

CITY OF SPRINGBORO
320 W. CENTRAL AVENUE, SPRINGBORO, OHIO

CITY COUNCIL WORK SESSION

THURSDAY, SEPTEMBER 6, 2007

6:00 PM

CITY COUNCIL
John Agenbroad, Mayor

Marie Belpulsi, Deputy Mayor
Scott Anderson
Jim Chmiel

Gary Hruska
Sheila Lairson
John D. Parise

CITY STAFF
Chris Thompson, City Manager

Chris Pozzuto, Assistant City Manager
Jeff Kruthoff, Police Chief
Dan Boron, City Planning Consultant

Alan Schaeffer, Law Director
Lori Martin, Clerk of Council

- ITEM 1. CALL TO ORDER.** Mayor Agenbroad called the Work Session to order at approximately 6:00 PM in Council Chambers.
- ITEM 2. ATTENDANCE.** No absences.
- ITEM 3. LEGISLATIVE AGENDA.** –City Council considered 10 legislative agenda items slated for the September 6, 2007 City Council Regular Meeting.
- 1) **ORDINANCE: FIRST READING.** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SPRINGBORO, OHIO, REZONING APPROXIMATELY 13.3 ACRES OF LAND AT 8683 CLEARCREEK-FRANKLIN ROAD FROM ED, EMPLOYMENT CENTER DISTRICT, AND (T)R-1, FRANKLIN TOWNSHIP RURAL RESIDENCE DISTRICT, TO PUD-R, PLANNED UNIT DEVELOPMENT-RESIDENTIAL.

Mr. Anderson asked how the same legislative language that was presented to Council earlier this year and was turned down could be presented to Council again for consideration?

Mr. Schaeffer provided the following explanation: The applicant filed a new application. The Springboro zoning code contains a provision that states that a zoning application that has been submitted, considered, and denied cannot be filed again for two years. The law in Ohio is very clear that if an applicant changes their application in any way, shape, or form that would make it different from their original application, then it is not the same application; however, the law does not provide a lot of guidance beyond that. For example, an application might ask for 150 units of density on a 50-acre parcel. If that application were denied, then resubmitted at 149 units on the same 50 acres, it would not be an acceptable change. In this particular case, the original application was for 126 units on 12.1 acres, the current application is for 118 units on 13.3 acres; whereby, the density has been reduced by eight units. Following Mr. Schaeffer's research of the law and according to his understanding of the law, his legal opinion was that this application was different enough to be considered outside of the prohibition against filing the same application in a two-year time frame that would have been otherwise applied. The fact that the language is the same is immaterial; it is a different application.

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Mr. Anderson stated that he thought Council was voting to rezone the property from (T)R-1 to PUD-R; he did not realize subsets were involved. Mr. Anderson further stated that he was referring to the paragraph on the agenda, which is what he thought Council was voting on, and what Council had previously turned down.

Mr. Schaeffer explained that if the request to rezone was from a (T)R-1 to an R-2 that would be the same application because the density is already established, but a PUD is a negotiated development plan before it ever comes to Council for approval. With straight zoning, Council would know in advance to an 80% degree of certainty, with the other 20% percent being engineering related, the density; whereas, a PUD allows for diversity, uniqueness, a different kind of product that straight zoning would not necessarily allow. That does not mean that this particular project could not have fit into a multi-family zone. The applicant is now proposing a 118-unit density on roughly the same acreage. The applicant originally proposed 126 units. The 118 units, which reduce the density per acre, is a pretty big concession and is the maximum density allowed. The maximum density is negotiated up front.

Mr. Anderson asked if this scenario were to happen again, the developer could reapply by asking for one less unit and because it is different, and they could proceed with the application? Mr. Schaeffer referred to his earlier example in stating that if an applicant proposed 126 units, then returned with a subsequent proposal of 125 units it would not constitute a significant enough change; it would be considered the same application.

Mr. Anderson confirmed that it is Mr. Schaeffer's opinion that eight units is enough material difference to be able to change the application. Mr. Schaeffer replied yes, it is about a 6% change in overall density.

Mr. Hruska commented that there was also an increase in acreage from 12 to 13 acres between the first and second applications.

Mr. Schaeffer confirmed that there was an increase in overall acreage, but that was a technical error. Actually, the acreage has always been the same, but the applicant's first proposal reflected the wrong amount of acreage. The parcel itself is the same parcel, but the applicant miscalculated the acreage in their first application, which reflected less acreage than was actually there. The new application includes all of the acreage, which is not really a change, other than what Council will consider, which was 126 units on 12.1 acres and is now 118 units on 13.3 acres. Mr. Schaeffer commented that he did not base his decision on the change in acreage; he based his decision on the eight-unit reduction, changes in configuration, changes in layout, changes to parking requirements, and changes to road circulation. Mr. Schaeffer further commented that if the applicant had only removed one unit, the plan would be the same. Mr. Schaeffer explained that the number of units had changed the overall plan enough to allow for a change to the application. Mr. Schaeffer further explained that the other side of the coin is that the applicant presents the change, is told to wait two years, then sues the City on the basis that the City has temporarily denied them the usage of their land for two years, which is considered a take. If the case were litigated and the applicant was found to be right, the City would owe the applicant "x" amount of dollars because the City denied them the use of their property illegally. Mr. Schaeffer explained that his decision is not based on his fear of a lawsuit; his decision is based on what he believes Ohio law is on this subject after re-researching it, when this application was resubmitted, to make sure there was nothing new or different in the law he might have overlooked.

Ms. Belpulsi commented that this particular request to rezone is not accompanied by a general plan, and the general plan has not been reviewed by the Planning Commission. Ms. Belpulsi further commented that once the general plan is submitted, the Planning Commission works with the developer on all aspects of the plan. Ms. Belpulsi added that the density cannot be more than 118 units, but could be less based on street configuration, etc. Ultimately, the general plan would be presented to City Council for a vote based on the recommendation of the Planning Commission.

Ms. Lairson asked, if Council has already approved the requested 118 units, and the general plan is proposed to Planning Commission with 117 units and Council does not want 117 units, what is the recourse? Mr. Schaeffer explained that Council would be approving a density not-to-exceed 118 units. Mr. Schaeffer commented that the plan could be proposed at 110 units, which would be good.

Ms. Belpulsi confirmed that if the developer proposes 117 units, Council could vote it down? Mr. Schaeffer replied yes, based on the plan. Mr. Schaeffer added that the Planning Commission could also vote it down based on the plan, but it could not be

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voted down based on the number of units. Mr. Schaeffer reiterated that it would be voted down based on the merit of the plan, not based on the fact that 90 or 117 units are proposed.

Ms. Lairson reconfirmed that if the plan was presented and Council still believed there were too many units, they could not vote it down because they have already established the maximum number of units? Mr. Schaeffer stressed that no votes would be taken tonight. However, if a plan were proposed that is otherwise acceptable, but has 118 units, then they would be allowed 118 units. Mr. Schaeffer stated that if the applicant proposes a plan with 119 units, it would not be approved based on the number of units, but if the plan has 110 units and the plan is not good, then Council could still say no to the plan.

Ms. Thompson explained that the planning process is different from the zoning process. She further explained that if the property is zoned PUD-R and the applicant proposes a plan with 118 units and the Planning Commission finds that the traffic study shows the plan will not work due to traffic circulation or the units do not look desirable, then the Planning Commission could still turn it down at 118 units if everything else is not acceptable. The PUD process is a different process requiring the Planning Commission to look at many different things. If this property is rezoned, it will be rezoned in perpetuity and would remain a PUD-R with the established density unless someone requests to rezone it again. The Planning Commission then has to review any plans for the site that are submitted based on a traffic study, building materials, etc. A PUD is a negotiation between the Planning Commission and the developer until both are satisfied, and there are conditions that would still not allow the developer to have 118 units if they cannot successfully fulfill all of the other requirements of Planning Commission.

Mr. Chmiel stated that history has shown, by developers that have applied for PUDs, that almost unanimously they have come out with better plans than what the City would have had with conventional zoning, which is better for the community and for the people that live in the developments. Mr. Chmiel stated that he believes that for a developer to rezone to a PUD is a positive for the City.

Mr. Anderson commented that this request came before Council earlier this year, it was obviously an issue, and a lot of people that showed up at the meeting had some very legitimate concerns, which is why it was voted down. Mr. Anderson stated that according to legal opinion the applicant could resubmit their application, but he asked if this is the direction that Council really wants to go. Mr. Anderson further stated that the new application showed up without anyone really saying this is a hot topic, they are going to come before Planning Commission again, and what does Council think. The new application just came forward.

Ms. Thompson responded that the applicant has a legal right to apply with the Planning Commission.

Mr. Chmiel asked Mr. Anderson how the City could stop the applicant from applying for something that is their legal right? City Council does not control who applies to Planning Commission.

Mr. Anderson responded by stating that City Council could give direction to staff and Planning Commission. Mr. Anderson stated that he thinks it was pretty clear that this many units was not acceptable, he does not think eight units is a material change to the application, and it should not have come through. He understands that the applicant has the right to apply, but that does not mean Planning Commission has to approve it, and that is where he sees the disconnect. Council seems to be on the wrong page because Council has overturned the Planning Commission more than once. There should be more communication between Council and Planning Commission, which is why Council had a meeting with the Planning Commission at the beginning of the year, to try to open up communication. According to the minutes, when the rezoning request went back to the Planning Commission for a vote, the two Council representatives on Planning Commission were not in attendance. Mr. Anderson suggested that the Planning Commission could have at least held off until those two were in attendance so they could provide more input, unless they gave their opinion ahead of time.

Mr. Chmiel stated that he voted to recommend this rezoning in the first place, as did Ms. Belpulsi. Mr. Chmiel further stated that given the changes that were made, and after reading the minutes and looking at what was proposed, he would have voted for it again on the grounds of what the applicant is asking for.

Ms. Belpulsi stated that she was not present to vote on it either, but she concurs with Mr. Chmiel's comments. Ms. Belpulsi also stated that there is a misconception as to what the role of the planning Commission is. The role of Planning

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Commission, as she sees it, is the applicant proposes something they would like to build here, and the Planning Commission's role is to look at the project based on its own merit and based on the City's Master Plan, staff comments, good planning guidance, and good legal guidance. Ms. Belpulsi commented that the Planning Commission does not let politics get involved; they look at a plan based on its own merits, then the plan is recommended to Council, which is where Council's decision has to be reached based on whether three people or 10 people show up to voice their support or opposition. Ms. Belpulsi reiterated that when Planning Commission makes a recommendation, at least as long as she has been involved in Planning Commission, they base their decisions on the merits of the plan. The decision does not involve feelings or emotions; it has to do with the merits of the plan and whether it fits.

Mr. Anderson stated that, in his mind, when the majority of Council says no to the previous request it should be understood. Mr. Anderson further stated that it is about what is material, and obviously, legally this change is material because the applicant was allowed to resubmit, but the public's perception is that the plan was reduced by eight units, and now it is going to go through.

Mr. Parise asked what is the reference point? Mr. Parise stated that the applicant started at 126 units, and asked, was there a formula used to reach 118 units? Who chose 118 units and how did they arrive at that number?

Mr. Schaeffer stated that he did not know how the applicant arrived at 118 units.

Ms. Belpulsi guessed that 118 units are what made the development work for them. It covers their financial costs, and that is what it takes for them to be profitable, as any business, the driving force would be the numbers.

Mr. Parise asked if the City could ask the developer what the minimum could be and still make a profit? Ms. Thompson answered that they would ask for whatever they needed to make a profit, and it is now 118 units.

Ms. Belpulsi commented that the City's Master Plan addresses this particular parcel on this particular road, and it calls for cluster housing or a higher density. Ms. Belpulsi asked what Council would like to see there or what is the magic number?

Mr. Parise answered that he would not throw out a number that he could not back up. He would like to know how the number got to be 118 units.

Ms. Belpulsi explained that the Planning Commission did not arrive at that number; the developer applied for that number. Ms. Thompson added that staff did not arrive at that number; the developer proposed it.

Mr. Parise asked how the Planning Commission arrived at approving that number? He asked if the Planning Commission referenced something to arrive at that number?

Mr. Chmiel replied yes, there are density requirements referenced in those decisions.

Ms. Thompson stated that the original proposal was 10.5 units per acre, and it is now 8.87 units per acre. Ms. Thompson further stated that the applicant originally proposed R-3 zoning, which is defined as 12-15 units per acre. Over the negotiation process they reduced their proposal to 8.87 units per acre. The Planning Commission verbally denied in discussion the 12-15 units per acre, stating that the proposal would never get an affirmative vote. The second time the applicant made a proposal the acreage was incorrect, which no one knew at the time, but the density was 10.5 units per acre. This application reflects the corrected acreage and a lower density of 118 units, which amounts to 8.87 units per acre. Ms. Thompson stated that that is the number progression that occurred at Planning Commission from the first time the applicant came in.

Mayor Agenbrod confirmed that this topic would be discussed in a Work Session following tonight's Regular Meeting. Ms. Thompson stressed that this is the first reading and Council has agreed that after the public has had the opportunity to speak at the public hearings, Council would meet following the Regular Meeting to discuss those comments. Also, there were three e-mails containing some comments that Council should address because there were incorrect assumptions such as the location of the school district.

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Mr. Schaeffer will be making the same statement he made to Council at the beginning of the Work Session regarding this rezoning request at tonight's public hearing.

- 2) **ORDINANCE: FIRST READING.** AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY SPRINGBORO, OHIO, REZONING APPROXIMATELY 5.5 ACRES OF LAND NEAR THE SOUTHEAST CORNER OF CLEARCREEK-FRANKLIN ROAD AND WHISPERING PINES FROM R-2, LOW DENSITY RESIDENTIAL DISTRICT, AND O-2, OFFICE PARK DISTRICT, TO PUD-B, PLANNED UNIT DEVELOPMENT-BUSINESS.

This request to rezone 5.5 acres of land near the southeast corner of Clearcreek Franklin Road and Whispering Pines to PUD-B would also be discussed by City Council in a Work Session following tonight's City Council Regular Meeting.

- 3) **ORDINANCE: FIRST READING.** AN ORDINANCE REPEALING SECTION 244.36, "RETIREMENT AGE", OF THE CITY OF SPRINGBORO CODE IN ITS ENTIRETY.

Mayor Agenbroad confirmed that this ordinance is being proposed for approval in order to conform to federal law. Ms. Thompson replied yes.

- 4) **EMERGENCY ORDINANCE: FIRST READING.** AN ORDINANCE APPROVING THE RECORD PLAN FOR SOUTH TECH SECTION SIXTEEN RIGHT-OF-WAY DEDICATION, AND DECLARING AN EMERGENCY.

Staff has requested that City Council waive the second and third readings of this ordinance, as all requirements for this record plan have been met. Ms. Thompson explained that this record plan represents the right-of-way to extend W. Tech Boulevard. The extension of W. Tech Boulevard will allow the City to develop the 90 acres of land owned by the City at South Tech Business Park. As this is the City's own record plan, a subdivider's agreement and performance bond are not required.

Council made no objections to waiving the first and second readings of this ordinance

- 5) **RESOLUTION:** A RESOLUTION DECLARING THE NECESSITY OF PROVIDING STREET LIGHTING INSTALLATION, OPERATION AND MAINTENANCE IN THE BECK RIDGE SECTION ONE OF THE CITY OF SPRINGBORO, OHIO, AND DECLARING AN EMERGENCY.

Ms. Thompson requested that Council waive the first and second readings of the ordinance to proceed with these street lighting improvements when it is presented at a future meeting. These improvements total three lights.

- 6) **RESOLUTION:** A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH C. A. STEMPFLEY CONTRACTOR INC. FOR THE CONSTRUCTION OF "EAST MILL STREET ROADWAY IMPROVEMENTS".

Mr. Chmiel asked if this project would continue the improvements to the street and sidewalk on East Mill from both ends. Ms. Thompson replied yes, this project would fill in the gap between both ends to complete the improvements along that roadway. The engineer's estimate for the project was \$67,500.00, and the contractor's bid was \$59,862.50.

- 7) **RESOLUTION:** A RESOLUTION AUTHORIZING THE CITY MANAGER TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION ISSUE II GRANT PROGRAM AND TO EXECUTE CONTRACTS AS REQUIRED.

No discussion.

- 8) **RESOLUTION:** A RESOLUTION EMPOWERING THE CITY MANAGER TO PREPARE AND EXECUTE AN APPLICATION FOR SRTS FUNDS FOR THE STATED DESCRIBED PROJECT THROUGH THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION.

Mr. Chmiel inquired as to the terminus of phase I of this project? The crossover on SR741 was originally shown at Heatherwoode Boulevard. Ms. Thompson stated that after she discussed this project with the engineer's office, she requested the crossover to be at the traffic signal at the High School for safety purposes. Mr. Chmiel inquired regarding the funding for phase I in relation to the entire project? Ms. Thompson explained that the funding amount of \$500,000.00 is

mainly due to the bridge. The cost of the bridge is \$350,000.00, and the first phase of the project is approximately 1,525 ft. Mr. Chmiel asked if state funding would cover both phases of the project? Ms. Thompson explained that the City would request \$500,000.00, which would only be for phase I. If the State repeats the program, the City would have to apply for the second phase of the project. Mr. Chmiel confirmed that there would be no guarantee of state funding for phase II. Ms. Thompson replied yes, that is correct. Ms. Thompson explained that the sidewalk alone is approximately 9,500 sq. ft. at a cost of only \$42,750. The cost of the project is based almost entirely on the pedestrian bridge. Ms. Thompson further explained that in the worst-case scenario, the City could construct phase II for a fairly reasonable amount of money because the bridge is not a factor in phase II. Mr. Chmiel asked what width of sidewalk or trail was used to calculate the amount? Ms. Thompson answered that the engineer used a 4ft. concrete sidewalk to calculate the amount.

Ms. Lairson asked if there were ADA rules associated with this project? Ms. Thompson replied yes, definitely. Currently, the road is used to cross the bridge at Cleacreek, but unless the City builds a pedestrian bridge to meet all of the safety codes required by of the State of Ohio, the City would not receive funding. Ms. Thompson added that this project would not use the current pavement, and on the west side, the drop off to Heatherwoode is so severe that the bridge would cost \$750,000.00.

Mr. Chmiel asked if there was any consideration given to using something wider and something other than the concrete sidewalk? Ms. Thompson explained that originally they considered asphalt for the west side, but when they moved the project to the east side, the engineers recommended a 4 ft. concrete sidewalk because the topography of the land is so much better on the east side than on the west, therefore 4 ft. concrete is sufficient. Ms. Thompson commented that the City could always try to made modifications after the project is funded. An asphalt walking trail was discussed when the project was proposed on the west side. Ms. Thompson stated that if the City chooses to make a change and is willing to pay for it, then it would not be a problem. She added that there is not a lot of right-of-way to work with and a 6-8 ft. asphalt trail would be challenging with respect to private property, which is why a 4 ft. sidewalk is being proposed.

- 9) **RESOLUTION:** A RESOLUTION AUTHORIZING THE CITY MANAGER TO ASSIGN AND AMEND THE CURRENT AGREEMENT WITH U.S. FILTER OPERATING SERVICES, INC. DATED MARCH 4, 1999 FOR THE OPERATION, MAINTENANCE AND MANAGEMENT SERVICES OF THE CITY'S WATER AND WASTEWATER TREATMENT FACILITIES TO VEOLIA WATER NORTH AMERICA – CENTRAL, LLC.

Mr. Anderson asked if the \$108,000.00 difference is to pay for additional work by the contractor? Ms. Thompson answered that the City doubled the size of the wastewater plant. She added that the \$108,000.00 increase is over 15 years, which amounts to about \$7,000 per year.

- 10) **RESOLUTION:** A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AND THEREBY RATIFY AN AGREEMENT TO PURCHASE CERTAIN PROPERTY IN SOUTH TECH BUSINESS PARK OWNED BY CURT JACKSON, INC. (DBA - THE LEATHER GALLERY).

Ms. Thompson explained that the purpose of this resolution is to purchase right-of-way in order to develop the City owned property to the interstate along South Tech Boulevard. The City should have caught this when the other two acres were purchased, but it did not, and now it is necessary to purchase this additional right-of-way to correct the oversight.

ITEM 4. CITY MANAGER. –Issues/Reports.

Montgomery County TID Special Board Meeting: The Montgomery County TID will conduct a meeting on Wednesday, September 19 at 6:00 PM at Cox Arboretum to present a status report/annual update on the Austin Road Interchange to elected officials. The bid for the interchange project will go out the fourth quarter of 2008. The TID is currently working on the right-of-way acquisition, and landscaping plans have been presented at a cost of approximately \$4M. Ms. Thompson stated that Springboro would not participate in a \$4M landscaping project. She explained that the City has an obligation to make improvements to South Tech Industrial Park, which will hopefully be financed through assessments. Ms. Thompson added that Miamisburg had the same issue with the price tag of the landscaping. They will try to work to pare it down to some reasonable amount of money because the landscaping is not included in the numbers; it is extra and ODOT will not pay for it. Ms. Thompson encouraged everyone to attend the TID meeting for informational purposes.

Ms. Belpulsi asked how the right-of-way acquisition is going? Ms. Thompson explained that the TID would be dealing primarily with RG Properties for the right-of-way access. The TID finally got permission from ODOT To aggressively pursue all of the acquisitions for right of-way.

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New City Building/Meeting With Architects: The Work Sessions scheduled for September 20 and October 4 will begin at 5:30 PM in order for City Council to meet with the architect of the new city building, Jon Fabelo of Lorenz Williams, to review preliminary plans for the new city building with special attention paid to the Council areas. Mr. Fabelo has met with staff to discuss their needs based on the assessment of offices, rooms, etc., and he is starting to formulate a floor plan and architectural ideas that he will share with Council.

Executive Session: Ms. Thompson requested an Executive Session to discuss the discipline of a public employee.

Mayor Agenbroad asked for a motion to enter Executive Session under R.C.121.22 (G) to consider the discipline of a public employee, if time permits following the Work Session.

Mr. Hruska motioned to enter Executive Session under R.C.121.22 (G), following the Work Session discussion, to consider the discipline of a public employee. Ms. Belpulsi seconded the motion.

No discussion.

VOTE: Agenbroad, Yes; Hruska, Yes; Chmiel, Yes; Parise, Yes; Lairson, Yes; Anderson, Yes; Belpulsi, Yes. [APPROVED 7-0]

ITEM 5. CLERK OF COUNCIL. -Issues/Reports.

Ms. Martin made the following comments and announcements:

Records Commission Update: The Records Commission met today, September 6, at 2:00 PM in Council Chambers to discuss electronic records, voice mails, and audio/video records. Managing these types of records will be a hurdle due to their transient nature. The City Records Release Policy should be ready in the next couple of weeks, and the Law Director will prepare legislation for City Council to review on September 20. It is recommended that the policy be adopted and in place prior to September 29, when the bill becomes law. Amendments to the law are anticipated following its effective date, but could take another three months. The Records Commission will meet again on Thursday, September 20 at 2:00PM to finalize these policies. Several members of the Records Commission attended the records seminar held yesterday at Centerville PD, which was very comprehensive and informative. Ms. Martin commented that the City has made some significant strides pertaining to records management/policy, and is ahead of many communities in the area. Staff will keep the program on track.

Springboro Day at Heatherwoode: Springboro Day at Heatherwoode will be held Sunday, October 14 at Heatherwoode Golf Course.

CIP Presentation: Administrative Staff will present the 5-Year CIP on Thursday, October 18 at 5:00 PM in Council Chambers.

At this time, Mr. Pozzuto commented that a required NIMS (National Incident Management System) training is coming up for city officials. The IS800 course is required by the NIMS Program. Fire Chief Bernie Becker is certified to train and has scaled down the 3-hour course to 45 minutes. Mr. Pozzuto stated that city officials took the IS100 course several years ago, and the IS800 is required as well. Chief Becker is hoping to train city and township official by the end of October. Mr. Pozzuto will present a list of possible dates, which may require a one-hour post Council meeting training session.

Ms. Martin commented that based on the newly revised records law, a 3-hour training requirement is in effect elected officials.

Mr. Hruska confirmed that Council could send a representative to the training in their place. Mr. Schaeffer confirmed that the law currently states that it may be the elected official or their designee.

Ms. Belpulsi asked if all of Council could designate one person or if each Council Member would have to designate a person?

Mr. Schaeffer suggested that each Council Member would have to designate a person, but it may be the same person. Ms. Martin commented that the Attorney General has already begun posting locations for this certified training.

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Ms. Thompson stated that the Center for Local Government has already sent a list of the Cincinnati dates and locations.

Ms. Belpulsi has been in contact with the Attorney General's office to get a certified training site in Dayton. Ms. Belpulsi stated that if the MVCC sponsor's a training session, it would be held in the middle of December. Ms. Thompson suggested attending the one in Cincinnati, if possible.

Ms. Martin asked if there was a reporting requirement? Mr. Schaeffer commented that the parties ultimately responsible for records are the elected officials and they should be well informed. Part of being well informed is to attend this training, but elected officials can send designees. Mr. Schaeffer's recommendation is at the very least that the designee presents a summary of the training. In addition, when this legislation is presented on September 20, Mr. Schaeffer plans to spend about five or ten minutes at the podium explaining it. Mr. Schaeffer commented that it is important that Council is involved in this process, not in the day-to-day processes, but just generally knowledgeable about what is going on. Mr. Schaeffer explained that the pitfalls are significant and Council should understand them within reason. It is important that Council's knowledge is more than simply what is talked about here.

Ms. Martin asked if the elected official would have to show proof or report that they have designated someone to attend the required training? Mr. Schaeffer explained that the Records Commission should establish a process to report compliance because the auditor is now required to perform a records audit during their financial audit, and they will audit those records.

Ms. Thompson suggested that City Council designate more than one individual as a designee. Ms. Thompson explained that currently Melody Meredith is the records manager for the Police Department, which is part of her job title. Ms. Thompson suggested that Ms. Meredith be one of the designees for the required training.

Ms. Belpulsi suggested that several staff members should probably be trained. Ms. Thompson stated that the Records Commission currently consists of four staff members, a resident and the Law Director, and they have been attending training.

Mr. Schaeffer stated that, in addition, there would be training for staff members beyond those serving on the Records Commission.

There were no other staff reports.

ITEM 6. CITY COUNCIL. –Issues/Reports.

Mr. Parise – No issues/reports.

Mr. Chmiel – No issues/reports.

Mr. Hruska – No issues/reports.

Mr. Lairson – No issues/reports.

Mr. Anderson – Mr. Anderson asked for a quick update on the website remodel project. Ms. Thompson reported that the Internet Committee recently met with the consultant who presented a mock up of the homepage and site navigation. The consultant will follow up on the changes recommended by the committee and prepare a presentation for City Council. Mr. Anderson asked if there is a deadline for the project? Ms. Thompson answered that the contract states 90 days, and there are about 30 days to go.

Ms. Belpulsi – Ms. Belpulsi will present a Planning Commission report at tonight's City Council Regular Meeting under Committee Reports. Ms. Belpulsi also commented that Council received a letter from the South Metro Regional Chamber of Commerce regarding the City's withdrawal from the chamber. Ms. Belpulsi stated that she thought it was a very gracious letter, and she strongly supported joining this chamber. Ms. Belpulsi further commented that the Springboro Chamber is the City's chamber, but the South Metro Regional Chamber has a different mission, they are more involved in regional issues. Ms. Belpulsi explained that all of the City's neighbors like Centerville and West Carrollton are members of the South Metro Regional Chamber and all work together especially with the Austin Road Interchange Project. Ms. Belpulsi stated that she is really disappointed that Council did not support rejoining this chamber, and she would like to see it reconsidered as staff puts together the budget for next year. In addition, Ms. Belpulsi stated that another item she would like to see considered in the

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budget next year is funding for more communication efforts such as more newsletters. Ms. Belpulsi stated that she is aware that the City issues two community newsletters per year, and she does not think that is enough. She would like to see more money budgeted for communications.

Mayor Agenbroad asked if Ms. Belpulsi was suggesting four newsletters per year? Ms. Belpulsi stated that she would like to discuss it. She further stated that she knows it is a big effort and if the City has to hire someone that would need to be considered as well, but the City needs to communicate with the public because there is a lot of misinformation out there. If the City does a better job of communicating with the residents on a regular basis, it would clear up some concerns.

Mr. Anderson stated that the new website will help as well. Ms. Belpulsi agreed, but stated that there are people that do not have computers, and she believes more printed communication would be money well spent for the City.

Mayor Agenbroad – Mayor Agenbroad reminded Ms. Lairson to abstain from the motion on the minutes of the August 16, 2007 City Council Work Session and Regular Meeting due to her absence.

At approximately 6:46 PM, City Council entered Executive Session to consider the discipline of a public employee.

With no objections, City Council exited Executive Session at approximately 6:55 PM; whereby, no votes were taken.

ITEM 7. ADJOURNMENT. *With no further discussion, Mayor Agenbroad adjourned the City Council Work Session at approximately 6:55 PM.*

CITY OF SPRINGBORO
320 W. CENTRAL AVENUE, SPRINGBORO, OHIO

CITY COUNCIL REGULAR MEETING

THURSDAY, SEPTEMBER 6, 2007

7:00 PM

CITY COUNCIL
John Agenbroad, Mayor

Marie Belpulsi, Deputy Mayor
Scott Anderson
Jim Chmiel

Gary Hruska
Sheila Lairson
John D. Parise

CITY STAFF
Chris Thompson, City Manager

Chris Pozzuto, Assistant City Manager

Alan Schaeffer, Law Director
Lori Martin, Clerk of Council

ITEM 1. CALL TO ORDER. Mayor Agenbroad called the Springboro, Ohio City Council Regular Meeting to order at 7:00 PM in Council Chambers at the Springboro City Building, 320 W. Central Avenue, Springboro, Ohio.

ITEM 2. PLEDGE OF ALLEGIANCE. Mayor Agenbroad led the Pledge of Allegiance.

AT THIS TIME, MAYOR AGENBROAD PROCEEDED TO AGENDA ITEM 5, PRESENTATIONS, PRIOR TO BEGINNING THE PUBLIC HEARINGS.

ITEM 5. PRESENTATIONS: A NEW POLICE OFFICER WILL TAKE THE OATH OF OFFICE AND BE SWORN IN TO SERVE THE CITY OF SPRINGBORO POLICE DEPARTMENT.

Police Chief Jeff Kruithoff introduced Eric Abrams as the City of Springboro Police Department's newest officer. Chief Kruithoff's comments are condensed as follows: Officer Abrams participated in and completed a competitive selection process. He is a life long resident of the greater Warren County area. Officer Abrams graduated from William Mason High School, attended the University of Cincinnati, and graduated from the Great Oaks Police Academy in 2001. Officer Abrams has been a member of the Carlisle Police Department for the past 3.5 years, and was a reserve officer for the City of Franklin for the two years prior to his service in Carlisle. Officer Abrams is very familiar with the Warren County and Springboro area. Police Chief Kruithoff shared some comments and observations made by people included in Officer Abram's background investigation as follows: Officer Abrams is very fair and polite, he donated his time as a police officer to disadvantaged children, helps children through the bike program, is very fair and respectful, very mature and wise, works well with others, takes constructive criticism well, and never speaks negatively about others. Chief Kruithoff stated that Officer Abrams will be an asset to the Springboro Police Department. To witness and assist in his swearing in, Officer Abrams was accompanied by his mother Carol, his sister Gretchen, and his nephew Kaeden. Mayor Agenbroad administered the Oath of Office, and Eric Abrams was sworn in as a Police Officer to serve the City of Springboro Police Department. Officer Abrams was accompanied by his wife Erin, who pinned his badge onto his uniform. Mayor Agenbroad congratulated and welcomed Officer Eric Abrams to the City of Springboro. City Council congratulated Officer Abrams with a handshake. (A copy of Officer Eric Abram's signed Oath of Office is attached for the record.)

PUBLIC HEARING

IN ACCORDANCE WITH OHIO REVISED CODE SECTION 713.12, A PUBLIC HEARING WAS HELD BEFORE THE CITY COUNCIL OF THE CITY OF SPRINGBORO, OHIO AT 7:00 P.M. ON THURSDAY, SEPTEMBER 6, 2007 TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SPRINGBORO, OHIO. THE PUBLIC HEARING TOOK PLACE IN COUNCIL CHAMBERS AT THE SPRINGBORO MUNICIPAL BUILDING, 320 WEST CENTRAL AVENUE (SR 73), SPRINGBORO, OHIO 45066.

PUBLIC HEARING: THIS PUBLIC HEARING WAS REGARDS TO A RECOMMENDATION FROM THE SPRINGBORO PLANNING COMMISSION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SPRINGBORO AND REZONE APPROXIMATELY 13.3 ACRES OF LAND LOCATED AT 8683 CLEARCREEK-FRANKLIN ROAD FROM ED, EMPLOYMENT CENTER DISTRICT, AND (T)R-1, FRANKLIN TOWNSHIP RURAL RESIDENTIAL DISTRICT, TO PUD-R, PLANNED UNIT DEVELOPMENT-RESIDENTIAL. THE SUBJECT PROPERTY IS LOCATED WEST OF THE INTERSECTION OF CLEARCREEK-FRANKLIN ROAD AND WHISPERING PINES LANE.

THIS PUBLIC HEARING WAS HELD IN ACCORDANCE WITH CHAPTER 1284 (AMENDMENTS) OF THE CITY'S PLANNING AND ZONING CODE. THE PUBLIC HEARING WAS LIMITED TO 30 MINUTES; 15 MINUTES RESERVED FOR THE OPPONENTS, AND 15 MINUTES RESERVED FOR THE PROPONENTS.

ALAN SCHAEFFER, CITY LAW DIRECTOR – MR. SCHAEFFER BRIEFLY COMMENTED THAT A REQUEST TO REZONE THIS PROPERTY HAS BEEN PRESENTED TO CITY COUNCIL BEFORE UNDER A DIFFERENT PROPOSAL. THE PROPERTY OWNER HAS SUBMITTED A NEW REQUEST TO REZONE THE PROPERTY FOR COUNCIL'S CONSIDERATION TONIGHT. THE SPRINGBORO ZONING CODE STATES THAT AN APPLICATION, ONCE TURNED DOWN, CANNOT BE REFILED FOR TWO YEARS. THE PURPOSE OF THAT PROVISION OF THE CODE IS TO AVOID AND ELMINATE REPEATED FRIVOLOUS FILINGS. AN APPLICATION FOR THE SAME PIECE OF PROPERTY THAT DIFFERS IN ANY SIGNIFICANT WAY IS CERTAINLY ALLOWED TO BE FILED, AND WILL BE HANDLED ACCORDING TO STANDARD PROCEDURE. THIS NEW APPLICATION TO REZONE THE SUBJECT PROPERTY IS DIFFERENT FROM THE PREVIOUS APPLICATION SUBMITTED BY THE PROPERTY OWNER. THE INFORMATION REGARDING THE NEW APPLICATION WAS SUBMITTED TO HIM (MR. SCHAEFFER), AND HE PERFORMED HIS DUTIES AS CITY LAW DIRECTOR WITH RESPECT TO REVIEWING THE APPLICATION. MR. SCHAEFFER STATED THAT HIS LEGAL OPINION IS THAT THE NEW APPLICATION TO REZONE AS SUBMITTED IS SUBSTANTIALLY DIFFERENT ENOUGH TO ALLOW IT TO MOVE FORWARD FOR CONSIDERATION. MR. SCHAEFFER OFFERED TO ANSWER ANY QUESTIONS OF COUNCIL. THERE WERE NO QUESTIONS OF COUNCIL.

DAN BORON, CITY PLANNING CONSULTANT – MR. BORON PRESENTED INFORMATION REGARDING THE BACKGROUND, PLANNING FRAMEWORK, PUD APPROVAL PROCESS, PLANNING COMMISSION RECOMMENDATION, AND AERIAL AND SITE MAP OF THE SUBJECT PARCEL TO BE REZONED. (A COPY OF MR. BORON'S PRESENTATION, "REZONING REQUEST PUBLIC HEARING: 8683 CLEARCREEK-FRANKLIN ROAD," IS ATTACHED FOR THE RECORD.) MR. BORON COMMENTED THAT THE APPLICANT, HENKLE SCHEULER, IS PROPOSING PUD-R OR PLANNED UNIT DEVELOPMENT-RESIDENTIAL ZONING FOR THE SITE. THE APPLICANT'S ORIGINAL PROPOSAL FOR THIS SITE, SUBMITTED APPROXIMATELY ONE YEAR AGO, WAS FOR R-3 DENSITY. THE R-3 MEDIUM RESIDENTIAL DISTRICT ALLOWS UP TO 15 UNITS PER ACRE MAXIMUM DENSITY IN THE FORM OF CONDOMINIUMS UNDER THAT ZONING DISTRICT. PRESENT ZONING OF THE SITE IS FRANKLIN TOWNSHIP RESIDENTIAL(1) ON THE CLEARCREEK ROAD FRONTAGE; THE WEST TWO-THIRDS OF THE SITE IS EMPLOYMENT CENTER DISTRICT (ED). THE ZONING APPLICATION IS PRESENTLY AT STEP 1 OF THE PUD APPROVAL PROCESS, WHICH IS OUTLINED IN THE HANDOUT. BASED ON THE PLANNING COMMISSION'S RECOMMENDATION OF JUNE 27, 2007 TO REZONE THE SITE TO PUD-R, THE FOLLOWING CONDITIONS WERE INCLUDED: USE SHALL BE RESIDENTIAL, DENSITY SET AT 8.87 DWELLING UNITS/ACRE OR 118 UNITS, ACCESS FROM CLEARCREEK-FRANKLIN ROAD ONLY, LOT SPLIT RECORDED BEFORE DEVELOPMENT, AND GENERAL PLAN PROVIDED BEFORE DEVELOPMENT OCCURS. A CORNER OF THE SITE DOES TOUCH ANOTHER PROPERTY TO THE WEST THAT WOULD BE THE FORM OF ACCESS TO THE SITE. THIS APPLICATION IS SIMILIAR TO AN APPLICATION WHICH CITY COUNCIL REVIEWED EARLIER THIS YEAR. THE PERIMETER OF THE PROEPRTY, WHICH IS SUBJECT TO THIS PROPOSED REZONING ORDINANCE, IS THE SAME, BUT THE ACREAGE WAS FOUND TO BE IN ERROR AS PROVIDED BY THE APPLICANT. THE CITY PLANNER AND THE CITY ENGINEERING DEPARTMENT RECALCULATED THE DENSITY FOR THE CORRECT SIZE OF THE LOT, WHICH WAS ORIGINALLY 12.1 ACRES AS REPORTED IN FEBRUARY/MARCH WHEN PREVIOUSLY UNDER REVIEW, AND IS NOW 13.3 ACRES. AS SHOWN IN THE AERIAL GRAPHIC IN THE PRESENTATION HANDOUT, THE LOT FRONTS ONTO CLEARCREEK-FRANKLIN ROAD OPPOSITE THE INTERSECTION WITH WHISPERING PINES. THE MAP GRAPHIC IN THE PRESENTATION HANDOUT SHOWS THE CURRENT CONFIGURATION OF ZONING IN THE AREA, WHICH IS FRANKLIN TOWNSHIP RESIDENTIAL (1) ON THE FRONTAGE OF CLEARCREEK-FRANKLIN ROAD; THE WEST OF THE PROPERTY IS ZONED

EMPLOYMENT CENTER DISTRICT (ED). ADJACENT ZONING INCLUDES R-2 ACROSS THE STREET WITHIN THE TAMARACK DEVELOPMENT AS WELL AS TO THE SOUTHEAST. MR. BORON OFFERED TO ANSWER ANY QUESTIONS OF COUNCIL. THERE WERE NO QUESTIONS OF COUNCIL.

PROponents: 1) GREG BARTLEY, HENKLE SCHEULER AND ASSOCIATES – MR. BARTLEY REPRESENTS ASHWOOD FARMS, PROPERTY OWNERS. MR. BARTLEY ASKED FOR COUNCIL'S SUPPORT OF THE RECOMMENDED ZONING CHANGE FOR THE 13.3 ACRES TO PUD-R. MR. BARTLEY'S COMMENTS ARE CONDENSED AS FOLLOWS: THE SUBJECT PARCEL IS LOCATED BETWEEN CLEARCREEK-FRANKLIN ROAD AND NORTH PIONEER BOULEVARD. THE PARCEL IS LOCATED WEST OF CLEARCREEK-FRANKLIN ROAD, AND ONE CORNER TOUCHES THE R-O-W OF NORTH PIONEER BOULEVARD. ADJOINING USES ARE EMPLOYMENT CENTER DISTRICT (COBASYS, PHYMET, ETC.), MULTI-FAMILY TO THE SOUTH, AN UNDEVELOPED PARCEL AND RESIDENTIAL TO THE EAST, AND TOWNSHIP RESIDENTIAL TO THE NORTH. THIS PARCEL IS CURRENTLY PART OF A LARGER PARCEL OWNED BY ASHWOOD FARMS, WHICH IS INCLUSIVE OF THE INDUSTRIAL PARK. HENKLE SCHEULER, REPRESENTING THE OWNERS OF ASHWOOD FARMS, ARE PRIMARILY INTERESTED IN THE DEVELOPMENT OF THE INDUSTRIAL PROPERTIES TO THE NORTH, THE (ED) ZONE. THE PARCEL THAT CARRIES THE TOWNSHIP ZONING IS THE TOPIC OF THIS REZONING REQUEST. THE EMPLOYMENT CENTER DISTRICT (ED) ZONE WILL BE MAINTAINED. IN OTHER WORDS, THE USABLE LAND ZONED (ED) IS NOT AFFECTED BY THIS REZONING REQUEST. THE APPLICATION TO REZONE THE PARCEL REFERENCES THE CITY'S COMPREHENSIVE LAND USE MASTER PLAN. SOME OF THESE PARCELS ARE SPECIFIED AS TO PREFERRED DEVELOPMENT IN THE CITY'S COMPREHENSIVE LAND USE PLAN. THE SPLIT FOR THE USE OF THE PROPERTY WEST OF ASHWOOD FARMS IS RECOMMENDED FOR (ED) ADJACENT TO THE CREEK ALONG WITH A BUFFER DESCRIBED AS A LANDSCAPE BUFFER SUITABLE TO THE INDUSTRIAL SITE, EAST OF WHICH IS DESIGNATED AS RESIDENTIAL CLUSTER HOMES OR OTHER MODERATE DENSITY DEVELOPMENT. THE APPLICANT HAS BEEN WORKING WITH THE PLANNING COMMISSION TO DEFINE MODERATE RESIDENTIAL DEVELOPMENT DENSITY. THE CURRENT PROPOSAL HAS BEEN APPROVED BY THE PLANNING COMMISSION. THE R-3 USE, WHICH WAS THEIR ORIGINAL PROPOSAL, WOULD HAVE BEEN APARTMENTS OR CONDOMINIUMS AS THE DESIRABLE USE AT 12 TO 15 DWELLING UNITS PER ACRE. THE PROPOSAL SUBMITTED EARLIER THIS YEAR, WHILE MISCALCULATED, WAS ROUGHLY 10 UNITS PER ACRE. THE CURRENT PROPOSAL AND PLANNING COMMISSION'S RECOMMENDATION IS 8.8 DWELLING UNITS PER ACRE. THE APPLICANT'S SUBMISSION TO COUNCIL AND THE COMMUNITY IS THAT THEIR PROPOSED MODERATE DENSITY OF 8.8 UNITS PER ACRE IS IN THE SPIRIT OF THE CITY'S COMPREHENSIVE LAND USE PLAN, AND THEY ASK FOR COUNCIL'S SUPPORT. MR. BARTLEY OFFERED TO ANSWER ANY QUESTIONS OF COUNCIL.

MR. PARISE ASKED IF THE APPLICANT WAS EVER PLANNING TO ASK FOR A ZONING CHANGE FOR THE PORTION OF THE PROPERTY ZONED (ED) WEST OF THE CREEK? SPECIFICALLY, TO REQUEST TO REZONE IT FOR MORE RESIDENTIAL DEVELOPMENT? MR. BARTLEY ANSWERED BY STATING THAT HE WOULD PUT IT IN WRITING, NO. MR. PARISE RESPONDED BY STATING YES, HE WOULD LIKE THAT IN WRITING. MR. BARTLEY ANSWERED THAT HE COULD GIVE IT TO MR. PARISE IN WRITING, AGAIN ANSWERING NO, ABSOLUTELY NOT. MR. BARTLEY EXPLAINED THAT THE NORTH-SOUTH PROPERTY LINE FOR THIS PROPOSED PARCEL SPLIT IS ALONG THE TWIN CREEK AREA WEST OF WHICH HAS BEEN ENTIRELY PRESERVED FOR ECONOMIC DEVELOPMENT IN THE FORM OF LIGHT INDUSTRIAL USES. ANY ECONOMIC DEVELOPMENT THAT COULD OCCUR EAST OF PIONEER BOULEVARD AND WEST OF THE CREEK IS NOT AFFECTED BY THIS ZONING CHANGE.

MS. LAIRSON COMMENTED THAT ACCORDING TO THE DENSITY CHART MR. BARTLEY PRESENTED, 12 DWELLING UNITS PER ACRE IS CATEGORIZED AS APARTMENTS AND WHEN THE DENSITY IS REDUCED IT IS CATEGORIZED AS CONDOMINIUMS. MS. LAIRSON ASKED MR. BARTLEY TO CATEGORIZE 8.8 UNITS PER ACRE? WOULD IT STILL BE CATEGORIZED AS APARTMENTS? MR. BARTLEY EXPLAINED THAT THE APARTMENT AND CONDOMINIUM SPECIFICATIONS ARE TAKEN FROM THE CITY'S CODE. 12 UNITS AND 15 UNITS IS THE MAXIMUM ALLOWABLE DENSITY FOR THOSE USES ACCORDING TO THE CODE. REGARDLESS OF WHETHER THE ZONING IS R-3 OR PUD-R, THIS ESTABLISHES A CEILING DENSITY; IT DOES NOT GUARANTEE A CERTAIN DENSITY, BUT PROVIDES A CEILING OR GUIDELINE FOR THE APPLICANT TO KNOW THE ALLOWABLE USES FOR THE SITE. ULTIMATELY, THE DEVELOPER OF THE 8.8 UNITS PER ACRES WILL HAVE TO DEMONSTRATE THAT THERE IS ADEQUATE PARKING, STORM WATER RETENTION, UTILITY, AND CONDUCT VEHICLE IMPACT STUDIES IN THE SUBSEQUENT PLANNING PROCESS. MR. BARTLEY COMMENTED THAT HE BELIEVES THAT THE DISCUSSION WITH THE PLANNING COMMISSION HAS REVOLVED AROUND WHAT IS AN EFFECTIVE CEILING FOR MODERATE DENSITY RESIDENTIAL. HE FURTHER COMMENTED THAT THERE IS A DEMAND FOR CONDOMINIUM TYPE UNITS IN THE MARKETPLACE. HE FURTHER ADDED THAT OWNERSHIP SEEMS TO BE THE PREFERRED METHOD, BUT HE CANNOT DEFINITELY SAY WHETHER APARTMENTS OR CONDOMINIUMS WILL BE DEVELOPED. THE DENSITY SPECIFIED HERE IS TAKEN FROM THE SPRINGBORO CODE.

AT THIS TIME, A RESIDENT WHO DID NOT PROVIDE HER NAME OR ADDRESS APPROACHED THE PODIUM TO ASK IF THERE WERE ANY PLANS TO EXTEND WHISPERING PINES TO THE WEST TO THE NEW DEVELOPMENT BEING PROPOSED OR TO APPROVE AN EXTENSION OF WHISPERING PINES? MS. THOMPSON ANSWERED, NO. THIS SAME RESIDENT ALSO ASKED WHICH COUNCIL MEMBER REPRESENTED WARD 4. MS. LAIRSON IDENTIFIED HERSELF AS THE WARD 4 REPRESENTATIVE.

OPPONENTS: 1) ROB MILLER, 265 FOLIAGE LANE, SPRINGBORO – MR. MILLER COMMENTED THAT HE STOOD IN OPPOSITION TO THIS REZONING WHEN THE ORIGINAL REQUEST TO REZONE THIS PROPERTY WAS PRESENTED EARLIER THIS YEAR. HIS INITIAL OBJECTIONS TO THE ZONING CHANGE WERE TRAFFIC, VOLUME OF HOUSES, POTENTIAL HOUSING, AND CRIME, BASED ON THE STATISTICS AS PRESENTED AT PAST CITY MEETINGS WITH RESPECT TO THE EXISTING APARTMENT COMPLEXES ON CLEARCREEK-FRANKLIN ROAD. MR. MILLER ASKED IF THE CITY WOULD LOSE MONEY IF THEY APPROVED THE CHANGE IN ZONING FROM ED, EMPLOYMENT DISTRICT, ON A LARGE PORTION OR TWO-THIRDS OF THE PARCEL TO RESIDENTIAL? MR. MILLER ASKED IF ACCESS FROM PIONEER BOULEVARD HAS BEEN CONSIDERED? ACCORDING TO PAST INFORMATION, THAT PORTION OF THE PROPERTY IS NOT DEVELOPABLE.

MR. BARTLEY ANSWERED NO, ACCESS HAS ALWAYS BEEN CONSIDERED FROM THE EAST.

MAYOR AGENBROAD STATED THAT HE WOULD NOTE MR. MILLER'S QUESTIONS, BUT THIS PUBLIC HEARING IS TO HEAR INPUT ONLY. MAYOR AGENBROAD ASSURED MR. MILLER THAT HIS QUESTIONS WOULD BE NOTED AND CONSIDERED BY CITY COUNCIL.

MR. MILLER STATED THAT BASED ON MR. BARTLEY'S ANSWER, HIS CONCERN STILL WOULD BE TRAFFIC.

2) MALACHI SLOAN - 485 WHISPERING PINES, SPRINGBORO - MR. SLOAN AND HIS WIFE CAROL HAVE BEEN RESIDENTS OF SPRINGBORO FOR 36 YEARS AND HOMEOWNERS ON WHISPERING PINES IN TWO DWELLINGS. THEIR CONCERNS ARE IN REGARD TO SECURITY. THEY EXPERIENCED A SECURITY BREACH THIS PAST WINTER, WHICH ORIGINATED FROM THE LARGE APARTMENT AREA. THEY ARE VERY CONCERNED ABOUT SECURITY. THEY REALIZE THEY ARE ON A BORDER WITH RESPECT TO THE SPRINGBORO POLICE DEPARTMENT PATROL AREA, BUT THEY BELIEVE THAT THE CITY SHOULD EXPLORE THE POTENTIAL EXPENSE AND ADDITIONAL SECURITY THAT WOULD BE REQUIRED FOR THIS TYPE OF DEVELOPMENT. THEY HAVE A CONCERN REGARDING LARGE APARTMENTS. THEY WOULD PERSONALLY PREFER PRIVATE OWNERSHIP, MAYBE CONDOMINIUMS OR SMALL HOMES, WHICH WOULD BLEND WITH THE TAMARACK SUBDIVISION AND SURROUNDING HOMES ALONG CLEARCREEK-FRANKLIN ROAD. MR. SLOAN ASKED MEMBERS OF THE AUDIENCE OPPOSED TO THIS REZONING TO STAND UP; 5 PEOPLE STOOD UP.

3) ROY MCGILL - ROY MCGILL, III - 35 TIMBERWOOD LANE, SPRINGBORO - MR. MCGILL IS A POLICE OFFICER IN ANOTHER TOWN. MR. MCGILL OBSERVES THE SPRINGBORO POLICE DEPARTMENT OR FIRE DEPARTMENT AT THE APARTMENT COMPLEXES ON A NIGHTLY BASIS. MR. MCGILL DOES NOT WANT TO SEE ANOTHER APARTMENT COMPLEX BUILT IN THAT AREA. MR. MCGILL ASKED WHAT THE CITY WOULD GAIN VERSUS WHAT IT WOULD LOSE WITH RESPECT TO THIS DEVELOPMENT? MR. MCGILL STATED THAT IT WOULD COST THE CITY MORE FOR SERVICES DEDICATED TO ANOTHER APARTMENT COMPLEX THAN WHAT THE CITY WOULD RECEIVE IN RETURN. MR. MCGILL FURTHER COMMENTED THAT, BASED ON HIS EXPERIENCE, IF THE TRANSIENT POPULATION IS INCREASED, IT WOULD DECREASE STABILITY IN THE NEIGHBORHOOD. MR. MCGILL WOULD LIKE TO SEE STABILITY IN HIS NEIGHBORHOOD.

NO OTHER OPPONENTS CAME FORWARD.

MAYOR AGENBROAD ADJOURNED THE FIRST PUBLIC HEARING AT APPROXIMATELY 7:28PM.

FOR THE RECORD, THE FOLLOWING RESIDENTS SUBMITTED THEIR OPPOSITION TO THIS REZONING IN WRITING: ROBERT AND RICHELLE KRZAK, 535 EVERGREEN DRIVE, SPRINGBORO; LESLIE MARSH, 160 FOLIAGE LANE, SPRINGBORO; HEATHER STAHLER, 310 CLEARCREEK-FRANKLIN ROAD, SPRINGBORO. (COPIES OF WRITTEN SUBMITTALS ARE FILED WITH THE MINUTES FOR THE RECORD.)

PUBLIC HEARING

IN ACCORDANCE WITH OHIO REVISED CODE SECTION 713.12, A PUBLIC HEARING WAS HELD BEFORE THE CITY COUNCIL OF THE CITY OF SPRINGBORO, OHIO AT 7:00 P.M. ON THURSDAY, SEPTEMBER 6, 2007 TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SPRINGBORO, OHIO. THE PUBLIC HEARING TOOK PLACE IN COUNCIL CHAMBERS AT THE SPRINGBORO MUNICIPAL BUILDING, 320 WEST CENTRAL AVENUE (SR 73), SPRINGBORO, OHIO 45066.

PUBLIC HEARING: THIS PUBLIC HEARING WAS IN REGARDS TO A RECOMMENDATION FROM THE SPRINGBORO PLANNING COMMISSION TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF SPRINGBORO AND REZONE APPROXIMATELY 5.5 ACRES OF LAND LOCATED NEAR THE SOUTHEAST CORNER OF THE INTERSECTION OF CLEARCREEK-FRANKLIN ROAD AND WHISPERING PINES LANE FROM R-2, LOW DENSITY RESIDENTIAL DISTRICT, AND O-2, OFFICE PARK DISTRICT, TO PUD-B, PLANNED UNIT DEVELOPMENT-BUSINESS.

THIS PUBLIC HEARING WAS HELD IN ACCORDANCE WITH CHAPTER 1284 (AMENDMENTS) OF THE CITY'S PLANNING AND ZONING CODE. THE PUBLIC HEARING WAS LIMITED TO 30 MINUTES; 15 MINUTES RESERVED FOR THE OPPONENTS, AND 15 MINUTES RESERVED FOR THE PROPONENTS.

DAN BORON, CITY PLANNING CONSULTANT – MR. BORON PRESENTED INFORMATION REGARDING THE BACKGROUND, PLANNING FRAMEWORK, PUD APPROVAL PROCESS, PLANNING COMMISSION RECOMMENDATION, AND AERIAL AND SITE MAP OF THE SUBJECT PARCEL TO BE REZONED. (A COPY OF MR. BORON'S PRESENTATION, "REZONING REQUEST PUBLIC HEARING: SOUTHEAST CORNER WHISPERING PINES AND CLEARCREEK-FRANKLIN ROAD," IS ATTACHED FOR THE RECORD.) MR. BORON EXPLAINED THAT THIS PROPERTY IS BEING RECOMMENDED FOR BUSINESS ZONING BECAUSE THE B-2 DISTRICT, WHICH WILL BE USED AS THE FOUNDATION ZONING DISTRICT FOR THE PLANNED UNIT DEVELOPMENT-BUSINESS ALLOWS FOR NURSING HOMES ALONG WITH A LARGE NUMBER OF OTHER RETAIL AND OFFICE USES, AND IS THE ONLY ZONING DISTRICT THAT SPECIFICALLY ALLOWS NURSING HOMES. THE PUD PROCESS ALLOWS COUNCIL TO "LINE ITEM" OUT OR EXCLUDE SPECIFIC USES. IN THIS CASE, THE "LINE ITEM" OR EXCLUSION PROCESS WILL BE VERY LENGTHY BECAUSE ALL BUT ONE PARTICULAR USE WILL BE EXCLUDED FROM THIS, WHICH WILL BE SPECIFICALLY THE NURSING HOME. IN OTHER WORDS, WHILE THE PROPERTY IS BEING REZONED TO PUD-B, ONLY ONE USE WILL BE ALLOWED, WHICH IS THE NURSING HOME. ZONING FOR THE SITE IS PRESENTLY (O-2), OFFICE PARK, WHICH IS THE LOWER HALF OF THIS 5.5-ACRE SITE AND (R-2), LOW DENSITY RESIDENTIAL. IN 2004, THE SMALL STRIP OF LAND ALONG THE TAMARACK DEVELOPMENT WAS PUT THERE TO PROVIDE A LOW DENSITY RESIDENTIAL BUFFER BETWEEN THE UNDEVELOPED EASTBROOK FARM AND THE TAMARACK DEVELOPMENT. THE (R-2) DISTRICT ALLOWS SINGLE-FAMILY RESIDENTIAL DEVELOPMENT AT FOUR UNITS PER ACRE DEVELOPMENT DENSITY, WHICH IS THE DEVELOPMENT DENSITY OF THE TAMARACK DEVELOPMENT AND A LARGE PORTION OF THE CITY OF SPRINGBORO. GRAPHIC IMAGES IN THE PRESENTATION HANDOUT SHOW THE REPRESENTATION OF THE SITE SUBJECT TO THE 5.5-ACRE ZONING CHANGE AND SHOWS THE REFERENCE TO THE TWO ZONING DISTRICTS, WHICH ARE RECOMMENDED TO BE CHANGED, THE R-2 AND THE O-2 ON THIS PARTICULAR SITE. MR. BORON OFFERED TO ANSWER ANY QUESTIONS OF COUNCIL. THERE WERE NO QUESTIONS OF COUNCIL.

PROponents: 1) ADAM HOFF, R.D. ZANDE AND ASSOCIATES, TOLEDO – MR. HOFF IS THE ENGINEERING CONSULTANT FOR OTTERBEIN RETIREMENT LIVING COMMUNITIES. MR. HOFF EXPLAINED THAT THEIR PLAN IS TO CONSTRUCT A SITE THAT HAS FIVE INDIVIDUAL BUILDINGS, AND EACH BUILDING IS SET UP VERY MUCH AS A HOME. IMAGINE A 7,000 SQ. FT., TEN BEDROOM HOME, AND THAT IS WHAT THEY ARE TRYING TO CREATE IN THIS SETTING. UNFORTUNATELY, BECAUSE OF THE RULES AND REGULATIONS THAT APPLY TO HOW THEY WILL OPERATE THE FACILITY, IT HAS TO BE LABELED AS A NURSING HOME OR WOULD FALL UNDER THIS SPECIFIC SET OF ZONING RULES. THERE ARE ALSO OTHER STIPULATIONS IN TERMS OF HOW THE FACILITY IS CONSTRUCTED AND MAINTAINED, BUT IT WILL VERY MUCH BE A RESIDENTIAL SETTING. THE RESIDENCE WILL BE A FULL SCALE NURSING CARE FACILITY SERVING VARYING AGES, PREDOMINANTLY RETIREES, BUT ALSO SOME OTHER INDIVIDUALS UNDER VARIOUS CIRCUMSTANCES THAT REQUIRE FULL SCALE NURSING ON A 24-HOUR BASIS. EACH BUILDING WILL HAVE ITS OWN KITCHEN AS A FOCAL POINT, A DINING AREA, A LIVING ROOM AREA WITH A FIRE PLACE AND A GARDEN SETTING IN THE BACK. THEY ARE TRYING TO MAKE SURE THE ELDERS ARE INTEGRATED INTO THE COMMUNITY, WHICH IS A VERY IMPORTANT ASPECT OF CONTINUING THE PROCESS OF ELDER CARE. THE ECONOMIC DEVELOPMENT ASPECT TO THIS PROJECT IS 30-34 NEW JOBS AND APPROXIMATELY \$1.4M IN ANNUAL PAYROLL INSIDE THE CITY OF SPRINGBORO, WHICH WOULD PROVIDE A BENEFIT TO THE CITY. IN TERMS OF POTENTIAL CONCERNS OR POTENTIAL ADVERSE IMPACTS WHICH MAY RAISE FLAGS FOR SOME OF THE RESIDENTS, TRAFFIC IS ALWAYS A BIG ISSUE. THE APPLICANT WORKED CAREFULLY WITH PLANNING COMMISSION TO IDENTIFY A LOCATION FOR A PROPOSED DRIVEWAY ENTRANCE ONTO THE SITE,

WHICH WOULD BE THE ONLY POINT OF INGRESS/EGRESS FOR THE OTTERBEIN RETIREMENT LIVING COMMUNITY SITE ON THIS PARTICULAR LOCATION. THE RESIDENTS THAT WOULD OCCUPY THE RESIDENCE, ALTHOUGH THE MAJORITY WOULD BE AMBULATORY, WILL NOT BE DRIVERS. THE PEOPLE THAT WOULD BE ENTERING/EXITING THE SITE WOULD BE VISITORS AND STAFF. MR. HOFF OFFERED TO ANSWER ANY QUESTIONS OF COUNCIL.

MR. PARISE ASKED WHAT KIND OF BUFFER WOULD BE USED TO SCREEN THE PROPERTY AND THE HOMES THAT ARE ABUTTING THE SITE? MR. HOFF ANSWERED THAT THEY ARE PROPOSING 60-65 FT. MR. HOFF EXPLAINED THAT THERE IS QUITE A BIT OF TOPOGRAPHIC RELIEF IN THAT AREA. THERE ARE TWO BENEFITS, ONE, PROVIDING SUBSTANTIAL SCREENING BETWEEN THESE BUILDINGS AND THE ABUTTING PROPERTY OWNERS, BUT ALSO TO HELP WORK OUT THE SITE GRADING BECAUSE EVERYTHING IS REQUIRED TO BE HANDICAP ACCESSIBLE.

MR. PARISE ASKED IF THE SCREENING WOULD INCLUDE TREES AND BUSHES TO BLOCK THE VIEW OF THE PARKING LOT OR FACILITY? MR. HOFF ANSWERED, ABSOLUTELY. MR. HOFF EXPLAINED THAT WHAT THEY TRY TO DO IN THESE INSTANCES IS TO MAINTAIN AS MUCH OF THE EXISTING FOLIAGE AS POSSIBLE, BUT ALSO RECOGNIZE THAT THEY HAVE TO GRADE THE SITE TO BE HANDICAP ACCESSIBLE THROUGHOUT, WHICH MEANS THEY WILL HAVE TO FLATTEN AND CREATE A PLATEAU PRESENTING SOME CHALLENGES IN THE GRADING, BUT TOWARDS THE UPPER PORTIONS CLOSE TO THE PROPERTY LINE, THEY WILL TRY TO MAINTAIN A TREE LINE ALONG THE PROPERTY.

MR. HOFF ALSO MENTIONED THAT THEY DID HAVE A MEETING WITH ABUTTING PROPERTY OWNERS ON AUGUST 13. THEY DISTRIBUTED INVITATIONS USING THE SAME 300 FT. RADIUS USED BY THE CITY FOR NOTIFICATION FOR THIS MEETING. MR. HOFF FURTHER MENTIONED THAT EIGHT TO TEN RESIDENTS DID ATTEND THE MEETING AND THEY DISTRIBUTED COPIES OF THE INFORMATION PACKET TO THE RESIDENTS, WHICH WAS PRESENTED TO CITY COUNCIL TONIGHT. HE OFFERED EXTRA COPIES FOR ANYONE IN THE AUDIENCE.

2) ROB MILLER, 265 FOLIAGE LANE, SPRINGBORO – MR. MILLER THANKED COUNCIL AND THE APPLICANT FOR WORKING FOR WHAT HE THINKS IS FINE A BALANCE BETWEEN ECONOMIC DEVELOPMENT AND A BUFFER ZONE.

3) GREG BARTLEY, HENKLE SCHEULER AND ASSOCIATES – MR. BARTLEY REPRESENTS THE PROPERTY OWNERS. MR. BARTLEY COMMENTED THAT IT IS IMPORTANT TO RELAY TO COUNCIL THAT, AS PROPERTY OWNERS OF THE REMAINING ACREAGE, THEY HAVE BEEN WORKING DILIGENTLY WITH OTTERBEIN AND THE PLANNING COMMISSION TO MAKE SURE THAT THIS 5.5 ACRES CAN BE INTEGRATED EFFECTIVELY WITH THE REST OF THE 84-ACRE PLAN. THEY HAVE ENJOYED WORKING WITH OTTERBEIN AND THINK THE USE IS FANTASTIC AND QUITE CONTRIBUTORY TO A MIXED USE DEVELOPMENT PLAN OR ANY OTHER DEVELOPMENT PLAN, AS IT MIGHT IMPACT HOW TO BEST INTERFACE BETWEEN THE RESIDENTIAL DEVELOPMENT TO THE NORTH AND WHATEVER DEVELOPS TO THE SOUTH. MR. BARTLEY FURTHER COMMENTED THAT THE PROPERTY OWNERS RECOGNIZE THE CONCERN THAT THIS IS A PORTION OF A PRETTY CRITICAL LARGER PARCEL.

4) MALACHI SLOAN - 485 WHISPERING PINES, SPRINGBORO – MR. SLOAN COMMENTED THAT HE SUPPORTS THIS PROPOSAL. HE FURTHER COMMENTED THAT OTTERBEIN HAS A FINE REPUTATION IN WARREN COUNTY, HAS SERVED MANY, MANY PEOPLE, AND HAS A WONDERFUL REPUTATION FOR DOING A LOT OF GOOD. MR. SLOAN FURTHER COMMENTED THAT FOR OTTERBEIN TO PROPOSE A NEW PLAN IN THAT LOCATION IS WONDERFUL FOR SPRINGBORO. MR. SLOAN ADDED THAT THERE IS A NEED FOR 24-HOUR CARE IN THIS COMMUNITY, AND IT IS A WONDERFUL PLAN.

OPPONENTS: 1) ROY MCGILL, III - 35 TIMBERWOOD LANE, SPRINGBORO – MR. MCGILL'S CONCERN IS THE PARKING LOTS OF THE PROPOSED FACILITY. MR. MCGILL EXPLAINED THAT PARKING LOTS ARE GREAT FOR THIEVES AND BURGLERS, ESPECIALLY WITH THE NEIGHBORHOOD JUST TO THE NORTH OF THE SITE. MR. MCGILL FURTHER EXPLAINED THAT THIEVES WOULD PARK IN THE FACILITY PARKING LOT TO OBSCURE THEMSELVES FROM THE NEIGHBORHOOD AND WALK THROUGH THE NEIGHBORHOOD. HE BELIEVES THAT DURING THE DAY WHEN THERE ARE A LOT OF CARS IN THE PARKING LOT AND EVERYONE IS AT WORK THIEVES WILL CASE THE HOUSES OF TAMARACK. MR. MCGILL COMMENTED THAT VEHICLES MAY BE STOLEN FROM THE PARKING LOT, AND REITERATED THAT PARKING LOTS ARE GREAT PLACES FOR THEIVES, GETAWAY VEHICLES, AND STEALING CARS. IN ADDITION, MR. MCGILL ASKED IF THE NURSING HOME WOULD BE HOUSING ELDERLY PEOPLE THAT CAN NO LONGER TAKE CARE OF THEMSELVES OR WOULD IT ALSO HOUSE YOUNGER, MENTALLY HANDICAPPED RESIDENTS? THIS IS A CONCERN FOR MR. MCGILL. MR. MCGILL'S THIRD CONCERN IS TRAFFIC. MR. MCGILL EXPLAINED THAT SPRINGBORO POLICE DO A GREAT JOB WITH

TRAFFIC CONTROL IN THE AREA, BUT HE STILL BELIEVES TRAFFIC WILL BE AN ISSUE.

MAYOR AGENBROAD COMMENTED THAT MR. MCGILL'S ISSUES WERE NOTED AND WOULD BE DISCUSSED AT A WORK SESSION FOLLOWING THE REGULAR MEETING.

MAYOR AGENBROAD ADJOURNED THE SECOND PUBLIC HEARING AT APPROXIMATELY 7:42 PM.

CONTINUE REGULAR ORDER OF BUSINESS OF SPRINGBORO CITY COUNCIL MEETING OF SEPTEMBER 6, 2007

ITEM 3. ROLL CALL. Agenbroad, Present; Anderson, Present; Belpulsi, Present; Chmiel, Present; Hruska, Present; Lairson, Present; Parise, Present.

ITEM 4. APPROVAL OF MINUTES: THE MINUTES OF THE AUGUST 16, 2007 CITY COUNCIL WORK SESSION AND REGULAR MEETING.

Ms. Belpulsi motioned to approve the Minutes of the August 16, 2007 City Council Work Session and Regular Meeting as submitted by the Clerk of Council. Mr. Hruska seconded the motion.

No corrections.

VOTE: Chmiel, Yes; Parise, Yes; Lairson, Abstain; Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes. [APPROVED 6-0-1]

ITEM 6. LEGISLATION:

City Council held a Work Session at 6:00 PM immediately prior to tonight's City Council Regular Meeting for approximately 46 minutes to discuss the following legislative items as well as other City matters followed, by a 9-minute Executive Session to discuss the discipline of a public employee.

- 1) **ORDINANCE: FIRST READING.** "AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SPRINGBORO, OHIO, REZONING APPROXIMATELY 13.3 ACRES OF LAND AT 8683 CLEARCREEK-FRANKLIN ROAD FROM ED, EMPLOYMENT CENTER DISTRICT, AND (T)R-1, FRANKLIN TOWNSHIP RURAL RESIDENCE DISTRICT, TO PUD-R, PLANNED UNIT DEVELOPMENT-RESIDENTIAL," was read by the Clerk of Council. Ms. Thompson commented on this item as follows:

This is the first reading of an ordinance amending the official zoning map to rezone approximately 13.3 acres of land at 8683 Clearcreek-Franklin Road from ED and (T)R-1 to PUD-R with a density of approximately 8.8 units per acre. This was the topic of tonight's first public hearing. This is the first reading of the ordinance to rezone the property, the second reading will be heard on September 20 and the last reading will be heard on October 4.

No action required at this time.

- 2) **ORDINANCE: FIRST READING.** "AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF SPRINGBORO, OHIO, REZONING APPROXIMATELY 5.5 ACRES OF LAND NEAR THE SOUTHEAST CORNER OF CLEARCREEK-FRANKLIN ROAD AND WHISPERING PINES FROM R-2, LOW DENSITY RESIDENTIAL DISTRICT, AND O-2, OFFICE PARK DISTRICT, TO PUD-B, PLANNED UNIT DEVELOPMENT-BUSINESS," was read by the Clerk of Council. Ms. Thompson commented on this item as follows:

This is the first reading of an ordinance amending the official zoning map to rezone approximately 5.5 acres of land near the southeast corner of Clearcreek-Franklin Road from R-2 and O-2 to PUD-B. This was the topic of tonight's second public hearing concerning the Otterbein development of a nursing home at this location. This is the first reading of the ordinance to rezone the property, the second reading will be heard on September 20 and the last reading will be heard on October 4. The proposal is a 50-unit nursing home facility at Whispering Pines and

Clearcreek-Franklin Road.

No action required at this time.

- 3) **ORDINANCE O-07-37: FIRST READING.** "AN ORDINANCE REPEALING SECTION 244.36, "RETIREMENT AGE", OF THE CITY OF SPRINGBORO CODE IN ITS ENTIRETY," was read by the Clerk of Council. Ms. Thompson deferred to Mr. Pozzuto to comment on this item.

During an ongoing review of the City's personnel policies and procedures, it was noticed that a review of Section 244.36 revealed that the City had a mandatory retirement age of 70, which violates federal law. The City would like to correct this discrepancy in the code by repealing that section, and make sure the City's personnel policies and procedures follow the federal statutes. Staff recommends repealing Section 244.36 of the City's code.

Ms. Belpulsi commented that this legislation should be implemented as soon as possible, and recommended waiving the second and third readings in order to move for a vote of adoption.

Ms. Belpulsi motioned to suspend the rules and waive the second and third readings of this ordinance. Mr. Hruska seconded the motion.

Mr. Parise asked why it is necessary to waive the second the third readings of the ordinance and to proceed with the vote? Ms. Thompson explained that the recommendation to adopt this legislation immediately is based on the fact that this section of the City's code violates federal law.

VOTE: Chmiel, Yes; Parise, Yes; Lairson, Yes; Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes. [APPROVED 7-0]

Ms. Lairson motioned to adopt Ordinance O-07-37. Mr. Hruska seconded the motion.

No discussion.

VOTE: Chmiel, Yes; Parise, Yes; Lairson, Yes; Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes. [APPROVED 7-0]

- 4) **ORDINANCE O-07-38: FIRST READING.** "AN ORDINANCE APPROVING THE RECORD PLAN FOR SOUTH TECH SECTION SIXTEEN RIGHT-OF-WAY DEDICATION, AND DECLARING AN EMERGENCY," was read by the Clerk of Council. Ms. Thompson commented on this item as follows:

This is the first reading of an ordinance approving the record plan for South Tech, Section Sixteen R-O-W dedication. This represents the extension of West Tech Boulevard within the South Tech Industrial Park that will be constructed by the City to open up the 90 acres of property the City purchased a few years ago for economic development purposes. The road will also help with the access for the new Children's Medical Center coming to that area and Crucible Materials, which is currently under construction. In addition, the road will provide access to Montgomery County Sanitary Services for their lift station in the region of the South Tech Industrial Park. The Planning Commission approved this record plan on August 29, 2007. As the City is the holder of the record plan, there is no need for a performance bond or subdivider's agreement.

Mayor Agenbroad stated that staff has requested that Council suspend the rules and waive the second and third readings of this ordinance.

Mr. Chmiel motioned to suspend the rules and waive the second and third readings of this ordinance. Ms. Lairson seconded the motion.

No discussion.

VOTE: Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes; Chmiel, Yes; Parise, Yes; Lairson, Yes. [APPROVED 7-0]

Ms. Belpulsi motioned to adopt Ordinance O-07-38. Ms. Lairson seconded the motion.

No discussion.

VOTE: Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes; Chmiel, Yes; Parise, Yes; Lairson, Yes. [APPROVED 7-0]

- 5) **RESOLUTION R-07-37:** "A RESOLUTION DECLARING THE NECESSITY OF PROVIDING STREET LIGHTING INSTALLATION, OPERATION AND MAINTENANCE IN THE BECK RIDGE SECTION ONE OF THE CITY OF SPRINGBORO, OHIO, AND DECLARING AN EMERGENCY," was read by the Clerk of Council. Ms. Thompson commented on this item as follows:

This resolution provides for street lighting installation, operation, and maintenance in Beck Ridge Section One. A petition was signed by the owner of lots 1-31 in Beck Ridge Section One located on Lower Springboro Road requesting that the City install, operate, and maintain street lights in that section of the subdivision. The cost and maintenance of these improvements will be assessed to the property owners following the sale of the lots.

Mayor Agenbroad presented the item for questions/comments. No questions/comments.

Ms. Belpulsi motioned to adopt Resolution R-07-37. Mr. Hruska seconded the motion.

No discussion.

VOTE: Chmiel, Yes; Parise, Yes; Lairson, Yes; Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes. [APPROVED 7-0]

- 6) **RESOLUTION R-07-38:** "A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH C. A. STEMPFLEY CONTRACTOR INC. FOR THE CONSTRUCTION OF "EAST MILL STREET ROADWAY IMPROVEMENTS"," was read by the Clerk of Council. Ms. Thompson commented on this item as follows:

This resolution authorizes a contract with C. A. Stempfley Contractor Inc. for the construction of the East Mill Street Roadway Improvements Project. This project consists of the widening of E. Mill Street or Lower Springboro Road on the south side with curb, gutter, storm sewer, and sidewalk, which will fill in a gap that was created when both sides of that particular area were already widened. The length of this project is approx. 400 ft. The engineer's estimate was \$67,500.00. The contract bid by Stempfley Contractor was \$59,862.50. Staff recommends approval of this contract.

Mayor Agenbroad presented the item for questions/comments. No questions/comments.

Mr. Parise motioned to adopt Resolution R-07-38. Ms. Lairson seconded the motion.

No discussion.

VOTE: Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes; Chmiel, Abstain; Parise, Yes; Lairson, Yes. [APPROVED 6-0-1]

- 7) **RESOLUTION R-07-39:** "A RESOLUTION AUTHORIZING THE CITY MANAGER TO PREPARE AND SUBMIT AN APPLICATION TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION ISSUE II GRANT PROGRAM AND TO EXECUTE CONTRACTS AS REQUIRED," was read by the Clerk of Council. Ms. Thompson commented on this item as follows:

This resolution authorizes the City Manager to submit an application to participate in the OPWC Issue II Grant Program. This application for Issue II grant monies would fund a project on West Mill Street to widen the road to 29 feet back of curb to back of curb and to install curb and gutter and storm sewer as well as sidewalk. This project would also provide for the bridge east of Meyers Creek Lane to be removed and rebuilt to match the alignment and profile of the road as recommended by the engineering department. Issue II monies are granted primarily through Warren County, and it appears at this point that this project has received a number one ranking and would be funded in 2008. Funds for the project will be requested in the 2008 budget. The engineer's estimate is \$1.164M.

Mayor Agenbroad presented the item for questions/comments. No questions/comments.

Mr. Parise motioned to adopt Resolution R-07-39. Mr. Chmiel seconded the motion.

No discussion.

VOTE: Parise, Yes; Lairson, Yes; Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes; Chmiel, Yes. [APPROVED 7-0]

- 8) **RESOLUTION R-07-40:** "A RESOLUTION EMPOWERING THE CITY MANAGER TO PREPARE AND EXECUTE AN APPLICATION FOR SRTS FUNDS FOR THE STATED DESCRIBED PROJECT THROUGH THE STATE OF OHIO, DEPARTMENT OF TRANSPORTATION," was read by the Clerk of Council. Ms. Thompson commented on this item as follows:

This resolution authorizes the City Manager to submit an application for Safe Routes to Schools (SRTS) funds through ODOT. Based on the interest and need for Safe Routes to Schools programs, the State has provided grant monies for cities and villages to apply for to build routes. Phase one of this project would consist of constructing a sidewalk or walking trail from the old school bus garage near Clearcreek Elementary School to the south side of Clearcreek, which would be about 1,525 ft. The cost for this project, due to the need for a pedestrian bridge to be constructed as part of the project, would be \$500,000.00 according to the engineer's estimate. The City would apply for the funds through this resolution, and await the State's decision regarding funding.

Mayor Agenbroad presented the item for questions/comments. No questions/comments.

Mr. Chmiel motioned to adopt Resolution R-07-40. Ms. Lairson seconded the motion.

No discussion.

VOTE: Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes; Chmiel, Yes; Parise, Yes; Lairson, Yes. [APPROVED 7-0]

- 9) **RESOLUTION R-07-41:** "A RESOLUTION AUTHORIZING THE CITY MANAGER TO ASSIGN AND AMEND THE CURRENT AGREEMENT WITH U.S. FILTER OPERATING SERVICES, INC. DATED MARCH 4, 1999 FOR THE OPERATION, MAINTENANCE AND MANAGEMENT SERVICES OF THE CITY'S WATER AND WASTEWATER TREATMENT FACILITIES TO VEOLIA WATER NORTH AMERICA – CENTRAL, LLC," was read by the Clerk of Council. Ms. Thompson commented on this item as follows:

This resolution authorizes the City Manager to assign and amend the current agreement with U.S. Filter Operating Services, Inc. for the operation, maintenance and management services of the City's water and wastewater treatment

facilities to Veolia Water North America – Central, LLC. This resolution is two-fold, the name has essentially changed from the former U.S. Filter to Veolia Water North America – Central, LLC and the City doubled the capacity of its sewer plant in 2006-2007; therefore, the cost of operations has changed as well. This legislation also includes a 3% cost of living increase that would have been charged under the current agreement, and now is included in the amended agreement. The cost difference is \$108,229.00 over 15 years, which is the length of term of the current contract; thus, the average cost difference is approximately \$7,000.00 per year.

Mayor Agenbroad presented the item for questions/comments. No questions/comments.

Mr. Hruska motioned to adopt Resolution R-07-41. Ms. Belpulsi seconded the motion.

No discussion.

VOTE: Agenbroad, Yes; Hruska, Yes; Chmiel, Yes; Parise, Yes; Lairson, Yes; Anderson, Yes; Belpulsi, Yes. [APPROVED 7-0]

- 10) **RESOLUTION R-07-42:** "A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AND THEREBY RATIFY AN AGREEMENT TO PURCHASE CERTAIN PROPERTY IN SOUTH TECH BUSINESS PARK OWNED BY CURT JACKSON, INC. (DBA - THE LEATHER GALLERY)," was read by the Clerk of Council. Ms. Thompson deferred to Mr. Pozzuto to comment on this item.

This resolution authorizes an agreement to purchase approximately 0.28 acres of land located at the terminus of South Tech Boulevard in South Tech Business Park. The City will purchase the property from Curt Jackson, Inc for \$12,400.00. This purchase will allow the City to extend its R-O-W to the west of South Tech Boulevard for the emergency access for the Children's Medical Center development occurring on West Tech Boulevard. It will also allow for the future development of the second building for the Renegade Maverick project. The City originally purchased 1.928 acres of R-O-W for the Children's Medical Center emergency access and overlooked this piece of the parcel. This purchase will finalize all of the R-O-W the City will need to allow for that emergency access. Staff recommends approval of this purchase.

Mayor Agenbroad presented the item for questions/comments. No questions/comments.

Ms. Belpulsi motioned to adopt Resolution R-07-42. Ms. Lairson seconded the motion.

No discussion.

VOTE: Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes; Chmiel, Yes; Parise, Yes; Lairson, Yes. [APPROVED 7-0]

ITEM 7.

REPORTS:

Mayor's Report – The next City Council Work Session will be held on Thursday, September 20, 2007 beginning at 5:30 PM in Council Chambers to accommodate a presentation/discussion with the architects of the new City building. The next City Council Regular Meeting will be held on Thursday, September 20, 2007 at 7:00 PM in Council Chambers, as scheduled. The Finance Committee meeting scheduled for Thursday, September 20 at 5:30 PM has been canceled.

City Manager's Report – There will be a meeting for elected officials concerning the Austin Road Interchange on September 19 hosted by the Transportation Improvement District of Montgomery County. The project is still moving forward. The bids are expected to go out in the fourth quarter of 2008. The interchange should be operational by mid-year 2010.

The City newsletter will be mailed to residents the third week of September. The fall newsletter will include information concerning Springboro Day at Heatherwoode, which will be held on Sunday, October 14. The City welcomes all residents to attend. Springboro Day at Heatherwoode will be announced in the City newsletter and on the City website.

Committee Reports –

Mr. Parise – No reports.

Mr. Chmiel – No reports.

Mr. Hruska – No reports.

Ms. Lairson – No reports.

Mr. Anderson – No reports.

Ms. Belpulsi – Planning Commission – The Planning Commission met in Formal Session on Wednesday, August 29 at 7:00 PM in Council Chambers to consider the following items: Site Plan Review – Renegade Corporation, proposed manufacturing facility, west end of South Tech Drive in South Tech Business Park located in the Austin Road Interchange area [APPROVED]; Site Plan Review – Dayton Children’s Medical Center, proposed medical office building, west end of West Tech Boulevard in South Tech Business Park located in the Austin Road Interchange area, and is the first phase of a 5-phase project [APPROVED]; Right-of-Way Dedication/Record Plan – South Tech, Section 16 [APPROVED]; Revision to Approved Site Plan – 125 East Mill Street, Springboro Baptist Church, revision to approved building design [APPROVED]. The next Planning Commission Work Session will be held on September 12 at 7:00 PM in Council Chambers, as scheduled.

ITEM 8. OTHER BUSINESS. No other business.

ITEM 9. FINAL COUNCIL AND MANAGER COMMENTS. Mr. Chmiel thanked Mr. Pozzuto and the members of staff that worked on the business newsletter published last month. Mr. Chmiel commented that the newsletter was very well done, and is a great piece to send to all of the City’s businesses.

ITEM 10. GUEST COMMENTS. No guest comments.

ITEM 11. EXECUTIVE SESSION. No Executive Session.

ITEM 12. ADJOURNMENT. Mayor Agenbroad thanked the MVCC for tonight’s telecast and eventual rebroadcast of this Springboro City Council Meeting.

Mayor Agenbroad stated that City Council would continue discussion regarding the public hearings held at the beginning of tonight’s meeting, following the televised portion of this meeting. City Council will adjourn the Regular Meeting following that Work Session discussion.

At approximately 8:03 PM, Ms. Belpulsi motioned to adjourn; whereby, the televised portion of the Thursday, September 6, 2007 Regular Meeting was adjourned. Mr. Chmiel seconded the motion.

No discussion.

VOTE: Parise, Yes; Lairson, Yes; Anderson, Yes; Belpulsi, Yes; Agenbroad, Yes; Hruska, Yes; Chmiel, Yes. [APPROVED 7-0]

Mayor Agenbroad invited any guests in attendance to stay for the Work Session discussion following the adjournment of the Regular Meeting.

PART II OF THE WORK SESSION DISCUSSION REGARDING THE REZONING.

Discussion regarding the request to rezone 5.5 acres on Clearcreek Franklin Road located near the southeast

corner of the intersection of Clearcreek-Franklin Road and Whispering Pines Lane from R-2 and O-2 to PUD-B:

Mr. Parise inquired regarding income tax/property tax exemptions concerning the Otterbein development? Ms. Thompson stated she was not sure, but it does not affect the City because the City only gets 1.6 cents of each dollar of property tax. Ms. Thompson further explained that the City goes after the income tax and that would not be evaded in any way. Mr. Parise asked if the school district is Franklin? Ms. Thompson explained that on that side of the road it is the Springboro school district, and the other side of the road is the Franklin school district.

A representative of Otterbein explained that they are operating as a 501.3c non-profit corporation; therefore, they would not be subject to the property tax. Their employees would pay income tax.

Ms. Lairson commented that Otterbein's handout describing and illustrating the facility is very well done and the facility looks very nice.

Ms. Belpulsi really appreciates the representatives of Otterbein, the engineering staff and other folks involved, meeting with the surrounding residents, which takes a lot of misinformation out of the picture and makes people feel more comfortable.

Mr. Boron commented that there were two comments about screening which would be addressed in stage two of the process, the final development plan, and he could forward those comments/concerns to the Planning Commission as well as to the applicants. They are also correct in that the property will be significantly graded, and that actually Whispering Pines relative to the site where the pad is going to be, as shown in the book, will be overlooking rooftops, but there will be screening required in that area.

Ms. Thompson stated that traffic was also mentioned and the Planning Commission went through an extensive analysis with the traffic engineers to specifically dictate where the access to Clearcreek Franklin Road would be and looked at the 84-acre parcel in total before that decision was made. As far as the road, Scott Knebel of LJB, the City's engineering department, and the City's Public Works Director looked at that pretty closely as well.

Mr. Parise asked if there would be a traffic light at that intersection? Ms. Thomson explained that a traffic signal might be warranted when the rest of the 80 plus acres is developed.

Mr. Boron clarified that this specific project is not going to necessitate a traffic signal at the location shown in the book. Mr. Boron added that there might be a traffic signal at a later date when the entire 83 acres is developed.

Mr. Parise confirmed that a traffic light might be considered when both sides are developed? Ms. Thompson clarified both lots, not both sides; do not consider the west side. Ms. Thompson explained that the multi-family is on the west side of Clearcreek-Franklin Road and this is an 84-acre parcel on the east side of which they are only developing five acres. When the total 84 acres comes in for development that is when further traffic issues will be addressed such as traffic signalization, but the determination has already been made for this approval that there will only be two access points allowed on Clearcreek-Franklin Road. In other words, the developer cannot say they are going to develop the other 83 acres and now want four access points on Clearcreek-Franklin Road. The City has already stated that there would be two access points because that is what the traffic engineers recommended for the whole development.

Mr. Chmiel commented that this is one of the two access points designated for the whole parcel; the other would be on the north side.

Ms. Thompson stated that signalization in the future would definitely be a yes, but it has not been determined what will be developed on the rest of the acreage and where exactly on those two access points that signal would be placed, and it would not take into consideration the development on the other side. Ms. Thompson reiterated that traffic has been a serious consideration.

Discussion regarding the request to rezone 8683 Clearcreek Franklin Road (13.3 acres) from (T)R-1 and ED to PUD-R:

Mayor Agenbrood asked the applicant for the difference in square footage between the condos and the apartments? Mr. Bartley answered that it is not defined in the code, and he represents the landowner, not the developer. Mr. Bartley further explained that there is no square footage specified in the code, and he is not sure what drives the 12 versus the 15 units per acre, but it is in the code.

Mr. Hruska stated that the applicant intimated that the development would be condominiums. Mr. Hruska asked if the applicant would be willing to specify if they were condominiums and not apartments? Mr. Bartley stated that he could not.

Mr. Parise asked if that stipulation could be made part of the condition? Mr. Hruska stated that Council could make it a condition of approval.

Ms. Thompson commented that she believes there is a little misconception about apartments. This is not subsidized housing and there have been no applications for subsidized housing. Ms. Thompson stated that she got the impression from a number of comments made by residents that, that was the perception. Ms. Thompson stated that she thinks, from an economic stand point, the developer would have to charge a certain rate in rent to make the whole complex work well. Ms. Thompson stated that Council could certainly place a condition on the approval, but there has been no application for any subsidized housing.

Mr. Chmiel commented that the apartments being built today versus the existing apartment complexes on Clearcreek Franklin are vastly different. For example, the apartments recently constructed on Cherry Street, which were not built to turn into crime areas or attract undesirable people. Mr. Chmiel stated that another important thing to consider is the additional 83 acres that will be developed across the street, which will be a combination of office, residential, and retail. Mr. Chmiel stated that he thinks it is good planning to have pedestrian access for people who work in these areas to be able to live there as well, and it is a good plan with respect to resources and the environment to consider these things in proximity to one another.

Mr. Hruska stated that his concern is that these apartments do not turn into apartments like those across the street. Ms. Thompson commented that she has already stated that she does not feel like it would be in the economic best interest of a developer to do that, and no subsidized housing has been applied for, which is a federal issue.

Ms. Belpulsi stated that Mr. Bartley mentioned in his comments that based on some of the current market research the trend or preference is ownership, which would lend itself more to condominiums, but the word multi-family sends a connotation out to people automatically. Ms. Belpulsi stated that nothing has come before Planning Commission as far as a project, quality, look, etc. whether it is apartments or condominiums that has been undesirable, but she understands people's concern. She added that the City also has multi-family on Yankee, The Falls, which is a beautiful apartment complex.

Ms. Thompson stated that the overall look of the development is up to the Planning Commission under the PUD. If the Planning Commission sees something they do not like such as the square footage, they say no, and that is the difference between the zoning and the actual planning. Ms. Thompson further commented that a lot of the planning could be controlled by the Planning Commission under a PUD.

Mr. Schaeffer asked if the applicant could speak to the approximate size of the units, etc. Mr. Bartley reiterated that he is not the developer and does not want to make promises he cannot keep. He explained that as a landowner he is looking for zoning for this site, which he has been asking for, for a year now --what is the zoning for the site? Two points that Ms. Thompson has made that he strongly agrees with is that the owners of the property are not going to sell it for cheap. Also, the demand in the market place has been for higher density ownership, for people who do not want to maintain a property, but want a nice place to live near Springboro or in Springboro, that is what the demand is for. Mr. Bartley cannot say for sure whether the property will be developed as condominiums or apartments and cannot commit that it will not be apartments, but he can say that the cost for the land and the cost of development today is not going to be cheap.

At this time, Ms. Thompson addressed the e-mails that were received regarding this request to rezone. One of the e-mails consistently mentioned the schools, and she wanted to state that this is not in the Springboro school district; it

is in the Franklin school district. Impact on schools or any of those issues mentioned here suggesting that an impact fee should be levied for the school district, which the City cannot do anyway, would not affect the Springboro school district. The bussing comments can also be addressed by the fact that this development is not in the Springboro school district. The apartments would have only one ingress and one egress and busses would have to go into the development to pick up any children that might be there. Ms. Thompson reiterated that this development would not be in the Springboro school district.

Ms. Belpulsi stated that another issue that was mentioned was green space. Ms. Belpulsi reminded everyone that the PUD ordinance has a minimum requirement that 25% percent of the property must be green space, and the City is very sensitive to that.

Mr. Anderson asked if this development were approved and phased in and the traffic signal is considered, does the traffic light go in before construction starts or is it a condition of the plan?

Ms. Thompson explained that if a light is warranted then whoever is going to pay for it can put it up tomorrow; it is just a question of negotiation as to whether it is paid for. Ms. Thompson further explained that the City is trying to convert to all mast arm installations, which are approximately \$185,00-200,000.00 per traffic light. The City is committed to the traffic light at Tamarack and SR741 in the 2008 budget, and the study on SR741 indicated one other traffic light should eventually be installed. Ms. Thompson reiterated that the City would negotiate with the developer regarding a traffic signal, but as long as it is warranted, it could be installed immediately.

Mr. Hruska asked how the traffic engineers would know a traffic light is warranted until the traffic starts to be a problem? Ms. Thompson answered that the traffic engineers would project the numbers. For example, if they know it is 118 units with 2.3 people per unit with "x" number of cars, they could project traffic volume. Ms. Thompson stated that traffic studies are often based on projections prior to any development, and the traffic engineers use their standard transportation-engineering book to calculate projections. Ms. Thompson reiterated that a traffic study would be required and would be asked for immediately, and if a traffic signal is warranted based on projections, the City would want the light up front, not in a later phase of the development. Ms. Thompson added that Planning Commission would make the traffic signal a condition, if warranted.

Ms. Thompson asked Chief Kruithoff to address the concerns expressed by the residents regarding crime, especially the question of parking lots. Chief Kruithoff explained that increased activity in an area actually tends to lower crime rates because more people are around. He elaborated by stating that placing an activity next to a residential neighborhood does not increase crime in that neighborhood, but actually may reduce crime because there are so many more eyes and ears within the area, especially in a facility that is staffed 24-hours by people that are awake. Chief Kruithoff stated that this is clearly a different situation. Obviously, the City does receive a lot of police calls for service to the apartment complex to the south of this location, but those apartments have different kinds of issues that he does not think translate to the business model being presented here. Chief Kruithoff does not anticipate that this development would result in a drastic increase in crime.

Mr. Schaeffer stated that there was a question regarding access on Pioneer. Ms. Thompson explained that, as stated, the ED zone would remain from the creek west, and across the street from that is Cobasys, Phymet, and some other light industrial businesses. Ms. Thompson explained that there would not be any access from Pioneer to this apartment or condominium complex. The ED portion of the parcel will be sold separately, as mentioned, there would be a lot split for this parcel, and there would not be access off Pioneer to this development. Ms. Thompson further explained that considering the financing that would be required to cross that creek it would be a challenge, but by the same token there would not be any access to Pioneer and it would not affect the existing industrial and light industrial users on Pioneer. Ms. Thompson commented that right now, Cobasys has some issues on Pioneer Boulevard concerning a left hand turn for their employees. The way their company's shifts are working, the City is looking at adding a left turn arrow in order to turn off of SR73 onto North Pioneer. In short, there would not be access to Pioneer either way because the creek is going to separate the properties. In addition, Ms. Thompson stated that she could never see the City rezoning the ED zoned area of the parcel.

Mayor Agenbroad stated that Council has received input from the public hearings, and asked if there was anything else to discuss? There were no other comments or questions of Council. Mayor Agenbroad suggested that if Council Members had additional questions or concerns, they should give Ms. Thompson, Ms. Belpulsi or Mr. Chmiel

a call.

Ms. Thompson asked if this discussion was helpful? Ms. Lairson stated that she liked this process very much, and it gives the people attending the meeting a chance to hear the discussion, which is also very important.

John Agenbroad, Mayor

Presiding Officer

Lori A. Martin, Clerk of Council