \$24,990 compact utility loader/Street Division; \$5,200 audio/video upgrades/Community Arts Center; \$18,000 engineering services for Black Bottom Park project; \$7,300 materials for manhole casting adjustments. Councilmember Abbott, seconded by Councilmember Senger, moved to suspend the rules requiring three readings of the ordinance. Rules Suspended 7-0. Councilmember Abbott, seconded by Councilmember Judd, moved for adoption. ORDINANCE NO. 74-09 ADOPTED 7-0.

Meeting Notices

Tuesday, May 26	Council-Manager Briefing, 6 PM; Public Hearing & Regular Meeting, 7 PM
Monday, June 8	Council-Manager Briefing, 6 PM; Regular Meeting, 7 PM

Adjournment

The Regular Meeting adjourned at 9:20 p.m.

ATTEST:

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Clerk of Council

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

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