

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING August 22, 2016 6:00 p.m.

**CALL TO ORDER**

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

PRESENT: Council Member Litteral, Council Member Upton, Council Member Wallace, Council Member Whilding, Vice Mayor Vann, Mayor Stone

ABSENT: Council Member Jarvis

ALSO IN ATTENDANCE: Randy Burkett, City Planner; Dennis Evers, Chief of Police; Theresa Hathaway, Fiscal Officer; Bill Kucera, Financial Administrative Services Director; Dianne Lampton, Clerk of Council; Jeff Moorman, City Engineer; Mike Thonnerieux, Public Administrative Services Director

Council Member Litteral MOVED to excuse Council Member Jarvis, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

**PLEDGE**

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

**APPROVAL OF AGENDA**

Council Member Litteral MOVED to approve the agenda, seconded by Council Member Upton. Motion PASSED by majority voice vote.

**PRE-SCHEDULED PRESENTER**

Joseph Braden, Auditor of State Award with Distinction

Mr. Braden presented the Auditor State Award with Distinction for the year 2015. He said the State Auditor's office audits approximately 6,000 entities and less than 300 are eligible for this award. He reviewed the criteria to receive the award. He thanked the City and Mr. Kucera for their efforts.

**PUBLIC HEARING – PUD 16-2 Creekstone**

Clerk Lampton read an application filed by Oberer Land Developers, Lt., 3175 Newmark Drive, Miamisburg, OH 45342. The application requests approval of a residential planned unit development (Creekstone) by rezoning 73.3 acres of land from A-1 Agricultural District and R-1A One Family Residential District to R-PUD Residential Planned Unit Development. The property is located approximately 1,250 feet north and 1,675 feet east of the intersection of Grange Hall and Shakertown Roads. The property is further described as Book 3, Page 13, Parcels

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29 and 30 on the Greene County Property Tax Atlas.

#### Applicant Presentation

George Oberer, Jr., 3475 Newmark Drive, Miamisburg, OH 45342

Mr. Oberer discussed the overview of the Oberer Companies and the location of the proposed project. He showed the conceptual plan and reviewed the types of homes they are proposing to build. Mr. Oberer explained they are proposing a tree preservation area along the northern and eastern boundary lines and he discussed the storm water management they are planning. He said they are currently conducting a study regarding the storm water issues in the area. He stated they did have a traffic study done because of the concern about visibility from the Grange Hall Road access point and it was determined to be a safe location. Mr. Oberer said they are proposing a pedestrian access only to River Hills Road, and said it would be difficult to connect a street because of the grade and they want to make sure they have adequate drainage in place to get the water to the pond. Mr. Oberer showed a site plan explaining a little over five acres has been set aside for the expansion of Leo Brown Traditions at Beaver Creek Senior Assisted Living Development which is currently under construction. He said they would be submitting a separate application in the future for that project. He reviewed Phase 1 which would be patio home lots and single floor living. He showed a site plan showing Phase 1 off Shakertown Road, which are single-family homes with lot sizes varying in width from 85 to 95 feet with homes from 1,865 to 3,098 square feet and a dozen different floor plans. Mr. Oberer said the lots will have large front and rear yards and there is potential for side load garages on many of the lots. He showed several different elevations of what would be offered that consisted of single and two-story plans. He explained they are planning a four to six foot high landscape mound within the rear yards along Grange Hall and Shakertown Roads. He stated there will be a continuation of existing sidewalks in the area along Shakertown and Grange Hall Roads and an eight-foot multi-purpose path on the Grange Hall Road frontage. Mr. Oberer explained the open spaces were concentrated as much as possible along the eastern property line to preserve the trees and is the lowest spot in the development to put the detention basin. He said there has been a 10-foot no cut zone added along the rear of all the lots that are adjacent to existing lots to the north and east. Mr. Oberer said they would ask for a variance. He explained patio homes by design are on a narrower lot, 62 feet wide, because the patio homes vary between 40 – 45 feet wide. He said because of this they tend to be deeper, from 60-65 feet deep. He said they have a courtyard drive entrance and because of that they are requesting a deviation from the Planning Commission recommendation of a 30 foot setback on the patio homes only.

#### Staff Presentation

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Mr. Burkett stated the applicant is requesting to rezone 69.1 acres to R-PUD to construct a low-density single family development consisting of up to 145 units. He discussed the location of the property, the zoning classification for the property under discussion and the surrounding properties, the Land Use Plan designation for the property, the proposed concept plan, what type of homes are proposed, the density calculation, and the setback requirements. He reviewed several conditions including a condition the Planning Commission added requiring the main road for the development to be constructed during the first phase. He said this is something the City typically does not do and goes against the intent of phasing developments. Mr. Burkett explained this condition was not included in the Ordinance but if Council so chooses that could add it back in. He said it was in the Resolution from Planning Commission but not in the Ordinance. He said condition number 5b would need to be amended to state lot numbers 1-16 as well as 105-107. Staff and Planning Commission recommended approval of the case with nine conditions.

Mr. Oberer stated the Planning Commission's condition for completion of the road system during Phase 1 was not financially feasible. He said it's not just the road but all the utilities and this would require development of the entire site almost all at once.

#### Public Input

Charles Curran, 3929 Largo Lane, Beavercreek, Ohio

Mr. Curran stated he is a member of the Planning Commission and objected to the cut through of the road from the old plat into the new plat. He didn't feel it was necessary because of the conditions of the roads in the plat and the flood problem in that area. He said it would provide for a bike cut through/walkway which was mentioned. He supports the project but opposes the road cut through.

Karen Zink, 3997 Willowcrest Road, Beavercreek, Ohio

Ms. Zink gave her three minutes to Joe Zink.

Joe Zink, 3997 Willowcrest Road, Beavercreek, Ohio

Mr. Zink said his comments were positive towards Mr. Oberer's development. He said he was not in favor of the developing this land but the first speaker at the Planning Commission meeting expressed his feelings that they can't expect this to be farmland forever. He said based on previous ideas, this is the best idea so far. He said the developer has a good reputation and lives in Beavercreek which implies he has an interest in doing it right. He was disappointed in the way the Planning Commission was run regarding this proposal. He said the public comment portion was before the chair added amendments nine and ten which he has now learned ten was dropped. He said very few neighbors spoke during the

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public comment because they voiced their concerns directly to the developer during a very long lively discussion at the neighborhood meeting. He said the developer responded by making some very nice changes which was presented this evening. He said after the public comment section closed at the Planning Commission meeting these two amendments were added and not at the best interest of the neighborhood. He felt amendment nine would hinder the opportunity for the developer to reduce the possibility of flooding on Willowcrest Road. He said he lives in what people refer to as Lake Willowcrest. He said the developer backed his reasoning by stating he had a study completed by a civil engineer but the Commission ignored these findings and added amendment nine because it's good planning practice. He said this is unsound and poor reasoning and ignores the civil engineer's findings. He said the Willowcrest neighborhood has put up with flooding for too long. Mr. Zink has been a resident of Beavercreek for 69 years and has lived on Willowcrest Road for 37. He said each time the City has discussed the flooding issue the results have been the same. He said the City has no money, need to wait on a grant or put the burden on a developer. He said the grants never came but now there is a developer who is willing to work with the City to at least reduce the severity of the problem. He said since these are the plans for developing the remaining portion of the land this is the last chance. He thought it irresponsible of the Planning Commission to ignore this last opportunity to reduce the Willowcrest water issue without proposing another solution. He said amendment nine makes his entire neighborhood less safe for children and grandchildren by increasing the amount of traffic on the neighborhood streets. He said Willowcrest Road would pay the price and receive no benefit. He said the chair acted irresponsible in proposing amendment nine and not allowing the neighbors to comment. He asked that the commissioner reconsider the proposal of amendment nine and have it removed from the proposal for the safety of the neighborhood.

The public hearing was closed.

#### Council Input

Council Member Whilding asked what the mitigation opportunities were to help ensure there is property drainage through there if the road does exist. Mr. Burkett said he did not want to speak for the engineers but it was his understanding that it would have to be a pipe system underneath the road which is not as efficient as having the water flow along the surface to where they want it to go. He said to have it go underneath the road and bring it back up is less effective. He said there was a study from a civil engineer. Mr. Burkett said the engineer talked about the road's lines of sight from access points. Council Member Whilding said whatever the developer does regarding drainage will help the neighborhood behind the development. He said since we haven't received the full study we can't say what

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impact it is to keeping that road there. Mr. Burkett said the engineers looked at it from a broad sense.

Council Member Whilding asked Mr. Oberer if the setback request would be for the patio home section. Mr. Oberer replied it was only for that section. He said for the larger homes the plan reviewers would not allow for less than a 35 foot setback. He said the patio homes are segregated to their own section of the plat.

Council Member Litteral said the City has a huge storm water drainage problem and anytime there is a developer willing to work with the city is beyond expectation. She said a bike path and walkway should be plenty for the connectivity. She did not see where a road was needed. Mr. Burkett said there was always an idea the neighborhood to the north would one day connect to Shakertown Road and it's a general concept for interconnectivity between neighborhoods. Council Member Litteral said if it causes more problems that is an issue. Mr. Burkett said it's also a cost benefit of it is worth it to not connect to get better drainage. Council Member Litteral stated better drainage is always the best move forward.

Council Member Upton said it makes sense to keep the connection as a bike path. He said he saw no reason not to grant the 30 foot setback for the patio homes.

Council Member Wallace thought it was great that Mr. Oberer spoke with the neighbors and his willingness to help with the drainage was even greater. She said it is a major problem and saw no reason to connect it as a street if it will help with the drainage. She had no problem with removing condition nine or agreeing with the 30 foot setback for the patio homes.

Vice Mayor Vann asked if staff had gone to the effort to solve the water problems on Willowcrest. Mr. Burkett said this was discussed at the pre-application meeting and the original concept planning meeting. He said the engineering will take quite a bit longer than the basic discussion. He said what they have discussed is it needs to be taken care of but the how has not. Vice Mayor Vann said we should not put this in the trust of Mr. Oberer as it is not his job. She said since this has been a chronic problem, she would like staff to do a separate study to figure out what we can do to solve it. She said the engineering department should be involved. She said staff and Mr. Oberer need to figure out the best plan to benefit everyone. She said it should be completely solved not kind of solved and done so as a partnership. She asked if the neighbors on Grange Hall would be able to walk all the way to Shakertown and make a loop. Mr. Burkett said when the roads are final, yes. He said they will not connect with this project. He explained when the church comes through, they will need to upgrade the road. He did not know the timeline for the church but when it came through a sidewalk would be part of the

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project.

Mayor Stone asked Mr. Moorman to give an overview of the drainage problem. Mr. Moorman said from the very first meeting they stressed with Mr. Oberer the importance of helping with the drainage issues. He said they have made progress with reaching an agreement but it was a work in progress. He said this is the zoning phase and there was still the specific site plan phase which is where everything will be addressed. He said was possible to make the connection and maintain the drainage out. He explained to do this you would have to build River Hills high enough to fit a culvert pipe underneath the street. He said the draw back to this you have to go back to the existing River Hills to match the grade so the work would go beyond the plat limits. He said the problem in this area is there very little fall. He said, in his opinion, it would be nice for the existing plat to the north to have the direct connection to and from Shakertown Road not only for the existing residents getting to and from their home but also for emergency vehicle access.

Mayor Stone asked Mr. Oberer if this product was similar to those in Stone Falls. Mr. Oberer replied it was similar and explained Stone Falls was built in the 90's. He said what he showed tonight was an updated project but similar size.

Mayor Stone said he would normally be in favor of connectivity between plats but if the residents to the north are not in favor he was fine with it as long as there was the non-motorized connectivity. He said if we do not require those connections he requested vacating the two stubs. He appreciated the density of this plan and said there is a need for patio homes.

Council Member Whilding asked if there was only one entrance to the neighborhood. Mr. Burkett said there were multiple connections. Council Member Whilding stressed the connection be reviewed at the specific site plan and make it a condition to make sure it happens.

Council Member Whilding MOVED to amend condition nine to read "There shall be a review at the specific site plan of the connection with River Hills Road to the north," seconded by Vice Mayor Vann. Motion PASSED by majority voice vote. (Against – Litteral)

Council Member MOVED to amend

- Condition 5a to read, "All lots shall have a 35 foot minimum front yard with the exception of Lots 1-16 and 105-107 which shall have a 30 foot minimum front yard."
- Condition 5b to read, "All lots shall have a 30 foot minimum rear yard setback (except lots 1-16 and 105-107, which will have a minimum 20 foot

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rear yard setback).”

Seconded by Vice Mayor Vann. Motion PASSED by majority voice vote.

Ordinance 16-20 (First Reading)

Council Member Wallace MOVED to approve Ordinance 16-20 as amended and move to the second and third readings, seconded by Council Member Whilding. Motion PASSED by majority voice vote.

### **ORDINANCES, RESOLUTIONS AND PUDS**

**Ordinance 16-17** PC 16-1 Zoning Code Update (Third Reading)

Clerk Lampton read an Ordinance amending Chapter 158, by making certain additions, deletions, and changes to various sections of the Zoning Code. (PC 16-1)

Council Member Litteral MOVED to approve Ordinance 16-17, seconded by Council Member Upton. Motion PASSED by majority voice vote.

**Ordinance 16-19** PUD 16-1 Cottages at Beaver creek (Second Reading)

Clerk Lampton read an Ordinance amending the Zoning Map, by rezoning approximately 20.03 acres of land located at 2358 County Line Road from A-1 Agricultural to R-PUD Residential Planned Unit Development, further described as Book 3, Page 3, Parcel 72 on the Greene County Property Tax Atlas. (PUD 16-1)

Mr. Cornell excused himself from the meeting.

#### Public Input

Sean Simmons, 4282 Weber Drive, Beaver creek, Ohio

Mr. Simmons said there was a request at the first reading to consult the fire department to make recommendations on the connection of Quill Road to the Cottages. He wanted to confirm the fire department was reviewing this and requested opportunity for the public to speak after the fire department has made their recommendations. Mayor Stone explained this was not something that could be granted at this time and not the normal process. He said if there was new information it would be shared. Mr. Burkett explained there was an add-on to the Ordinance regarding the fire and police department reviewing the specific site plans at that stage. He said the specific site plan will be discussed at the next Planning Commission meeting. Mr. Burkett said their initial comments were to have the connection go through. He explained the fire department had a meeting with the residential neighbors yesterday (Sunday) and the initial requirement it go through based on the condition of other emergency access points being not maintained properly and impedes the ability to get through the emergency access

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points. He said their initial reaction was to have a road so they have that access. He said he spoke with the fire department today who have now come off that decision and are continuing the discussion. He said at this time it is not known what the decision will be.

Council Member Wallace asked what the residents were wanting. Mr. Burkett said to his knowledge there were against the connectivity.

Mayor Stone said if there is new information it would be up to the Council if they would like to bring this to the floor. He said there would be no guarantee if there will be public input on the third reading.

Mr. Simmons asked it would be a good show to the community to be given the opportunity.

Kevin Washington, 4412 Weber Drive, Beavercreek, Ohio

Mr. Washington reminded Council that Mr. Simms met with the community that he lives in and part of the agreement with Mr. Simms was not to access the north side of Quill Drive. He said he lives on the north section and the traffic would increase dramatically and harm his home. He said there are young children that play in this area and enjoy the peace and privacy of a somewhat secluded area. He said this was agreed upon not to access the north side of Quill Drive in the Planning Commission. He said he was a little dismayed this issue is not brought forth again that the north side of Quill is going to be accessed. He said that was not part of the Planning Commission as he recalled.

Ranna Patel, 732 Quill Road, Beavercreek, Ohio

Ms. Patel stated her concern was the Cottages will not have a stop light at County Line Road. She said the access of Reynolds and Reynolds across the street makes it congested and their neighborhood will become a short cut to get to the traffic light at the main entrance of Reynolds and Reynolds. She said they do have another emergency egress point in the neighborhood and is very well maintained. She said the connectivity would be great if it did not increase traffic, danger to the young children and the property values. She said they are taking a hit with the apartments that were added.

Logan Williams, 4402 Weber Drive, Beavercreek, Ohio

Mr. Williams seconded what his neighbors had already said. He said the lack of a traffic light would increase the traffic as there is a huge amount of traffic at the stop sign on Weber Drive and as soon as they realize they don't have to wait at the stop light and go around that will dramatically increase the traffic. He said he has two kids who play on the road and people already speed through looking for a short

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cut, figure out there is not connectivity and speed back. He said this would become a main thoroughfare. He understood the need for safety and access but the safety concern with traffic going through there every day is a much larger concern. He said a well maintained emergency access would be much better.

Paul Berry, 682 Quill Road, Beaver creek, Ohio

Mr. Berry said he agreed with what his neighbors had already said. He said he has three kids that get picked up by the bus there and would be immediately in danger.

Srinivas Erragolla, 4252 Weber Drive, Beaver creek, Ohio

Mr. Erragolla said the access would increase the traffic by car and feet in their subdivision. He said a lot of people from the apartments already walk their dogs in their subdivision because it is quieter and now with the Cottages it will cause more traffic and be inconvenient for the kids playing in the neighborhood. He said with the Cottages it will decrease the quality of their subdivision and decrease the home prices on Weber Drive and Quill Road. He said there are already about 172 apartments nearby and people from there access County Line Road through Weber Drive. He said if you add another 94 units from the Cottages it will be a significant increase in traffic in this area. He was concerned about the road that will be behind his house.

Dave France, 4232 Weber Drive, Beaver creek, Ohio

Mr. France asked not to open Quill Road to traffic. He requested if the fire department recommends this as an emergency access to place some type of knock down barriers the fire trucks could drive over.

Mae Giehl, 4456 Straight Arrow Road, Beaver creek, Ohio

Ms. Giehl said this morning she observed four cars sitting in the partial cul-de-sac where they wish to connect Quill Road. She said this evening there were three cars trying to park there. She said the bus stops at the corner. She said her street does not hold that many cars. She said the traffic will be horrendous and it would be a big mistake. She said the setback on her property and three other properties has not been approached and the retention pond is 24 feet from her property line. She said that is very close for three properties and almost complete fourth property. She said at one time Mr. Simms thought it possible to move it back to 40 feet. She said they stopped at the house next to her at 50 and put her to 24. She did not understand and said it makes it very hazardous for all of the children because they can get away in just a minute.

Tyler Greenwood, 4382 Weber Drive, Beaver creek, Ohio

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Mr. Greenwood said he understood the need for connectivity and lives next to the emergency access/bike path which is very well maintained. He said there is a lot of foot traffic from the neighborhood and everyone enjoys walking through there. He did not see the need for motorized traffic connectivity between the neighborhoods. He said if you can give the people the ability to walk through to the Cottages everyone would enjoy the decreased amount of traffic with no full access between the neighborhoods.

Kendra Malcolm, 4270 Straight Arrow Road, Beavercreek, Ohio

Ms. Malcolm said her concern was the property values. Her neighbor sold his condo recently for \$35,000 less than his original purchase price. Her other concern was the traffic issue.

Charles Simms, Charles Simms Development, 2785 Orchard Run Road, Dayton, Ohio

Mr. Simms explained as they were moving forward with the specific site plan, he did meet with the neighbors several times. He said one of the concessions they talked about was building a mound on the north and south side. He said on the south side they have a problem with the grade differences. He explained Cinnamon Ridge is higher than this development and to make the drainage work they cannot build a four foot mound. He felt they could build a two foot mound and plant eight foot high trees in that area instead of six foot trees. He said this was discussed with staff and did not know if this needed to be amended in the Resolution or discussed with the specific site plan. He said staff did want this brought up tonight. Mayor Stone said this could be added at the specific site plan stage.

The public hearing was closed.

Council Member Litteral requested to have the fire department present at the next meeting to discuss the access point. She said this is not a common practice but would like to hear from the fire department. Mr. Burkett said he would request fire department to speak or write up something. Council Member Litteral said she would like them at the meeting if at all possible. Mr. Burkett said he would pass the request on.

Mr. Moorman said the existing traffic light at County Line Road and Straight Arrow Road with modifications would help. He explained when Reynolds and Reynolds lets out there is an extreme amount of traffic and those trying to turn left from Straight Arrow is difficult. He said if they added a protected left turn phase it would help people get out easier. He said the same is true for people south bound on County Line Road with a protected left turn phase. He said this would address a

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few of the concerns. He said adding lighting would help with the bus stop. He said as this progresses through the specific site plan stage they will look at other solutions as well.

Council Member Whilding said the buffers and gradings are in the Ordinance and would have to be addressed at the third reading. Mr. Burkett explained this is listed in 10B of the Ordinance. Mr. McHugh said the verbal should be prepared and substituted at the third reading. He said it is not substantial that this be required to go back to the first reading.

This Ordinance will move automatically to the Third Reading.

Mr. Cornell returned to the meeting.

**Resolution 16-18** Greene County Auditor to Enter the Cost of Noxious Weeds and Grass Cutting on the Tax Duplicate

Clerk Lampton read a Resolution directing the Greene County Auditor to enter the cost of noxious weeds and grass cuttings on the tax duplicate for the properties described in Exhibit "A".

Mr. Kucera said this is the annual Resolution to send the assessments to the County Auditor put them on the tax duplicate for 2017. He reviewed the process by explaining when the City staff receives a complaint of high weeds/grass exceeding ten inches, the Code Enforcement Officer attempts to contact the owner and if unable, he places a placard in the front yard of the property giving the owner five days to correct the issue. He explained if the issue is not fixed, the City will have the grass/weeds cut by an outside contractor. He said the cost to the owner is a \$100 administrative fee plus the cost of the contractor completing the work. He said an invoice is sent to the owners and if they do not pay they are sent a second invoice explaining if this is not paid this will be sent to the County Auditor, charge a \$25 assessment fee plus a 5% County Auditor fee. He said the City per the Ohio Revised Code is allowed to place the outstanding invoice on the tax duplicate as a lien on the property. He said the deadline for placing these items on the tax duplicate is September 12<sup>th</sup>. He reviewed the history of the number of owners out of compliance explained the goal is to have the owner correct the situation. He said the City bids out every year to determine the contractor. He hoped with the registration requirements for vacant homes, the amount of assessments will decrease. He said there were 35 parcels with 47 assessments totaling \$8,096. He explained when the assessment funds are received they are placed into the General Fund to cover the costs associated with the City paying the contractor and to recover the cost to bring the property back into compliance.

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Council Member Upton MOVED to approve Resolution 16-18 seconded by Council Member Litteral. Motion PASSED by majority voice vote.

**Ordinance 16-21** Keeping of Chickens in Residential Districts (First Reading)  
Clerk Lampton read an Ordinance adopting new section 158.126 "Keeping of Chickens in Residential Districts" of the City of Beavercreek Code of Ordinances.

Mr. McHugh explained Council asked to bring back the Zoning Code change that was removed from an earlier Ordinance. He said this section would allow for the keeping of chickens within the city limits with certain restrictions. He said the requirements have not changed from what was previously presented.

#### Public Input

Jim Reisen, 826 Vernis Drive, Beavercreek, Ohio

Mr. Reisen said the Ordinance should say the keeping of a few chickens in Beavercreek. He said it's not like we are opening the world to flocks and commercial agriculture. He said the bulk of the objections he has heard is chickens will adversely impact the enjoyment of people's property or their property value. He said the code as proposed isn't going to leave much room to do that. He said six chickens on 15,000 square feet isn't going to make nearly as much ruckus as a few dogs on 15,000 square feet or cats or even pigeons. Mr. Reisen said he pays a lot for his property and didn't think enjoying a few chickens in the backyard is going to bother his neighbors, property values or any other adverse impacts. He asked Council to consider passing the code as written. He thought it was well done and something the City needed because otherwise they really have nothing.

Phil Parker, 667 Brookmeade Court, Beavercreek, Ohio

Mr. Parker said he was at the July 25<sup>th</sup> meeting when this was discussed and appreciated Council taking time to ponder this issue. He said this was a community of 45,000 residents and more than 18,000 households. He said he received phone calls from about 25 Beavercreek residents. He said in every case, people said they couldn't believe they invested in property in Beavercreek knowing they were going to have some type of barn type pet Ordinance allowing for chickens. Mr. Parker thought this as one of the biggest issues. He said you would be building coops near property lines and this would be a problem with smells and noise. He grew up on a farm which raised chickens, hogs, cows and horses. He said hens do make noise and would be an issue of noise. He said the enforcement is a big issue. He said there are chickens within the community now and we are not to the point of enforcing that let alone being able to enforce something more. He said the passage of this could hurt property values. He encouraged Council not to move forward with this Ordinance.

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Harold Lewis, 1423 Town Hall Road, Beavercreek, Ohio

Mr. Lewis said his concern was enforcement. He said we have chickens now, not supposed to have them and don't enforce the rules. He said we don't have the people to enforce any more changes to the zoning code. He said with the election coming up there will be illegal signs all over the city and the city does zero about that and it's in the code. He said his younger grand-children were visiting and said they want to raise rabbits. He said they wanted to put a hutch in the backyard and Mr. Lewis said why not, it's illegal but the city won't do anything to me. He said the only way this will be enforced is for neighbors to call on neighbors. He said there are issues right now with junk in people's yards that cannot get resolved. He said don't pass this. If people want to raise chickens then go to Yellow Springs or some other place.

Pam Reisen, 826 Vernis Drive, Beavercreek, Ohio

Ms. Reisen said everybody is looking at chickens like they are a farm animal instead of as a pet. She said every issue that has brought up she could contest to certain levels. She said hens do make a little noise but no more so than any dog that your neighbor has. She said for some reason a 6-8 pound chicken is objectionable. She didn't understand as it's just another little pet. She said she has U.S. 35 next to her property and if anybody could hear her chickens over the noise generated from U.S. 35 then come over to her house. She said there are Council Members who have not checked out the facilities of the people who have chickens. In working with the Planning Commission, they know there are chickens living in Beavercreek but as long as their neighbors don't complain who's going to know. She said the last time this was discussed Council brought up the suggestion to get the neighbors' permission. She said that was absurd and does anyone get permission for a dog or a cat. She said dogs and cats are fine even though dogs started out as a farm animal either protecting the farm or hunting. She said dogs have become pets and you look at chickens as another issue. She said salmonella is in all your chicken products even from Kroger and has nothing to do with the chickens in the backyard which are in cleaner and safer conditions. She said Council Members who were elected last year were 100% behind this now have done a one eighty and she was distressed about this.

The public hearing was closed.

Council Member Litteral expressed concern with the number of chickens allowed in the Ordinance. She said a lot of people look at different animals as pets. She said most try to be good pet owners; when your dog barks you bring him in. She said chickens are different as chickens are outside all the time. She said not everyone is going to take the type of care like the Reisen's do and that is unfortunate. She said we are a limited services city with one code enforcement

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officer and until we have the type of funding that permit for some of the codes to be enforcement, we can't do that. She thought this issue raises a lot of concern about the city's code enforcement.

Council Member Upton said they have talked about this issue for four years. He had a serious phone call from a resident asking if including in the chicken ordinance if they could include goats. He explained the resident had recently lost her husband and being raised on a farm, the goats would eat the grass. He said she had no children in the neighborhood that could cut the lawn for her and thought if goats were included in the ordinance this would help with her issues. Council Member Upton questioned were the slippery slope stops. He said if we are going to allow chickens and goats then what's next. He said there has to be a line between domesticated pet animals and barnyard natured animals.

Council Member Wallace said the majority of people who contacted her were overwhelmingly against allowing chickens. She said her job is to support the residents that contact her.

Vice Mayor Vann said we are coming into a new awareness of food quality and not everything that is done in a mass chicken raising place is not the healthiest kind of protein to feed our children. She said millennials and other families have taken to the idea of having chickens. She asked if chickens were prohibited currently or if there were no laws for having them. Mr. McHugh replied that chickens were allowed in agricultural districts only. Vice Mayor Vann said there were two chicken coops within walking distance of her house but currently have no chickens and nobody complained. She said some parents like the idea of having chickens as an educational process. She felt the property size requirement should be three-fourths of an acre instead of one-third. She said with society changing as it is if this was that bad of an idea. She has seen well maintained chicken coops that were not a threat to her. She said she would like to see an ordinance that talks about nuisances. She said a nuisance would be habitual barking, whining, howling, meowing, crowing, or other severe annoyance. She said for many years there have been problems with barking and howling and should have a nuisance rule on the books. She said if somebody is threatened by the safety of animals, dogs especially, the city should have nuisance legislation on the books. She said if any pet is not kept in a sanitary condition this should also be a nuisance because it's detrimental to the neighborhood. She was not necessarily against having chickens but was undecided on this topic.

Council Member Upton stated there is a barking ordinance section 91.21.

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Council Member Whilding stated he was pro-chicken but his concerns were personal. He said you can make these decisions for yourself. He said staff did a good job but it was not something at this time for Beavercreek. He said we have given a good discussion.

Mayor Stone thanked the Reisen's for the photos. He commented in the future there may be a way to figure out how to allow pets of different breeding acceptable. He said an ordinance that gets to raise chickens just for the sake of the eggs he found more of an agricultural situation and not something that a majority of people want on their half acre and smaller lots. He said to raise chickens to produce fresh eggs was not something he would support.

Council Member Whilding said there was a statute City of Sparta versus Page 2015 which chickens were found to be no different than any other use of your property. He addressed Mr. McHugh saying he said chickens had been found to be of incidental use to residential. Mr. McHugh said this was a case out of Illinois and involved a city that did not have a definition of agricultural animals that included chickens. He said the City of Beavercreek's definition does include chickens.

Council Member Whilding MOVED to approve Ordinance 16-21 and move to the second and third readings, seconded by Vice Mayor Vann. Motion TIED by a roll call vote of 3-3. (Against Upton, Wallace, Stone)

Mr. McHugh said a 3-3 vote would place the Ordinance on the agenda for the next meeting as a first reading since there was no decision.

Mr. McHugh explained that a Council Member who voted in favor of the Ordinance could motion for a reconsideration at this meeting and further debate. He explained Council has taken no action by not turning it down or moving it on.

Council Member Whilding asked if they could make amendments to the Ordinance next week because Council would be starting over. Mr. McHugh said that was correct. He explained they could also make amendments if it were reconsidered as well as have further debate and further motion.

Council Member Litteral MOVED to reconsider Ordinance 16-21, seconded by Vice Mayor Vann. Motion was DENIED by a roll call vote of 1-5 (Against – Upton, Wallace, Whilding, Litteral, Stone)

Ordinance 16-21 will be presented at the next regular meeting as a first reading.

## **LIQUOR PERMITS**

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**Aldi Inc. of Ohio (Transfer)**

Chief Evers explained the Ohio Division of Liquor Control sent police notification of a request to transfer a C1, C2, and D6 liquor permit for Aldi Inc. of Ohio DBA Aldi Inc., 4886 Airway Rd., Riverside, Ohio 5431 to Aldi Inc. of Ohio DBA Aldi Inc., 2451 Lakeview Dr., Beavercreek, Ohio 45431. The record checks required by the Ohio Department of Commerce – Division of Liquor Control were conducted in the application/shareholders for this application. Staff recommended this liquor permit transfer move forward with no comment.

Council Member Litteral MOVED to accept without comment, seconded by Council Member Wallace. Motion PASSED by majority voice vote.

**CITY MANAGER'S REPORT**

Mr. Cornell said the InTouch should have reached mailboxes by this time. He reviewed the continued resurfacing efforts with the additional streets that should begin the end of September. Shoup Park will be closing for renovations but the slide will remain. The Popcorn Festival will be held September 10 and 11, 2016. For more information please visit [www.beavercreekpopcornfestival.org](http://www.beavercreekpopcornfestival.org). There will be a 9/11 Remembrance event at 6:30 p.m. at the 9/11 Memorial.

**MAYOR'S REPORT**

Mayor Stone said the Band of Flight will be performing at the 9/11 Remembrance Service. He said State Representative Perales will be holding office hours at the Beavercreek Golf Course from 3-5 p.m. on Tuesday.

**COUNCIL TIME**

Council Member Whilding wished everyone a safe and happy school year.

Vice Mayor Vann attended the grand opening of the McAfee Sports Center which will be a great asset to the community. Owen's Place will have the Treehouse Opening on August 27, 2016. She met with Clark State University who is working towards providing improved training for needed certifications for employers within the area.

Council Member Wallace said the Beavercreek Women's League will be meeting September 7, 2016 at Peace Lutheran Church. She thanked the police department for forwarding thank you notes received from the residents.

Council Member Upton extended his condolences to Council Member Jarvis for his recent loss.

Council Member Litteral though the latest InTouch is one of the best issues.

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### **CITIZEN COMMENTS**

Robin Cornell, 2782 Sutton Ave., Kettering, Ohio

Ms. Cornell explained she is the owner of the fruit stand on Patterson Road who was asked to tear it down at the beginning of the year. She said now the city has changed their minds and she can repair it. She said she wanted to know what she has to do and if someone could meet with her at the fruit stand and explain what is needed. She knew she needed to remove the trailer.

Mayor Stone said staff would be in contact with her and to please leave her contact information with the clerk.

Jade Kraft, 1040 Tralee Trail, Beavercreek, Ohio

Ms. Kraft said she wanted to know what needed to be rebuilt for the fruit stand. She said there have been a lot of people donating to help rebuild. She displayed a photo of what they would like it to look like.

Mr. Kucera said the City was proud to receive the Auditors Award with Distinction four out of the last five years which is very rare.

Citizen Comments was closed.

### **EXECUTIVE SESSION**

Council Member Whilding MOVED to enter into Executive Session at 8:22 p.m. pursuant to Section 121.22 of the Ohio Revised Code, for the purpose of consideration of preparing for, conducting or reviewing negotiations or bargaining sessions with public employees, seconded by Council Member Litteral . Motion PASSED by a roll call vote of 6-0.

Council Member Upton MOVED to adjourn executive session at 8:32 p.m., seconded by Council Member Wallace . Motion was PASSED by roll call vote of 6-0.

Council Member Wallace MOVED to reconvene the meeting, seconded by Council Member Whilding . Motion PASSED by majority voice vote.

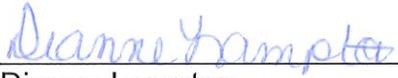
### **ADJOURNMENT**

Council Member Litteral MOVED to adjourn the meeting at 8:33 p.m., seconded by Council Member Wallace. Motion PASSED by majority voice vote.

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Bob Stone, Mayor

ATTEST:

  
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Dianne Lampton  
Clerk of Council  
Cmin080822