

BEAVERCREEK CITY COUNCIL  
REGULAR MEETING September 24, 2018 6:00 p.m.

**CALL TO ORDER**

Mayor Stone called the meeting to order followed by roll call

PRESENT: Council Member Curran, Council Member Litteral, Council Member Rushing, Council Member Upton, Council Member Vann, Vice Mayor Garcia, Mayor Stone

ABSENT: None

ALSO IN ATTENDANCE: Dennis Evers, Chief of Police; Kim Farrell, Recreation Superintendent; Bill Kucera, Financial Administrative Services Director; Pete Landrum, City Manager; Jeff McGrath, Planning and Development Director; Steve McHugh, Legal Counsel; Dianne Miscisin, Clerk of Council; Jeff Moorman, City Engineer; Nick Smith, Assistant City Manager; Mike Thonnerieux, Public Administrative Services Director; Zack Wike, Assistant Superintendent

**PLEDGE**

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

**APPROVAL OF AGENDA**

Council Member Litteral MOVED to approve the agenda, seconded by Council Member Curran.

**APPROVAL OF MINUTES**

Council Member Litteral MOVED to approve the August 27, 2018 Regular Meeting Minutes, seconded by Council Member Upton. Motion PASSED by majority voice vote.

Council Member Upton MOVED to approve the September 10, 2018 Regular Meeting Minutes, seconded by Council Member Curran. Motion PASSED by majority voice vote.

**ORDINANCES, RESOLUTION AND PUDS**

**Ordinance 18-17 Impact Fee (Third Reading)**

Clerk Miscisin read an Ordinance amending Ordinance Nos. 93-62, No. 95-66, No. 96.16 and No. 97-72, The Beavercreek Traffic Improvement District Ordinance, by amending the transportation system improvement fee schedule for District No. 1, amending the fee per trip schedule for District No. 1, amending certain other provisions of same Ordinance.

Council Member Curran MOVED to approve Ordinance 18-17, seconded by Vice Mayor Garcia. Motion PASSED by majority voice vote. (Apposed - Litteral, Upton)

September 24, 2018

**Ordinance 18-18** Easement to Jeff Schmitt (Second Reading)

Clerk Miscisin read an Ordinance to declare certain City owned property interests as surplus and to approve the conveyance of an access easement on City owned property generally known as the Creekside Trail Right-of-Way.

Mr. Moorman said there had been a request at the last Council meeting to send this information out to the adjoining property owners. A letter went out on September 13, 2018 explaining the request for the easement and of the public hearing.

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

This Ordinance will move automatically to the Third Reading.

**Ordinance 18-19** Update to Chapter 97 Trees, Weeds and Shrubs (First Reading)

Clerk Miscisin read an Ordinance repealing current Chapter 97 "Trees, Weeds and Shrubs" of the City of Beaver Creek Code of Ordinances, and adopting new Chapter 97 "Trees, Weeds and Shrubs" of the City of Beaver Creek Code of Ordinances.

Mr. Wike explained they were working towards the designation of Tree City USA. One of the requirements was to review and recommend changes to the City Ordinances as it pertained to trees. The Tree Advisory Board along with City staff recommended the following changes: 97.02, add definitions, 97.04, add list of approved trees which would be available through the Public Administrative Service Department; 97.05, add text regarding tree planting distance from street corners, fire hydrants, curbs and other trees; 97.06, add when trees are removed within a right-of-way, a minimum of 25% of those trees shall be replaced within public right-of-way; 97.07, clarification was provided to state that it was the duty of the abutting property owner to trim trees in a manner that would not obstruct street lights, street signs or pedestrian or vehicular traffic.

Council Member Litteral asked if there was an arborist on staff. There is an arborist on staff.

Council Member Curran questioned the height of branches above sidewalks. Mr. Wike replied the requirement was eight feet above sidewalks and ten feet above roads.

Council Member Upton asked why the city would have a list of approved trees rather than a list of not approved. Mr. Wike explained they had identified trees with a more vertical growth habit and stronger for use along streets and sidewalks. He

September 24, 2018

said it was a list they would be able to update on a more regular basis to address trees that may develop a pest problem.

Council Member Litteral MOVED to approve Ordinance 18-19 and move to the second and third readings, seconded by Council Member Curran. Motion PASSED by majority voice vote.

**Ordinance 18-20** Small Cell Tower (First Reading) (Emergency on Third Reading) Clerk Miscisin read an Ordinance adopting new section 96.38 "Small Cell Facilities & Wireless Support Structures" of the City of Beaver Creek Code of Ordinances.

Mr. McHugh explained this was a small cell facility Ordinance. He reviewed the history of this which was a result of Ohio House Bill 478. The bill was the standards and was more regulation but not zoning code. This was small cell antennas and not the large towers. He said they would be six feet in cubic volume with the ground equipment being around 28 cubic feet and up to 40 feet tall. He said they could be placed on existing right-of-way structures. He said the design guidelines would be handled through the City Engineer. This would enable the city to keep up with the frequent technology changes. He said the 5G network was what was driving this.

Council Member Curran asked if they could expect these on water towers. Mr. McHugh expected them to be on light poles. He said the ones on the water towers were higher and were in lieu of having a separate pole. The small cell towers was a different form of technology.

Council Member Stone asked how this would impact the letter signed last week regarding the FCC. Mr. McHugh said the FCC would ultimately have final jurisdiction but the intent with the State of Ohio was to address and adopt standards.

Council Member Vann questioned why on the third reading the legislation would be passed as an emergency. Mr. McHugh said it was in anticipation of receiving applications and wanted the Ordinance to be in effect and have our own regulations and be able to follow our design guidelines.

Council Member Upton asked if there was any other code where it was left to staff to define the design standards. Mr. McHugh said the bus stops. He said the intent was to keep up with current designs.

September 24, 2018

Council Member Vann MOVED to approve Ordinance 18-20 and move to the second and third readings, seconded by Council Member Curran. Motion PASSED by majority voice vote.

**Ordinance 18-21** Repealing Section 132.13 "Panhandling" of the City of Beavercreek Code of Ordinances

Clerk Miscisin read an Ordinance repealing current section 132.13 "Panhandling" of the City of Beavercreek, Code of Ordinances.

Mr. McHugh said they were recommending repealing because it was not being enforced. He based this upon cases that had been filed in Arizona making it not enforceable.

Council Member Vann asked what could be done to prevent panhandling. Mr. McHugh said based upon the United States Supreme Court it's a protected freedom of speech. Panhandling was protected and gave the example of putting a sign for an election in your front yard. The government would have to have an extremely high level of reason for not to regulate it.

Council Member Vann said a couple years ago this legislation was recommended. Mr. McHugh said things have changed and if the city enforced it, there could be a lawsuit.

Council Member Curran asked what tools they could use. Mr. McHugh said they can't block traffic or assault people. He said it's going to continue to be an issue for cities. It is a protected form of speech.

Council Member Litteral MOVED to approve Ordinance 18-21 and move to the second and third readings, seconded by Vice Mayor Garcia. Motion PASSED by majority voice vote.

**Ordinance 18-22** No Turn on Red Hanes Road at Dayton-Xenia Road (First Reading)

Clerk Miscisin read an Ordinance to prohibit a right turn against a steady red signal for southbound traffic on Hanes Road at the intersection with Dayton-Xenia Road during school hours.

Mr. Moorman received a request from the Beavercreek School District for new signage to prohibit right turns on red for southbound Hanes Road at Dayton-Xenia Road. He said the origin of the request came from the crossing guard who was assigned to that intersection. It was reported to the principal at Main Elementary there were a lot of vehicles not stopping. This was a major route for students going

September 24, 2018

to and from school. He said the traffic code requires this signage be approved by Ordinance.

Council Member Vann asked if the hours would be posted. Mr. Moorman said it would be the identical signage posted at Dayton-Xenia Road turning onto northbound Hanes. He said it was posted no turn on red during school hours.

Council Member Upton MOVED to approve Ordinance 18-22 and move to the second and third readings, seconded by Council Member Vann. Motion PASSED by majority voice vote.

**Resolution 18-42** Accepting Amounts and Rates and Certifying Them to the County Auditor

Clerk Miscisin read a Resolution accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them the County Auditor.

Mr. Kucera said this was the third phase of the annual county tax budget. He said this was a preliminary estimation which was identical to the rates passed in July. He said the next phase would be approval by the State. He believed the rates would be adjusted as property values increased by about 5%. He said staff would be bringing the budget before Council for review at two budget work sessions being held in November with final approval of the budget in December.

Council Member Curran MOVED to approve Resolution 18-42, seconded by Council Member Rushing. Motion PASSED by a roll call vote of 7-0.

**Resolution 18-43** MVPRC (Miami Valley Regional Planning Commission) Grant Applications

Clerk Miscisin read a Resolution authorizing the submittal of applications for federal fast act funds through the Miami Valley Regional Planning Commission

Mr. Smith reviewed the seven projects being submitted for funding. Five of the projects were widening projects and two were sidewalks. He said they did not require any complete street exemptions this year.

Council Member Upton appreciated all the grants received.

Council Member Upton MOVED to approve Resolution 18-43, seconded by Council Member Litteral. Motion PASSED by majority voice vote.

**Resolution 18-44** CRA (Community Reinvestment Areas)

September 24, 2018

Clerk Miscisin read a Resolution by the Council of the City of Beavercreek implementing sections 3735.65 through 3735.70 of the Ohio Revised Code, establishing and describing the boundaries of a community reinvestment area in the City of Beavercreek, designating a housing officer to administer the program, and creating a community reinvestment housing council and a tax incentive review council.

Mr. McGrath said Council has discussed over the last year tools available to increase economic development and stay competitive within the area. He said CRA was one of the actions that was decided upon. This legislation would need to be approved and then they would need approval from the State. He said there were regulations that needed to be followed. He said there was already a review board in place and any projects that go before Council would be reviewed on an annual basis to be sure they were performing as they should. He said any project that comes forward under the Community Reinvestment Area would be negotiated on an individual basis with staff and Council. He said they would not grant anybody any incentives at this point. It would give opportunity to look at the projects on a case by case basis.

Council Member Curran asked when they would need to set up a housing council. Mr. McGrath said that would be after they had received approval from the State. Mr. McHugh emphasized this was only for commercial and industrial property at this time.

Council Member Upton questioned the method of appointing the members of the housing council. The ORC language stated two members would be appointed by the mayor and two members would be appointed by council. Mr. McGrath said it was his understanding there would be a collective four by council.

Council Member Curran questioned if this was commercial property owned by someone who resides outside of the city if they would qualify to be on the board. Mr. McGrath said he did not read anything on the ORC that required residency.

Council Member Upton said to apply for one of the City's boards you have to be a qualified elector of the City of Beavercreek. He said that would rule out any business owners that live outside of the city. They would not be a qualified elector. Mr. McGrath said they may be able to make an exemption for this process that we have. Council Member Upton said the State tells us how we have to setup this council but not how we appoint to it. He said if our appointment process was the same for all of our other boards and commissions, it has got to follow our process. Mr. McHugh said he would pull out the code and look at it.

September 24, 2018

Mr. McGrath said the CRA was for commercial and industrial remodeling with a 12 year maximum or 15 years for new construction. He said it was incentive on the incremental value of the property.

Council Member Vann MOVED to approve Resolution 18-44, seconded by Council Member Curran. Motion PASSED by majority voice vote.

### **LIQUOR PERMITS**

#### **Patterson Food Mart Inc. (New)**

Chief Evers said the Ohio Division of Liquor Control sent police notification referencing a new C1 and C2 liquor permit for Patterson Food Mart Inc., 3985 Patterson Rd., Beavercreek, Ohio 45430. The records checks required by the Ohio Department of Commerce – Division of Liquor Control were conducted on the business officers/shareholders for this application request. Staff recommended this application request move forward with no comment.

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

#### **GTC Coffee Co. LLC dba Winans (Transfer)**

Chief Evers said the Ohio Division of Liquor Control sent police notification referencing a new D2 and D6 liquor permit for GTC Coffee Co. DBA Winan's, 45 Plum St., 1<sup>st</sup> Floor, Beavercreek, Ohio 45440... The records checks required by the Ohio Department of Commerce – Division of Liquor Control were conducted on the business officers/shareholders for this application request. Staff recommended this application request move forward with no comment.

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

### **MAYOR'S REPORT**

Mayor Stone said he attended a ribbon cutting for Northrup Grumman who purchased ATK. He said they now have 600 employees at two locations. He said he would be hosting 40 foreign officers on September 23<sup>rd</sup> at city hall. He visited the Coy Middle School where the band students taught him how to play a saxophone. He would have an article in the Neighbor's Magazine and would be submitting an article for each issue going forward.

### **COUNCIL TIME**

September 24, 2018

Council Member Curran attended the Top Women of Beaver Creek at Walnut Grove Country Club. He said Deborah Wallace was one of the women recognized for all her work.

Council Member Litteral congratulated to Decoy Arts and all the sponsors for Art in the Park. Try-a-Truck would be held on October 13<sup>th</sup> which is one of her favorite events.

Council Member Rushing said he, along with the mayor and vice mayor was part of the chain gang for the Eager Beavers last Saturday.

Council Member Vann said Saturday was the celebration of City of Peace in Beaver Creek. Heartfulness Institute planted a white pine tree which was an American Indian traditional to signify peace.

Vice Mayor Garcia said she and Mr. Landrum attended the U.S. Global Leadership Coalition on September 21<sup>st</sup>.

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

Mr. Landrum gave an update on the curb replacement and resurfacing programs. Greene County Environmental Services will be holding a tire drop off collection on September 27<sup>th</sup> and October 25<sup>th</sup> from 9:00 – 11:00 p.m. A small fee is associated with this drop off. Try-a-Truck and Fire Department Open House will be held on October 13<sup>th</sup> from 10:00 – 1:00 p.m. at the Beaver Creek Municipal Maintenance Facility 789 Orchard Lane.

#### **CITIZEN COMMENTS**

There being no comments, Citizen Comments was closed.

#### **ADJOURNMENT**

Council Member Upton MOVED to adjourn the meeting at 7:00 p.m., seconded by Council Member Curran. Motion PASSED by majority voice vote.



Bob Stone, Mayor



September 24, 2018

ATTEST:



Dianne Miscisin  
Dianne Miscisin  
Clerk of Council  
Cmin092418

