

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING June 8, 2020 6:00 p.m.

**CALL TO ORDER**

Mayor Stone called the meeting to order followed by roll call

PRESENT: Council Member Bales, Council Member Curran, Council Member Duerr Council Member Garcia, Council Member Schwartz, Vice Mayor Adams, Mayor Stone

ABSENT: None

ALSO IN ATTENDANCE: Randy Burkett, Interim Planning and Development Director; Dennis Evers, Chief of Police; Bill Kucera, Financial Administrative Services Director; Pete Landrum, City Manager; Steve McHugh, Legal Counsel; Dianne Miscisin, Clerk of Council

**PLEDGE**

Council Member Schwartz led the pledge and a moment of silence.

**APPROVAL OF AGENDA**

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

**PUBLIC HEARING PUD 13-5 Amendment 5/20 Germany Lane Development**

Clerk Miscisin read an application filed by John Kopilchack, 3500 Pentagon Blvd., Ste. 500, Beavercreek, OH 45431. The application requests approval of an amendment to add multi-family and student housing as permitted uses to PUD 13-5. The properties are located on the southwest corner of Germany Lane and Wynkoop Court further described as Book 1, Page 9, Parcels 83, 85, 86, 87, 88, 89, 90 and 91 on the Greene County Property Tax Atlas.

Applicant Presentation

Jerrold Barnett, Synergy and Mills Development

Mr. Barnett said the property under contract but had not yet closed on it. He said student housing or multi-family made sense for this property. He said prior to closing on the property they were trying to add those two uses to the existing uses that were a combination of B-3 and O-1 uses.

Staff Presentation

Mr. Burkett summarized the staff report dated June 4, 2020, which stated the applicant is requesting an amendment to PUD 13-5 to add additional permitted uses into the 4.15 acre PUD. He discussed where the property is located, what currently exists on the property, the zoning classifications of the surrounding properties, the Land Use Plan designation and the intent of those areas. Staff recommended approval of the amendment to the PUD.

June 8, 2020

#### Public Input

There being no public input, the public hearing was closed.

#### Council Input

Council Member Bales said this was an acceptable use for the property. He asked if there had been any discussions with Wright State University regarding the need for more student housing. Mr. Barnett said they had not had any conversations. He said in the past ten years there had been lots of conversations with the university as well as student housing developers about the area. He said there is very little student housing on campus. He said this student housing would have more of an apartment look rather than a dormitory. Council Member Bales asked if there were height restrictions. Mr. Burkett said for a PUD the restriction is 65 feet but this location may have additional requirements because of the WPAFB flight line. He said it would be based on the parking because of the size of the property.

#### Ordinance 20-10 (First Reading)

Council Member Curran MOVED Ordinance 20-10 to the second reading, seconded by Council Member Garcia. Motion PASSED by majority voice vote.

#### **PUBLIC HEARING Z-20-1 Franks Rezoning, R1A to A-1**

Clerk Miscisin read an application filed by Richard Franks, 1820 Maple Lane, Beavercreek, OH 45432. The application requests the rezoning of 6.283 acres of land from R-1A One-Family Residential District to A-1 Agricultural District. The property is located on the east side of Maple Lane approximately 200 feet north of the intersection of Maple Lane and Hohl Road. The property is further described as Book 5, Page 9, Parcel 33 on the Greene County Property Tax Atlas.

#### Applicant Presentation

Richard Franks, 1820 Maple Lane, Beavercreek OH 45432

Mr. Franks reviewed the lot, surrounding neighbors and the adjacent Greene County Park. He said the park was converted into a disk golf park and holes 17 and 18 are located against his property. He said he now has a lot of people walking onto his property which is a security and safety issue. He ultimately would like to put a fence up around his property.

#### Staff Presentation

Mr. Burkett summarized the staff report dated June 4, 2020 which stated the applicant is requesting approval for the rezoning of 6.283 acres from R-1A One Family Residential to A-1 Agricultural for the purpose of construction a 6-foot chain-link fence which is not permitted in R-1A districts, along the perimeter of the

June 8, 2020

rear and side yards.. He discussed where the property is located, what currently exists on the property, the zoning classifications of the surrounding properties, the Land Use Plan designation and the permitted allowed uses.

**Public Input**

Daniel M. Reeves, 1848 Maple Lane

Mr. Reeves emailed his support of the zoning change.

There being no further public input, the public hearing was closed.

**Council Input**

Council Member Garcia supported the rezoning.

Council Member Duerr liked the idea. He asked if there had been any input from the west side of Maple Lane. Mr. Franks said they have no issues.

Council Member Bales asked if the intent was to put fence all the way up to Maple Lane. Mr. Franks said yes with a decorative iron fence going across the front.

Vice Mayor Adams called some of the neighbors saying they had no problem with the rezoning.

**Ordinance 20-11 (First Reading)**

Council Member Duerr MOVED Ordinance 20-11 to the second reading, seconded by Council Member Garcia. Motion PASSED by majority voice vote.

**ORDINANCES, RESOLUTIONS AND PUDS**

**Ordinance 20-09 Income Tax Code (Second Reading)**

Clerk Miscisin read an Ordinance by Beaver Creek City Council enacting a new Chapter 39 "Income Tax" to the codified Ordinances of the City of Beaver Creek.

Mr. Kucera reviewed some of the key points. He said the purpose of the income tax was to provide funds for general municipal operations, maintenance, equipment, municipal services and facilities, infrastructure and capital improvements. The tax rate would be 1%. He reviewed the city charter which states that council has no power to adopt and levy a city income tax without a majority vote of the electors voting on such levy. He said this means that no matter what, this would require a vote of the electors. He said the goal of the income tax is to diversify the city's revenue stream and reduce the city's dependence on property tax levies. He said the income would take effect January 1, 2022 which is the same time a voted 3.4 mill street levy would expire if the income tax is adopted. He said the Ohio Revised Code requires the city to follow certain

June 8, 2020

requirements. He said a resident would receive 100% credit for wages earned and taxed in another municipality. He also clarified that the city would be able to reduce any other voted levy. He said the city's website has information regarding the income tax. He stated this Ordinance does not put the income tax on the ballot. This Ordinance only adopts the tax code.

Vice Mayor Adams asked if you can increase a levy after it was reduced. Mr. Kucera replied that you could increase the levy up to the original voted amount.

Council Member Curran asked for the court decision of the Ohio Municipal League challenging the state's ability for collection of the tax. Mr. Kucera said it was ongoing.

#### Public Input

Harold Lewis 1423 Town Hall Road, Beavercreek, Ohio

Mr. Lewis said Council could change an Ordinance at any time and if it's not in the City Charter it's meaningless. He said put it in the City Charter. He asked for a cap of what the income tax could be used for. He said the state has a cap of 10.5% for public indebtedness and said for Beavercreek that was \$130 million of debt which is based on the total appraised value of the community. He wanted a dollar amount in the charter.

Tony Corvo 432 Ashton Court, Beavercreek, Ohio

Mr. Corvo said the pro tax crowd stated seniors can't afford the property tax and the income tax is not taxable on retirement income. He said this is a myth. He said the myth is not that they don't have an income it's that they don't have wealth. He said in truth the over 65 crowd, 38% of them are millionaires. A great many of them are worth half a million dollars. He said the under 35 crowd is often having negative wealth because they are starting a family, trying to buy a house and paying off student loans. He said in a free country everybody must have a tax burden.

John Stankosky, 1497 Fudge Drive, Beavercreek, Ohio

Mr. Stankosky said he would have to pay more for the income tax than his property taxes. He said it's not fair to those who have a good income and hopes it is voted down.

Dr. Mark Walsh, 434 Ramsgate Drive, Beavercreek, Ohio

Dr. Walsh said his supports the income tax and his motivation was anger. He is angry because of the tens of millions of dollars earned in Beavercreek by people outside of Beavercreek who come to work here. He said we give it back to the communities of Kettering, Centerville and Dayton. He said we have many funding

June 8, 2020

needs in the city and the schools. If the schools go, so does the property values. He said we need the money here.

Brian Jarvis 1825 Timberwood Drive, Beavercreek, Ohio

Mr. Jarvis said Beavercreek residents are facing the prospects of having city property taxes increased to unsustainable levels. He said they currently have the fourth highest city property tax rate of any city in Montgomery and Greene Counties. He said the Beavercreek's high property valuations results in the high city property taxes that many complain about. He said we are second only to Oakwood. Over the past ten years the city property tax mileage has increased by over 60%. He said based on what was proposed at the January work session for future property taxes it will increase another 60% over the next four years. He said 242 out of the 246 cities in Ohio understand the idea of spreading the cost of public services among the broadest number of people helps keep taxes down for residents. He said 15 of the 17 cities in Montgomery and Greene Counties understand this same thing. He said currently the city levies 14.93 taxable mills of property taxes for city services. He said that was about \$475 per \$100,000 valuation. He said if things go as proposed without an income tax there will be an increase of \$318 per \$100,000 valuation and then about 1 mill every year after that. He said with a 1% income tax the 14.93 mills would be reduced by just over three mills which is a reduction of \$101 per \$100,000 valuation. He said this works for Beavercreek because for the first time in the city's history local services would be fairly shared by non-residents who work here. The current method of funding for Beavercreek is not sustainable because it does not require everyone who uses the services to pay for them.

Mary Brailey 1399 Town Hall Road, Beavercreek, Ohio

Ms. Brailey said she's one of the senior citizens that is about to be taxed out of her house. She said she pays 75% of her fixed income to property taxes. She said nine of the thirteen houses she can see from her property are senior citizens and as far as she knows none of them are millionaires. She said many of the houses in her neighborhood have been sold and are now rentals.

John Mitchel, 3955 Maple Grove Lane, Beavercreek, Ohio

Mr. Mitchel said in a Facebook post separate from Beavercreek Fairer Funding Committee reminded us that Beavercreek despite remaining one of the few Ohio municipalities without an income tax, has one of the lowest unemployment rates of any Ohio city at 3.1% at the end of 2019. He said the rest of Ohio has 4.2% unemployment, about 20% above the national average of 3.5%. He said they can't say how much a 0% income tax had to do with the low unemployment rate but was sure that lower taxes are a draw for businesses and well as highly trained productive employees. He said Mr. Jarvis and his committee also said the tax

June 8, 2020

would reduce some resident's property taxes and reduce reliance on property taxes but failed to address if residents total tax burden would decrease if at all. He said the BFFC claims that it would take 100 years to complete infrastructure upgrades and capital projects without the income tax. He said if nothing else that doesn't speak well for city government planning since we became a city in 1980. He said the Beaver Creek Golf Course had the final annual payment is \$845,000. He said he asked the cost of the golf course and the answer was since 2004 the revenues were approximately \$43.4 million and expenditures approximately \$44.3 million. He said this did not include the debt service of over \$13 million. He asked how much revenue would be gained from the proposed income tax and the response \$14.4 million in the first collection in 2022 and would increase incrementally until full collection 2024. He said despite being retired and not subject to the income tax, he strongly opposes the proposed 1% income tax.

Vanessa Stankosky, 1497 Fudge Drive, Beaver Creek, Ohio

Ms. Stankosky said retirement was right around the corner for her. She said the municipality is a small percent of her property taxes. She said this would not help the schools and it would increase their taxes quite a bit.

Chad Whilding, 2428 Brown Bark Drive, Beaver Creek, Ohio

Mr. Whilding appreciated the three readings. He was concerned that there was not a definition of complete. He appreciated the comments of Dr. Walsh regarding school financing because the school's city income tax is a fair and equitable way to raise money for a public purpose. The community has always been strong in trying to maintain the powers over the public purse; they have always supported levies with fixed purpose, and always supported the charter to protect that right. He said in 2006 the property tax was a 100% dollar for dollar property tax rollback which reduces the burden to Beaver Creek but had no spending restrictions so it didn't equal the levy power and was voted down. In 2012, to defray the costs of the 1 mill street levy, the 3.7 police levy and 2.6 street levy which are now all continuous but at that time if the income tax met the allocations needed and the 20% capital fund improvement fund was funded the property taxes would start to be abated on equal amounts. He said it's still a better situation in a tax burden reduction for everybody. He said anything left was going to be left to the budgetary process and it was always hoped that would never be a windfall as seen in the past. He said if we agree on the \$14 million minus the \$3.4 million on the current street levy that's \$10 million per year. He said this ordinance puts no restrictions on it and nothing in the charter to protect their rights. He said this was an absolute windfall with no guaranteed reduction of the current property taxes. He said what about construction of a new city hall. He said that is likely a bond issue but no guarantee for funding to pay that bond issue has been discussed. He asked if that would be an income tax or would that be a traditional levy to pay that bond. He

June 8, 2020

said with these points there is a clear considerable amount of work left before this income tax ordinance should be passed in Beavercreek.

Carol Graff, 1442 Devoe Drive, Beavercreek, Ohio

Ms. Graff said she is a 54 year resident of Beavercreek and former council member and mayor. She said at one time she worked in Fairborn and paid her 1% to Fairborn for the mile road and the police protection they provided and was very happy to do so. She thought the people who live in other places and work here should provide that same reciprocity for the City of Beavercreek. She said our city services need additional revenue. As she walks, she sees grass growing in the street. She knows that will ruin the roads that she walks on. She said if you are not earning, you will not pay an earnings tax but if you are not earning, you will pay property taxes one way or another. Most non-residents who are working here already pay a municipal income tax and it will not cost them a penny. For those of us who are senior citizens and have hopefully earned the right to breath won't have to pay an income tax. The diversity of income with the probability of increasing city revenue would provide the services that we need, pay for the services that we need increased and the cost of increasing services. She did not know what distrust other people have but she trusts her city council. She trusts them to provide the services that we pay for and provide them well. She implored all council members to support the income tax issue that would benefit most of the residents of Beavercreek and provide for the long term health of our city.

Joseph Marx, 3647 Eastern Drive, Beavercreek, Ohio

Mr. Marx said he was among the younger adult working members of this community and currently lives with his parents and works in Dayton. He said when he paid his taxes last year all of his taxed income went to the City of Dayton. He said he wants to be able to contribute some of his income to support this community that he benefits from. He believed they should have an income tax.

There being no further public input, the public hearing was closed.

Council Member Curran MOVED to remove section 39.081D from the Ordinance, seconded by Council Member Schwartz. Motion PASSED by majority voice vote.

Council Member Garcia thanked everyone for coming out to speak. She said this upcoming vote is only on the text of the Ordinance itself and not to put it on the upcoming ballot. She said there would be public input on the third reading and encouraged people to come out again. There will be a whole other discussion regarding putting this on the ballot.

June 8, 2020

Council Member Bales echoed Council Member Garcia's comments. He appreciated all those who made comments and hearing the different perspectives of the issue. He encouraged those who were watching at home to do research and let them know of any questions. There was a lot of thought and consideration put into the ordinance language for the tax code. The language is as easy to understand as possible. He said this is just the Initial step. He said he was not going to be in town for the next meeting. He said the income tax is a fair way to fund local government operations and would remove the tax burden from property owners who are tasked with funding all of our operational needs and believe that non-residents who are working in town should pay their fair share. He said like all appropriations and budgets from the past, public participation and input is critical. He said Ms. Graff talked about trust versus mistrust and he will work hard to gain your trust and go through those appropriation budgets and listen to you so the money gained from the perspective income tax is spent wisely. He said we have big city issues and infrastructure problems that will be a burden on our property tax owners if an alternative revenue source is not found. He said our property taxes are high and are forcing some people to make choices as to continue to live in Beavercreek or not. He urged everyone to read the tax document, understand the facts and ask questions. He said nobody likes paying taxes but for the prosperity of our city he would gladly pay his fair share and was happy to make this investment in their future.

Council Member Schwartz asked Mr. McHugh to explain the difference between charter language and ordinance. Mr. McHugh explained that the charter is voted on by the public. All changes and everything in the charter has at one time or another been approved by a majority of the electors. He said an ordinance is not something voted on by the public but by a majority of council. Council Member Schwartz said this is just voting on the language which is pretty much declared by the state. She said they have not decided if this would go on the November ballot.

Council Member Duerr said he voted against the last tax levy but in running for council and sitting here today we do have some challenges today as a city. He is concerned if it does go on the ballot, at least people have a decision. He has a philosophy of keeping taxes low and has concerns about changing taxes. His other concern is on the national economy, unemployment and timing. He looked forward to more comments. He said that this is just to set the language.

Vice Mayor Adams said he was here when Beavercreek became a city and when that was done they had no idea they would end up being the city that they are. He's talked with a lot of people that are on both sides of the issue. He said they have to find a way to address the needs which are going to become greater and greater going forward. He said there is nothing worse than backing out of your



June 8, 2020

driveway and dropping into a hole because we can't fix the street. He encouraged people to talk with council as they would like your input.

Mayor Stone said the hardest thing to get across to the general public is that a levy is a fixed dollar amount. If the income tax does not tax effect requests for increases to the levies will be coming. If we only have revenue from property tax we will be coming back for more property tax increases. He said to please keep that in mind as it could be as much as five to six more mills. The people have to vote on an income tax.

This Ordinance will move automatically to the Third Reading

**Ordinance 20-08** Street Rename – Old Shakertown Road (Second Reading)  
Clerk Miscisin read an Ordinance to change the name of a section of "Shakertown Road" to "Old Shakertown Road".

Mr. Thonnerieux said there was a small section that remained after the construction. This name change effects three property owners and have not heard anything back from them.

There being no public input, the public hearing was closed.

Council Member Curran MOVED to approve Ordinance 20-08, seconded by Vice Mayor Adams. Motion PASSED by majority voice vote.

### **COUNCIL TIME**

Council Member Curran appreciated the comments from the public and council regarding the income tax.

Council Member Schwartz attended the Beavercreek Wetland Association annual meeting. She said there is a plan in place to connect all the wetlands with 20 miles of trail. She said Brian Jarvis was recognized by Greater Dayton Association of Black Journalists for a lot of the work that he has done within the community. She said our community and our country is in a really trying time right now. She said she was here to listen to anyone even though she doesn't have all the answers. She was here to listen, learn and educate the community to the best of her ability and advocate any changes that need to be implemented

Council Member Garcia attended the MVRPC meeting late last week. She said one of the topics discussed was updates to the public participation policy. She said

June 8, 2020

the Ohio Association of the Chief of Police Community Relations and Engagement Committee named the Beavercreek Police Department the Agency of the Month for June 2020.

Council Member Duerr welcomed Burlap and Birch to Beavercreek as the newest small business located at the Fairfield Commons Mall. He asked small businesses to reach out to council to talk and ask questions. He thanked neighboring communities who helped out during the tornado.

Council Member Bales said he and his family have been out visiting a number of parks in the city. He said the city was currently working on plans to reopen playgrounds. He encouraged everyone to get out and enjoy the sunshine and summer.

Vice Mayor Adams echoed Council Member Garcia's comments. He said the police department had just finished the CALEA inspection. He said he and Officer Brown visited a preschool who had a lot of good questions. He said with things opening up to please go out and visit small businesses.

#### **MAYOR'S REPORT**

Mayor Stone agreed with all the comments made. We have challenges in the country and communication is the key word. He said the public needs to communicate with them.

#### **CITY MANAGER'S REPORT**

Mr. Landrum reviewed the progress of the Shakertown Road Extension Project. He gave a status of opening up the parks. On June 9<sup>th</sup>, senior transportation will be available for medical appointments only and some recreational classes will be starting up in the next couple of weeks. He reminded everyone of the grass and weed ordinance and permit applications are available online.

#### **CITIZEN COMMENTS**

Leah Trebil 3030 Old Heritage Way, Beavercreek, Ohio

Ms. Trebil said everyone is aware of the mainly peaceful protest that took place last Monday, June 1<sup>st</sup>, in remembrance of George Floyd who was killed in police custody and our own John Crawford who was killed by a Beavercreek police officer, August 5, 2014. She said it was mainly a peaceful protest because even prior to the protest, a Beavercreek school teacher posted on Facebook, "Let's place bets on what time the violence and looting starts." She attended the protest so she knows there was a window of a jewelry store that was broken. There was a white racist shouting hateful things. There was tear gas that was deployed without warning. There was an officer who at first seemed to take a knee when

June 8, 2020

actually he tied his shoe. Once, when sincerity did take place and some officers did kneel and the others removed their riot gear the energy and atmosphere of the event completely changed. She said it is evident that we, as Beavercreek, have some work to do. When she looked at the Beavercreek Police annual report and saws that approximately 30% use of force was used on African-Americans and a 24% arrest report for African-Americans but yet we only have a 2% African-American population, she has some questions. When she Googled black and African-American owned businesses in Beavercreek, she found one whose annual revenue was approximately \$56 million which means black owned businesses are profitable to our city. She said another business has a partnership with the high school so she knows that black businesses directly have a positive impact on our youth. She said the third one was a specialty bar-b-que sauce sold at Kroger which she thought we could do better. When she sees a Beavercreek teacher who obviously doesn't know her history about protests in our country from the Boston Tea Party to suffragette movement to civil rights but says she assumes they are violent for selfish and stupid behaviors, she has questions. She proposed a town hall meeting to discuss increased diversity amongst our police force and policies that protect minority citizens and display transparency.

Joseph Marx, 3647 Eastern Drive, Beavercreek, Ohio

Mr. Marx acknowledged that this has been a very rough year and a half. He has attended numerous demonstrations, protests and marches. He said he has been passing around flyers to offer law enforcement reform proposals to get a conversation going. He said eventually people will get bored, go home and nothing will get done or we can make proposals. He believes that when you speak you are speaking with the voice of Beavercreek to show that the City of Beavercreek is backing behind meaningful police reform. He said our police department is good but even a good police department should always strive to be even better through meaningful reforms and oversights. He felt it important for Beavercreek because of the symbolic gesture of John Crawford that the Black Lives Matter movement picked up steam from an action that took place in Beavercreek. If we do nothing, this will keep happening along with million dollar settlements.

Chad Whilding, 2428 Brown Bark Drive, Beavercreek, Ohio

Mr. Whilding said he has experienced professionalism of the police department on a regular basis because of a neighbor. He was not surprised by the compassion, professionalism and respect shown at that rally. He's not surprised but extremely proud of the police support. He said to follow up on what he didn't get to finish earlier he finds it interesting when they talk about the levies and will they expire. He said it's not only that Council allows it, we allow it. He said we chose those millage and that duration to expire when it was finished. He said we know they've

June 8, 2020

become continuous because of growing concerns over infrastructure but nothing prevents council from presenting that \$3.4 mills back. He said I know you're not crazy enough to do that but there is nothing stated the council will not ask for the 3.4 mills again. He said we are talking about language and there is no actions in that language. He said it's a discussion of the structure of the tax with only one side of the discussion in place – the collection. He said not the spending, not the power of the citizens that it has demonstrated that they want control over the spending. He said put that amount in the charter and the credit in the charter.

Citizen Comments was closed.

**ADJOURNMENT**

Council Member Curran MOVED to adjourn the meeting at 7:59 p.m., seconded by Vice Mayor Adams. Motion PASSED by majority voice vote.



Bob Stone, Mayor

ATTEST:



Dianne Miscisin  
Clerk of Council  
Cmin06082020