

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, DIV. FORM NO. 10143

Held

Thursday, August 18, 2011

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**ITEM 1: CALL TO ORDER:** Mayor Flaute called the Riverside, Ohio City Council meeting to order at 6:00 p.m. at the Riverside Municipal Center located at 1791 Harshman Road, Riverside, Ohio.

**ITEM 2: ROLL CALL:** Council attendance was as follows: Ms. Campbell, present; Mr. Denning, present; Mr. Fullenkamp, present; Mrs. Reynolds, present; Mr. Schock, present; Deputy Mayor Smith, present; and Mayor Flaute, present.

Staff present was as follows: Bryan Chodkowski, City Manager; Bob Murray, Planning and Economic Development; Pete Williams, Planning and Zoning Administrator; Mitch Miller, Service Department; Mark Reiss, Police Department; Bob Turner, Fire Department; and Bob Gillian, Finance Department.

**ITEM 3: EXCUSE ABSENT MEMBERS:** There were no absent members.

**ITEM 4: ADDITIONS OR CORRECTIONS TO AGENDA:** The agenda was revised prior to the meeting amending the title of Resolution No. 11-R-1586.

**ITEM 5: APPROVAL OF AGENDA:** A motion was made by Mrs. Reynolds to approve the agenda as submitted. Mr. Denning seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 6: WORK SESSION ITEMS:**

a. Board and Commission Interview

Council interviewed Mr. Jerry Richardson of Gleneagle Drive who is interested in a position on the Board of Zoning Appeals.

Following the interview, a motion was made by Mr. Denning to bring forward legislation to appoint Mr. Richardson to the Board of Zoning Appeals. Mr. Schock seconded the motion. All were in favor; none were opposed. **Motion passed.**

b. Discussion: Proposed Zoning Ordinance  
Article VII – Zoning Districts

Mr. Chodkowski distributed copies of zoning maps and said the first map represented 25 different types of zoning districts that currently exist within the city. He said the current zoning creates a number of unique challenges in dealing with new development, new projects, change in use of existing structures, etc. and that has really been a challenge not only for us but also for a lot of folks who want to come in to start a business, move a business, or expand a business. He said in order to help address that we have taken those 25 zoning districts and boiled them down to 11 proposed districts. He said the consistent application of zoning is much more widely held under the proposal rather than these little pockets. He said the current zoning districts and zoning map are very much, from what he can tell, an attempt to try to establish conformity to previously existing structures, divided property, and uses. He said what the proposed code has done and what council talked about in the last session was what we think is a very loving bear-hug of pre-existing non-conformities; those are going to exist and continue to exist no matter how many times you try to write provisions for them. He said we've made accommodations for pre-existing non-conformities and set up our zoning structure to deal with some of the more reoccurring issues in existing areas as well as development in those areas that remain viable for development within our community. He said in a nutshell, that is what Article VII does – dealing with uses and dealing with the zoning map. He said it takes a cumbersome and antiquated response to structures and properties within the city and condenses and streamlines

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them into the document we are proposing. He said in his review, he did not identify any significant changes to be made. He said he, Mr. Murray, and Mr. Williams will be happy to answer any questions council may have.

Deputy Mayor Smith said the map is difficult to follow since there are no street names. Mr. Chodkowski said it would be tough on this scale but we do have that on a larger scale. Mayor Flaute said the important thing is we haven't had any major changes from what the old code was to this code; it's just in a completely different form and we are trying to get the number of zoning groups reduced. Mr. Chodkowski said one map shows the current zoning with 25 districts and the other shows the proposed map which makes our ability to regulate land use and land development much easier. He said the maps are just to demonstrate the visual reduction in zoning districts.

Mr. Fullenkamp referred to Campus/Institutional District, page 7-14 and asked about the 65 foot building height with 10 foot side and rear yard set backs to residential properties. Mr. Chodkowski said a lot of the set backs typically aren't determined in relation to the height, mass, or size of a structure – typically they are associated with density of use. He said the higher the density of activity such as heavy industrial manufacturing where there is a lot of noise, vibration, heavy vehicular traffic; you want to spatially separate the focal point of that activity from less intense uses. He said its not related to free fall area or any types of those issues and you can see that in a lot of the more dense urban developments; literally the walls are right on the property line with some buildings 2 to 20 stories tall but it all relates to the use occurring on the property. He said relating to the Campus/Institutional use that is a relatively non-intense use. Mr. Fullenkamp said it seems disruptive to the people that currently have residences in some of those proposed areas such as those along Springfield Street. He said his major concern is for the people with pre-existing homes that might be exposed to this type development. He said even in his neighborhood where they put in the two-story housing for the base it was somewhat disruptive for the people whose backyards bordered the property.

Mr. Chodkowski said the Campus/Institutional use has been applied to all existing uses within that category and there is no vacant ground within the city that holds that designation. Mr. Denning said it looked like it was mostly where our schools are; we aren't doing anything new and his assumption is that we didn't pull this code out of the air; we looked at other folk's stuff and came up with a logical application. Mr. Chodkowski said correct.

Mr. Fullenkamp said again, his major concern is the people this might happen to. Mayor Flaute said that was his question earlier and he called the City Manager before the meeting; these range from 20 feet to 35 feet and most are 25 feet – why wouldn't it all be uniform at 25 feet. Mr. Fullenkamp said we have residential requirements that are bigger than this and there seems to be some disparity here.

Mrs. Reynolds said if you read the purpose statement it would lead you to think otherwise, other than what you are saying that the density of this is right. She read the purpose statement which states *the district provides for institutional, governmental, and academic services in suitable locations in which they can support community needs and serve traditional areas between residential and business districts or between major thoroughfares and residential districts.* She said when you look at the list of permitted uses you have schools, daycare center, public parks, playing fields, and community centers. She said also listed is medical clinics which she is assuming is like a 1010 Woodman. Mr. Chodkowski said that's a very base version and we were thinking of something more similar to the satellite hospitals that are popping up – a little on the larger scale. Mrs. Reynolds said if we are looking at a satellite hospital in one of the new zoning districts; the minimum set back for the parking lot is 10 feet

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adjacent to non-residential and 25 feet adjacent to residential and the side yard is 10 feet adjacent to residential. She asked why the parking lot had a greater set back than a 65 foot building; she's trying to understand that rationale. Mr. Chodkowski said that assumes that you centrally locate the building on the property and that might not necessarily be true; you might offset the building to the west side of the property or to the north side of the property and you might want to locate the parking lot on another portion of the parcel, so those setbacks don't necessarily have to match as far as being universal in being related to parking as it is to a building. He said to keep in mind these are minimum requirements and not necessarily automatic; there are other factors and there are conditions the Planning Commission will be able to set when they perform site plan evaluations; they can say the minimum may be 10 feet but considering your proximity to a neighborhood or the proximity to a use - we are going to tell you how far away the building needs to be. Mrs. Reynolds asked why we wouldn't make it a greater set back just to be more protective of what might be going on; would we be losing that much buildable space. Mr. Chodkowski said no 2 lots are similar in size, topography, utility access, and location adjacent to other businesses or thoroughfares or residential neighborhoods. He said we are assuming we are going to take the most critical use and cram it up against the most serene residential neighborhood in the event this language were to pass. He said that is not the case; this simply represents the minimum basic guidelines - it's not absolute and no 2 similar situations will ever be the same. He said everyone has to understand that there has to be some flexibility within the rules to allow these types of development to occur.

Deputy Mayor Smith said once we approve this it becomes the law and we can get backed into a corner if someone brings plans to us that fall within these guidelines. He said the Planning Commission could say you need to make this change and that change but the developer could hold our feet to the fire because of the law.

Mr. Denning said we don't have anything that isn't already occupied that we would be rezoning to this. He said in order to do something new that would be out of the guidelines we are worried about, we would have to rezone a piece of property. Mrs. Reynolds said then Deputy Mayor Smith's situation comes into play - the requirements of the rezoned property. Mr. Denning said we would have to think about that if we choose to rezone.

Mr. Fullenkamp asked if these specifications were based on current, existing buildings. Mr. Chodkowski said specific to this chapter, some of the parking set backs are related to our experience and some of the other set backs related to the principal structures are imported from the City of Dayton and their application of this language.

Mrs. Reynolds said we can make this any number we want; this wasn't based on any study - you chose to follow a pattern established in another city already. Mr. Chodkowski said relative to this use, yes. Mr. Williams said there are 16 sites that are proposed to be Campus/Institutional; of those 16 sites, 9 are currently schools and another 5 sites are Riverside City Parks so all of these proposed sites have very designated uses that would not seem, in the very near future, to become something they are not right now. He said all of these uses are predetermined; we really don't have any open space that is not spoken for by the City of Riverside, the local school districts, or another local educational facility.

Mrs. Reynolds said this document becomes a living document the minute we stick our names on it. She said she appreciated what Mr. Williams was saying but she also appreciated the fact that this will become a working document that we must live by until it's changed the next time.

Mr. Fullenkamp said his second discussion item is the Urban Core Zoning District, page 7-29, he doesn't have his head around this one. Mr. Chodkowski said the easiest

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way to explain Urban Core is that it is designed to be high in density, mixed use, pedestrian friendly, and unique in design. He said to think the design of the Greene meets the density of downtown. He said it is to be accessible by car but inner mobility by pedestrian. He said the buildings would be restaurant on the first floor, office on the second and third floor, and condos on the fourth floor. He said as Mr. Murray likes to describe it – we care what it looks like on the outside but we don't care what you do with it on the inside as long as you are not disrupting your neighbor.

Mayor Flaute asked if this was new. Mr. Chodkowski said it is a newer approach to zoning and has probably picked up some legs in the last 5 to 7 years. Mr. Murray said it is in our current code. Mr. Chodkowski said it was an amendment to our existing code in 2008 and was originally intended for an initial application in the Center of Flight to drive up density.

Mr. Schock said a while back at the First Tiers meeting there was a list of preferred books one being written by Dr. Hudnuck which explained completely what is going on in this zoning book. He said this is old stuff and cities across the nation are doing this; by us adopting this section of the code book, we would be on the same playing field as the rest of the cities across the nation, all 800,000 of them, and this is a more universal code. He said it's hard for us first-tier people because the reason we moved from the core was density; now we are landlocked and we have to go back to the old school of putting up structures, homes, and office buildings – more use out of one piece of land as much as we can. He said this is a good section and there are a lot of books out there that support this and will give a better understanding of the density this is describing. He said it's where we have to go; we want more people and more businesses in our city and this is the way to draw that in. He said we moved out here because we wanted more space between our homes but now 10 feet is the new norm. He said this code is the only way a good city can survive.

Mr. Denning said we do have to have some core areas and we are competing against Dayton; they are putting townhouses up where factories used to be but putting this code in with the multi-purpose capability will give us at least some competition to get some of that here over by the museum.

Mayor Flaute said we are the bridge between denser Dayton and less dense Beavercreek and we have to take advantage of that. He said we need sensible zoning districts to do that.

Ms. Campbell said on page 7-7, in 3-k, it states *signs as regulated in Section 9.51*; it should be Section 9.47. Mr. Chodkowski said he noticed that as well and it is on his list of corrections.

Mrs. Reynolds said considering the discussion we just had on urban core and density and the conversation earlier about we don't care what it looks like on the inside – we care about what it looks like on the outside; on page 7-37 and the 2 pages before that, in any given area of an urban core district development what's standard, because if you read these few pages there is a Pandora's box of signage. She said what are we setting as our standard and are we relying again on the Planning Commission to say. Mr. Chodkowski said with respect to the urban core district and only to the urban core district, there are additional sign types that do exist within that district but there are very specific regulations about how those signs have to be placed and how big they have to be. He said this type of development is vehicular accessible with pedestrian mobility so a lot of other sign types which are defined and delineated within Section 9.47 are not available in this district. He said in this district you would have a group to choose from and in some of the more traditional districts you would have another group to choose from. He said it is an internal regulation for us; we would like to make it as generic as possible but if you are going to try to create a special sense of

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place, sometimes you need special rules to do that. Mrs. Reynolds said she understood that but if you look at these pages, first there is a cornice sign, then there is an awning sign, or a wall plaque – are you going to make recommendations to our Planning Commission on what kind of signage you believe these structures should have. She said we talked about the lighting in our last section and you indicated you did not want to do a standard lighting because of this; but if we have a high density mixed use development at Center of Flight, we are going to go with one standard, she would think or are you going to just do whatever.

Mr. Murray said the idea of urban core is to give the designer as much leeway as possible to create a unique space – throw open the doors to every possibility, then the developer is to come back with a unique space presented in a pattern book that shows the designs, the colors, and the signs which will set the tone for everything. He said the design is handled by the Planning Commission and then comes on to Council who will determine just about everything. He said the other thing urban core is for is to drive up density, mixed use, and walk-ability; make it a safe place for pedestrians, bicyclists, as well as automobiles. He said the idea of urban core is villages of old. He said before we established Euclidian zoning, small towns grew up haphazardly based on the value of the property they were sitting on, so you could have a very tall apartment building next to a very tall office tower which had retail on the bottom – so urban core is a throwback but it is far more natural. He said Airway Shopping Center is an example of old school - auto centric with a sea of parking; urban core is designed to do just the opposite.

Mrs. Reynolds said there's not a developer in the world that won't find something they want here. Mr. Murray said that's the idea. Mrs. Reynolds said at some point it becomes difficult to imagine an urban core development with cornice signs or awnings or banners. Mr. Williams said at the end of the day while there are a great variety of signs to choose from there is still going to be an absolute number of the amount of square footage a business can have. He said that's where our regulation could come into affect. Mrs. Reynolds said she understood that but she's looking at being able to look at an urban core development that stands out for the design of it and not the clutter of it; signage can be a clutter problem. She said she wants to see design.

Mrs. Reynolds said on page 7-6, item F regarding rules for determination; *when uncertainty exists with respect to the boundaries of zoning districts as shown on the official zoning map the following rules apply*. She asked what was meant by uncertainty. Mr. Murray said we currently outlaw properties with 2 different zones; we think we've done away with that and there will be far less uncertainty.

Mrs. Reynolds said on page 7-7, 3-b, permitted accessory uses – a birdhouse; really? She asked if he had basis for this. Mr. Chodkowski said there is a term in the code that refers to residential recreational equipment; that is the appropriate citation for this section which will include your trampolines, picnic tables, swing sets, and those types of items, so the birdhouse was an inclusionary item when we were assembling this but we weren't out to pick on any of our folks who are fans of our feathered friends.

Deputy Mayor Smith said to give you an example, last year on his street a gentleman was raising chickens in his back yard. Mayor Flaute asked if permission to have chickens and bees was still coming up. Mr. Chodkowski said we don't specifically address those; it can either be part of this article's discussion or part of article 11's discussion. Ms. Campbell said she hasn't seen any bees and we better start worrying about them.

Mr. Schock said there is another term out there, maybe hobby farming which is something we should discuss and it would cover the chickens and the bees. Deputy Mayor Smith said that would be a gentlemen's farm.

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Mayor Flaute said there are a lot of cities that are allowing chickens and a lot that are allowing bees but they are limiting the number of them. He said they don't allow roosters but they are allowing hens - 3 to 5. He said he hoped council would look into this and see what other cities are doing; Atlanta is doing it, Dayton is doing it, a lot of the cities are allowing people to have a chicken or two and have some bees. Mr. Denning said he thought it would depend on the size of the lot. Mayor Flaute asked if staff would study it so it could be discussed when they get to article 11. Mr. Chodkowski said he thought now would be the time for that discussion; most appropriate to this article - what you can and can't do with your property.

Deputy Mayor Smith said he could see chickens and bees in agricultural. Mr. Denning said for agricultural in this code, you have to have 10 acres. Mayor Flaute said right; do you have to have 10 acres to have bees. Mr. Schock said maybe 1 or 1 1/2 acres to allow hobby farming. Mayor Flaute said he wasn't sure he agreed with that.

Mrs. Reynolds said for this discussion, can we talk about item 1. on page 7-8 regarding a *single stall stable, provided it is at least 200 feet from any existing dwelling or at least 50 feet from any lot line if no dwelling exists on the adjacent property.* She said she is assuming if we have a single stall stable, we have a horse - right? Mr. Denning said but according to this, a person would need 10 acres to do that. Mayor Flaute said bees don't stay in one place; horses do. Mr. Schock said no they don't. Deputy Mayor Smith said he didn't want the bees at his house. Mayor Flaute asked why; bees don't bother children, they go to flowers. Ms. Campbell said we shouldn't have them close to the neighborhoods. Mayor Flaute asked if everyone agreed with that we shouldn't have bees in the neighborhoods. Ms. Campbell said beehives can be dangerous, some people are allergic to bees and they could kill someone. Mr. Schock agreed and said a sting could be fatal for someone who is allergic. Mayor Flaute said he would like to bring information from some of the other cities.

Mr. Denning said Huber Height has rules because he has a friend that lives there with 1 1/2 acres with 3 ponies and chickens and it is zoned properly. He said there are rules out there that allow this to happen and he is curious; Huber Heights is close enough to us to look at. Mayor Flaute said Dayton allows it too and there are a great number of cities that allow bees and chickens; people aren't getting hurt, they aren't getting stung - the bees do their thing and come back to their hive.

Mr. Chodkowski said with regards to the agricultural uses such as the keeping of animals, the 10 acres was a number we chose based on the land that currently exists that is currently being used for production farming. He said in the event there is a consensus among council members that hobby farming, to whatever degree we can research and come back, needs to be established, we can do that to a degree that will be less than 10 acres but greater than a typical residential property. Mr. Schock said 1 acre. Mayor Flaute said can we see cities that have allowed it on a regular residential property - just see what's out there. Mr. Chodkowski said we can see what those provisions are; but there are more negative calls we get about the presence of fowl in residential neighborhoods than we get calls in support of. He said this becomes a regulatory issue and one of the biggest issues we have as well as biggest number of complaints is the number of domestic animals people currently keep. He said we run into this issue and there is no regulatory limit on the keeping of animals; this would be adding an additional regulatory provision that based on our experience could create more problems than in the total number of solutions that are resolved. Mayor Flaute asked him to do the research. Mr. Schock said that sounds good, do you need a motion to direct staff to do that. Ms. Campbell said if you okay that what about having little foxes or raccoons or squirrels. Mayor Flaute said those are wild animals and the state regulates that.

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Mr. Chodkowski asked if there was a consensus of council for him to do the research on the keeping of bees and the keeping of fowl. Mr. Schock said that should be part of a hobby farm. Mr. Chodkowski said on residential parcels or hobby farm size parcels – he wants to make sure he understands the direction before staff starts the review. Mr. Schock said bring back everything you can on hobby farming and we'll go from there. Mayor Flaute said the hobby farming should include chickens and bees. Mr. Chodkowski said so for hobby farming with the inclusion of fowl and bees; for typical residential lots it is not the consensus of council to include chickens and bees – is that a correct understanding. Several members agreed and Mr. Denning said he didn't think you would want chickens and bees in plats such as Avondale or Saville or Forest Ridge. Mr. Schock said that would be too close; the Mayor's area does have a little more space. Mr. Denning said to him it depended on how big the lots are and how dense the area is. Mayor Flaute said it also depends on how the legislation is written. Ms. Campbell said when you have chickens; you are also going to attract raccoons, foxes, and whatnot. Mayor Flaute said it's all in how the legislation is written up and it's not based on how far apart you are, it's based on how well you take care of your chickens and your bees. Mr. Denning said he felt the first step is to get hobby farming under our belt then if the Mayor chooses to bring this back he can.

Deputy Mayor Smith said in the real estate industry anything under 10 acres is referred to as a gentlemen's farm; we don't call that a hobby.

Mr. Chodkowski said staff would look at it.

Mrs. Reynolds said on page 7-24 on Industrial Districts Conditional Uses, Item 4-e, adult entertainment facilities. Mr. Chodkowski said unfortunately case law in the State of Ohio compels that use have a location within our boundaries. He said based on how we have written this code, there are 6 lots that meet that criteria.

Mr. Denning said on all the residential districts the maximum lot coverage is 35%; is that in place of only having 2 out buildings. Mr. Chodkowski said no; this is an additional check and includes principal structures, accessory structures, deck, and driveway; anything that is not vegetative goes towards that 35%. Mr. Denning said so if I have a minimum lot size for R-1 which is 15,000 square feet, I would only be allowed to cover 5,200 square feet. Deputy Mayor Smith said that's a big house. Mr. Denning said if I have a 2,500 square foot house, a garage, and a 15' by 20' deck, I could cover that up real quick. Mr. Chodkowski said 35% is clearly defined in the code in one current district here and it is mathematically calculated between 20% and 30 % in all the other current districts. He said a percentage of lot coverage is not unique to our code and percentages vary depending on the district but there is a limit for all districts.

Mr. Fullenkamp said under the business districts, page 7-16, permitted uses have bakeries or other food services then under required conditions, item 5-k. it states *no person, firm, or corporation shall emit odors or odor-causing substances which can be detected without the use of instruments at or beyond the lot lines*. He asked if a restaurant wasn't allowed to emit odors. Mr. Chodkowski said it cites regulations that are listed elsewhere and it talks about noxious or offensive odors; so for a restaurant to emit smell is okay.

Mr. Schock said he didn't like the word "noxious" being used; for example, Burger King vents their stuff to make you want to go there, but he can't stand the smell of China Garden – to him that would be an obnoxious odor. He said we need to fine tune that a bit.

Mr. Fullenkamp read the referenced section 9.49 on page 9-163 which states *no odor shall be emitted by any use permitted in any district in such quantities as to be readily*

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*detectable by a person not located on the premises.* Mr. Chodkowski said we will review that.

Mayor Flaute said he just had a couple of items; he asked the code be consistent by placing City of Riverside before staff position titles and board/commission titles. He said on page 7-4, item B-4 it talks about the principal or conditional use. He said he has not seen the word "principal" throughout the rest of the code and asked what that meant. Mr. Chodkowski said it was an item he inserted and having reread that recently, he has made a note to reword that. He said a word we have always had in our code is "permitted" uses and permitted is different in its meaning in zoning as opposed to principal. He said principal when you talk about use in zoning means the primary or singular use; permitted means it can be done. He said what this section is intended to do, and it will be reworded so its clearer, is to define the principal use on a parcel regardless of the number of permitted uses available for a parcel.

Mr. Denning said so for instance, at the K-mart parking lot people wouldn't be allowed to park their cars and put for sale signs in them then walk away. Mr. Chodkowski said correct; we had the discussion earlier today and where the code addresses permitted uses, those will become the allowable principal uses so the tenant will know there is one.

Mayor Flaute said on page 7-8 under conditional uses item 4-c, *places of worship including churches, chapels, temples and synagogues.* He asked what if somebody wants to use their house for a church. He said he thought the Bingo Hall on Valley has a church inside. Mr. Chodkowski said that is a rental property and we don't regulate who the tenant is; it could be rented for a reception, a church, a prom, a trade show, etc.

Mr. Fullenkamp said that goes back to the previous conversation regarding principal uses, how would that work for the situation of a rental unit. Mr. Chodkowski said the principal use would remain as a rental banquet facility. Mr. Fullenkamp asked if the use changed when they changed tenants - it's the same facility with multi uses. Mr. Chodkowski said in this instance the principal use is a bunch of other uses; something like St. Helen's Bingo is incidental to the principal use. He said that's how he would interpret the code.

Mr. Chodkowski said in answer to the question regarding someone having a place of worship in their home, it is something we could follow up on through the code since it would not be the principal use and they don't have a conditional use permit. He said it would be no different than how we would regulate a home based business that wasn't registered.

Mr. Schock said if you were just having a prayer get together, you wouldn't call that a church. He said you would have to identify a church because you could start walking on the freedom of religion. Mr. Chodkowski said the code is a guideline and he didn't think we needed to get hung up on the issue. Mr. Schock said the Mayor brought it up; worried about having a Christian prayer center going on in a house. Mayor Flaute said he wouldn't want to call that a church though. Mr. Schock said if they hang a sign on the front door and want to call it a church; that's when the city walks in - is that what the Mayor is talking about; it doesn't sound like you want to stop prayer going on in your home. Mayor Flaute said no that was not his intent. Mr. Denning said as long as they are paying taxes on the property; if they don't, then they would be outside the principal use. Mr. Schock said correct; they would have to put in an application that they want to have a church and churches are allowed to go anywhere in our code book. He said there are residential churches in our city today. He said it sounded like you were trying to do away with prayer in the home. Mayor Flaute said no, that's not what he meant. Mr. Schock said he just wanted to clarify.

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Mayor Flaute said the next item he wanted to discuss were signs and he knew they would be discussing those more in article 9 but there is a lot of controversy out there on signs. He said on page 7-35, item I-1, it states *signs shall comply with Section 9.47 unless otherwise specified below*; there are some things here we should all look at such as why did we choose a 25 foot set back from the set back line of the road vs. using a table to decide that. He said there are some places on Woodman Drive where 25 feet from the right of way is in the middle of someone's parking lot and its set back so far, people can't see it. Mr. Chodkowski said specific to the urban core district, it is designed that way because it is to limit the number of freestanding signs; urban core is designed for pedestrian access within the development; so there isn't a need to identify the individual businesses within a core district, you will be out of your car walking the project. He said it would be very much like the Greene; only when you park your car and walk into the development do you start to see the signs for the businesses. He said this language is specific to urban core. Mr. Schock said typically there is a pole sign within the development that has a directory so you know where the stores are located.

Mayor Flaute said he wants to be sure we are business friendly and we are allowing the businesses to have the right sign. He said in some cases, he wasn't sure we are doing that now because the signs are too far back and not big enough. He said there seems to be no give and take on that and he wasn't sure that is as business-friendly as we should be. He cited an example of a doctor's office on Woodman that has a very small sign that sets back 25 feet from the right of way line which is already 25 feet from the road. He said the sign is 50 feet back and the sign is so small nobody can really see it. He said he wanted to make sure our new code has some logic and business friendly stuff in it - it's important we have that in the code somewhere. Mr. Chodkowski said what he can say from a general standpoint and how we structured the sign ordinance; understanding that we wanted to be able to provide businesses with the ability to identify themselves in a better way but eliminate sign clutter, we focused on allowing ground signs and monument signs to be in close proximity to the street. He said the short version is, if you are willing to construct a ground sign at a 6 foot height you can be 5 feet from the right of way line. He said for pole signs - every foot you go up in height, you must go back a foot. Mr. Williams added there is a free fall zone where the sign can't fall into the road or fall onto a building which will be taken into consideration on all applications. Mayor Flaute said as long as we are reasonable with that. Mr. Williams said it will vary with what road you are on. Mayor Flaute said if you are on St. Rt. 35, you are going to want a larger sign. Mr. Williams said there are different specifications for signs that go on a state highway.

Mayor Flaute asked if Mr. Chodkowski had the items he needed to review on Article VII. Mr. Chodkowski said uniformity of language, gentlemen's/hobby farming, and the issue of odors as they relate to types of uses.

c. Discussion: Special Meeting Schedule

Mr. Schock said we had a small discussion a few meetings back regarding the workload we having coming up for the budget. He said he would highly recommend council have a couple special meetings for work sessions to go through the budget and he would like to see what the consensus of council would be for that. He said we have a lot of work with the zoning code and now its budget time and we have to start working on that when staff is ready.

Following a brief discussion, council set a special work session for Tuesday, September 20<sup>th</sup> at 6:00 p.m. to review expenditure projections. Mayor Flaute said he would like to do as much as we can in the regular work sessions. Mr. Chodkowski said the final budget discussions in November will take place in the regular work sessions. Mr. Denning said let's start with September 20<sup>th</sup> and go from there. Mr. Schock asked the clerk to send out an email to remind everyone.

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Deputy Mayor Smith said at our next work session we are going to be discussing Article IX of the zoning code which is 178 pages and he would recommend they review just the first 32 pages. Mr. Chodkowski said he has it broken into 4 sections and council will be reviewing parts 1 and 2 at the next meeting.

**ITEM 7: RECESS:** The Council took a recess at 7:36 p.m.

**ITEM 8: RECONVENE:** The meeting was reconvened at 7:52 p.m.

**ITEM 9: PLEDGE OF ALLEGIANCE:** Councilman Edward Schock led all those in attendance in the pledge of allegiance.

**ITEM 10: MINUTES:** Consider approval of the minutes of the August 4, 2011 Council meeting. A motion was made by Mrs. Reynolds to approve the minutes as written. Mr. Schock seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 11: ACCEPTANCE OF WRITTEN CITIZENS PETITIONS:** Mayor Flaute advised citizens to fill out a form if they wished to speak about agenda or non-agenda items.

**ITEM 12: PUBLIC HEARINGS:**

- a. **Rezoning of Property located on Brandt Pike (Ordinance No. 11-O-472)**

Mayor Flaute opened the public hearing at 7:53 p.m. and asked for the staff report.

Mr. Chodkowski said the property subject to the requested zoning change is 19 +/- acres located on Brandt Pike and was formerly designed as the Riverside Business Park. He said a few years back at council's request and at the recommendation of staff the parcel was rezoned to RE-1 Residential Estate District. He said recently the city was approached by CESO Engineering and an application was submitted by them to rezone the property to R-4A Single Family Residential District. He said the application was reviewed and presented to the Planning Commission with a staff recommendation in support of the request due to the fact that the parcel is surrounded by similar uses and the 2005 Comprehensive Land Use Plan suggested that the highest best use of the property was for residential housing.

Mr. Chodkowski said the Planning Commission due to a lack of quorum was unable to meet their statutory requirements and present a recommendation to council; as such the applicant appealed to the BZA. He said the BZA has convened, heard the case, and has submitted a recommendation to council supportive of the rezoning to R-4A.

Mayor Flaute said if anyone wanted to speak in favor of or opposition to the rezoning, we ask that you sign in and take the oath to give sworn testimony. He asked the applicant if he wanted to speak first.

Mr. Mark D'Urso of CESO Engineering located on Yankee Street took the oath to give sworn testimony.

Mr. D'Urso said council has seen him here before and we are at the final stages of rezoning. He said we are excited about the project but what we've submitted in our preliminary plat is different than what was initially submitted. He said the number of home sites has been reduced substantially predominately due to some utilities we were not aware of at the time. He said other than that we still plan on moving forward with

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the project; we are excited about it and have a builder lined up that is prepared to move forward as well. He said he is here to answer any questions they might have.

Ms. Campbell asked if they are building houses. Mr. D'Urso said yes; all single family detached homes. Ms. Campbell asked if they are going to build on the area to the right as you enter the property. Mr. D'Urso displayed a layout of the plat and said the portion of the property Ms. Campbell is referring to is a different owner; it's not owned by the city.

Mayor Flaute asked if we had approached that owner to see if he is interested in becoming part of the development. Mr. D'Urso said no; one of our challenges there would be where the gas line passes through the property which impedes the ability to put single family homes there.

Mr. Fullenkamp asked how many home sites there were in the plan. Mr. D'Urso said 55. Mr. Fullenkamp asked what the average price of the homes was projected to be. Mr. D'Urso said \$170,000 to \$180,000 is the average the builder is sharing with us with a range of \$140,000 to \$230,000. Mr. Fullenkamp said as the developer, what will you be selling the lots for. Mr. D'Urso said that is something we are negotiating with the builder right now mainly because of the reduction of the number home sites, it has an impact on the overall infrastructure costs. He said once this is approved, we will sit down and finalize the plan.

Deputy Mayor Smith asked what the prices of the homes were again. Mr. D'Urso said we anticipate the average to be \$180,000 with a range of \$140,000 to \$230,000. He said they say that because there is a similar development they are currently building with Ryan Homes called Waterford Landing which is in Fairborn and they shared with us that there are a number of prospects that would like to be located in Riverside given the option.

Mr. Chodkowski asked Mr. D'Urso to address for council the issue that exists with the sanitary system and how that limits some of the types of homes as well as the price point of some of those homes so they understand there's an issue that is not of the developer's design.

Mr. D'Urso said when we were first here it was very preliminary in us wanting to develop this site; we felt it was a good location and more suited for single family detached. He said we had not completed our due diligence as engineers to understand exactly how the utility structures ran through this particular site. He said after we made our preliminary application and began our full due diligence we uncovered that the depth of the sewer line running through the development wasn't deep enough for us to put full basements on this site to the point that we considered backing out of the deal. He said our builder is adamant about wanting to put in basements and we as the developer felt more comfortable putting in a development that had the ability for basements. He said our dilemma was its not a city sewer system, it's a county sewer system and that being said, we had to go through the necessary meetings with the county to try to get their approval to allow us to be able to put a lift station on this property. He said if not, the development renders itself to be able to just put homes with slabs and that was not something we felt we could be successful at.

Ms. Campbell asked if they can put basements on the well field. Mr. D'Urso said yes, we have already clarified that and it's not an issue with single family detached. He said there are a few of the home sites where we will have to use injector pumps which is costly because the sewer line is not deep enough. Ms. Campbell asked if that was for flooding. Mr. D'Urso said no; if you want to put a full basement in you can't have gravity, you have to have an injector pump which can drive the cost up \$4,000 to

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\$8,000 more per home site. He said a few of the home sites will be limited to slabs and they won't be able to have a basement.

Ms. Campbell asked if the rezoning was for all the property including the portion to the right. Mr. Chodkowski said no; this is specific to this parcel only, Ms. Campbell asked what the other lot was zoned. Mr. Murray said that was included when the business park was rezoned to RE-1. Mrs. Reynolds said she didn't think that property owner wanted to be included in that rezoning and he maintained the original zoning. Mr. Chodkowski said no, not to the best of his knowledge. Mrs. Reynolds asked if council could have documentation on that. Mr. Chodkowski said yes. He reviewed surrounding zoning districts and said the density is approximately the same on all surrounding properties.

Mr. Fullenkamp said he wanted to continue the discussion on the sewer pumps; how much is this going to cost in terms of additional demands on the TIF. Mr. D'Urso said we are working through those details but the one good news is the county has given us permission to put in the lift station at the location pointed out which will hopefully offset it so the cost difference should not increase it as substantially as it could have. Mr. D'Urso said it could be a wash and if not a wash it could be \$20,000 to \$30,000 in terms of infrastructure cost. Mr. Fullenkamp asked what the total infrastructure cost was at this time. Mr. D'Urso said he does not have that cost; once the rezoning is done we will then go to the hard engineering based on this layout. Mr. Fullenkamp said we are talking about the TIF tonight too, so we don't know what the TIF will be.

Mr. Chodkowski said to the extent that this question needs to be answered relative to the rezoning, if you look at the TIF legislation; Exhibit "C" is a rather lengthy list of items that can be included for reimbursement under the TIF. He said the agreement also references that the council and the developer will negotiate a TIF agreement following the approval of the TIF legislation. He said within that agreement the applicant will submit their list of what they intend to do, their projected costs, and what items they would like to have included in the TIF. He said that is where we begin to negotiate; so what their total investment to develop the property and it's ability to be included in the TIF does not automatically guarantee that those costs will be reimbursable under the final TIF agreement that council will negotiate at a later date in the event it passes the authorizing legislation which is what you are doing tonight.

Mr. Fullenkamp asked what the TIF legislation tonight specifically accomplishes and what are the next steps after the fact. Mr. Chodkowski said tonight's legislation says that a property has been identified for a project that is eligible for a TIF, Exhibit "A". He said the legislation says there is a proposed project that will be on this property where the TIF will be applicable, Exhibit "B". He said the legislation says that on the property with the project these items may be reimbursed by the TIF and that you are entering into a project agreement which says the applicant has submitted a project that is eligible for financial support under the TIF; that you agree that is a project that is eligible for support under the TIF; and that you will negotiate an agreement that defines the specific terms of the TIF. Mr. Fullenkamp said that takes us through tonight; what are the steps after the second reading. Mr. Chodkowski said after the second reading there is a 30 day appeal period and sometime after that 30 day period expires, an agreement will hopefully be reached between the city and the developer that says these are all the costs that the developer is submitting for support under the TIF that are agreed to by the city and these are the technical terms and conditions of that agreement such as who gets paid in what way, when they get paid, what has to be submitted to get reimbursed, how do we release funds from the Brantwood Project Fund, what happens if something happens to the project, what assurances they provide, what are the remedies we are granted - all that becomes negotiated as part of the TIF agreement. He said if an agreement can't be reached between the city and the developer, it's over. Mr. Fullenkamp said when you say negotiate, is that you and him

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or does this come back to council again. Mr. Chodkowski said the developer will submit his list of what is to be included in the TIF to him; then, either the developer comes to a meeting to negotiate the terms together or I will come to have that conversation with council. Mr. Fullenkamp said so what's in this Exhibit "C" when you say public infrastructure and improvements include the construction of the following - it is from the Ohio Revised Code. Mr. Chodkowski said correct; those are literally pulled from those sections of the ORC as cited and they are exactly the same provisions that were in the legislation council passed to establish the Center of Flight TIF.

Mr. Fullenkamp said he has been reading about TIFs and one of the concerns he sees was the form of the TIF. He said there are 3 or 4 forms such as how to pay as you go developer; how to pay as you go city; the city would bond it or the developer goes out and gets loans. He said one of the concerns he sees with the pay as you go developer is the cost increase due to interest on their loans which would be considerably higher than a city. He asked if we knew what the cost differential might be. Mr. Chodkowski said he would advise council that is not our concern. Mr. Fullenkamp said it is because these are tax dollars that don't go to the General Fund and aren't there to support that area when it's developed for the period we are talking about. Mr. Chodkowski said that assumes that council, in the agreement, determines that his expense as the developer to acquire the money and to build the infrastructure is an expense you want to include as part of the TIF reimbursement; that's why he says it should not be an issue. Mr. Fullenkamp said it is an issue we need to consider because again this is tax money that gets diverted from the General Fund to subsidize this project. Mr. Chodkowski said correct; he does agree with Mr. Fullenkamp and he thinks that is criterion Mr. Fullenkamp needs to measure as a council member and council as a whole because is that differential worth the city having a limited risk or no risk in the grander scheme of things.

Deputy Mayor Smith said R-4A states the lot frontage is to be no more than 60 feet; front yard depth from the front of the house to the street is 25 feet; and the least a side yard can be on 1 side is 5 feet with 10 feet total. He asked if that could be 5 feet on each side of the house. Mr. Chodkowski said the set backs establish the building envelope and the structure can be placed anywhere within that envelope. He said if you built exactly to the minimum and took up the entire envelope the house would have to be 50 feet wide. He said he didn't believe that to be the size of the proposed structures. Mr. D'Urso said the average is 40 feet.

Ms. Campbell asked if they pretty much centered the homes. Mr. Chodkowski said the envelope sort of creates a smaller lot where the house can be built; the minimum side yard being 5 feet on each side, so there is a 50 foot window in which the home can be built.

Deputy Mayor Smith said so there could be as much as 20 feet between houses. Mr. Chodkowski said yes. Mr. Denning said could be but you could move it either way.

Mrs. Reynolds said it was indicated there were some problems with the sewer system and that the developer is having to install a lift station. Mr. D'Urso said when he stated problem, it was that they didn't anticipate the depth of the sewer system. Mrs. Reynolds said the lift station will be installed at the rear of the property. Mr. D'Urso said that is the lowest point and where the county recommended it be installed. Mrs. Reynolds asked if there had been any engineering studies to determine if that will create situations anywhere else in that area. Mr. D'Urso said all he can tell them is this is where the county recommended that we put it; we took direction from them. Mr. Chodkowski said to help answer the question, we met with the county engineer's office and what they are attempting to do is link existing sanitary systems that are north towards Needmore to systems that are south just past Avondale. He said there is

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a gap there and they are slowly but surely attempting to fill that gap in picking up the area around Ingleside where the septic systems are older and will begin failing in the future. He said our discussions with the county is that this is strategically designed so that if another development should occur south of here that lift station can be removed and replaced with one further south until the link is made and gravity flow will work from there. Mrs. Reynolds said so this is a temporary fix according to the county. Mr. Chodkowski said yes, so they can continue to develop these segments. He said the county is not a fan of lift stations but they were willing to support this lift station because the applicant is extending sanitary sewer that other folks can link to down the line. Mrs. Reynolds said so the only other option if the lift station wasn't installed would be slab houses. Mr. D'Urso said we wouldn't move forward with the project at all.

Deputy Mayor Smith asked if there would be basements and Mr. D'Urso said yes. Deputy Mayor Smith asked if that increased the cost by \$4,000 to \$8,000. Mr. D'Urso said half of the home sites will be able to be sewerred because we will be using the lift station. He said there are a number of home sites that will have injector pumps in order to have the full basements. He said we haven't finalized that yet because we now are getting the specifications on the lift station and there are other details we are gathering information on. He said you asked about the costs and a lot of that is because we just recently got the data and now it's a matter of assessing what the end costs will be.

Mrs. Reynolds asked at what point in time does this become something the developer pulls out of because she is hearing they don't know the costs of anything yet and it's still being assessed. She said she didn't want to go through this exercise in the community if in fact they are not going to develop. Mr. D'Urso said he agrees but they need to understand this is costing them a lot of money also and if he knew they weren't going to move forward with the project, he wouldn't be here today. He said we believe we have a general idea that we can make this work or we would not be moving forward. He said he can't provide specific costs. Mrs. Reynolds said she has never had a developer come before council and not know the cost of what they are going to be doing or have some idea; that concerns her. Mr. D'Urso said as soon as we have those estimates, the City Manager will have those; as soon as we are able to assess those. He said after tonight's meeting, if we know this is moving forward, we will implore all our resources to get the balance of the estimates tied down so we can get those to the City Manager.

Ms. Campbell said she understood what he was saying because they could come across something that might cost them more or might cost them less.

Mr. D'Urso said until he knows this is approved; there are geo tech things that need to be done, boundary surveys to understand, etc. He said we recently uncovered rock at a nine foot depth on a site where someone said there was no rock at all; those are the kinds of things we will be spending thousands of dollars on to really truly understand what the cost is. Mr. Denning said until you are sure it is moving forward, you don't want to invest any more of your funds. Mr. D'Urso said if you don't rezone this tonight or TIF it, then he can't spend anymore.

Deputy Mayor Smith said he thought it was premature to say yes on this when the developer doesn't have all their facts together as far as dollars. Mr. D'Urso said he understood that but we wouldn't have gone this far if we didn't think we would complete this project. Deputy Mayor Smith said he would be more comfortable if we had all the numbers in place and we knew what it was going to cost and how long we could look at the TIF lengthwise - the time frame.

Mayor Flaute said they don't know yet everything that is out there and what they are going to encounter; they do know the approximate cost of the homes. He said down

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the line we could say no and he will have put thousands of dollars into this project to try to figure it out. He said he didn't think this was premature. Deputy Mayor Smith said the cost of the house doesn't affect the TIF.

Mr. Schock said we aren't talking about the TIF right now; we are talking about rezoning the property. He said why should a developer spend "x" amount of dollars to come in here and tell us every dollar he's going to spend before we even give him an okay. He said it wouldn't be cost effective for him not to be cautious spending his money up to this point; if we say okay we are going to rezone it R-4A, then he will continue to invest his money in the project. He said not everybody is a multi-millionaire that can throw all that money out front at once; he's just being cautious and that's the type of developer we need.

Mr. Chodkowski asked Mr. D'Urso if he would be able to have a more accurate estimate of the infrastructure cost in the next 2 1/2 weeks. Mr. D'Urso said absolutely. Mr. Chodkowski said if council does the first reading tonight could you have a more accurate estimate by the second reading at their next meeting on September 1st. Mr. D'Urso said yes; please understand their lender needs the information more than you need it, we actually have about 10 days. Mr. Chodkowski said in the event those numbers were still a concern council would be able to opt not to adopt the second reading thereby negating the rezoning. He said this would allow the applicant time to move forward and at least assemble a more firm estimate.

Mr. Fullenkamp said obviously it depend on both pieces of legislation tonight, the rezoning and the TIF. Mr. Chodkowski said correct, based on his understanding and Mr. D'Urso's comments earlier tonight.

Mayor Flaute asked if there were any others wishing to speak in favor of the proposal. Being none, he asked if there was anyone wishing to speak in opposition to the proposal.

Mr. George Lynch of Hunters Ridge took the oath to give sworn testimony. He said correcting the City Manager if he might; at our last Planning Commission meeting we did have a quorum but we could not reach an agreement. He said a quorum required 3 members and we had 3 members, we voted 2 to 1 and thus denied the request for rezoning. He said one of the reasons is the development right up the street, Valley View. He said he doesn't recall the developer at the time but Ryan was the builder and they went right to the 5 foot limit. He said he was on the Planning Commission at the time the R-4A designation was established allowing the 5 foot side yard and Ryan builders took that to the very limit - 60 foot lots with 50 foot houses. He said there is no way to get a vehicle to the back yard to do any landscaping, mulching, or whatever unless you have a very understanding neighbor.

Mr. Lynch said back when the Planning Commission created the R-4A designation, we created a monster and he thinks we need to correct and get rid of that monster. He said what you did earlier in the work session by adopting Section 7 of the new Zoning Code will eliminate 4A and 4 as well. He said R-3 is now the smallest designation which requires at least a 10 foot side yard.

Mr. Lynch said he has been to Waterford in Fairborn and Ryan builders are doing the same thing there. He said he inquired about a single story house and you can get one with a single car garage to stay within the 5 foot side yard.

Mr. Lynch said his recommendation to council would be to deny the rezoning to R-4A; as he said before R-4A will not exist in the new zoning code, so if this developer wishes to develop some adjoining property, they won't be able to build with a 5 foot side yard.

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Ms. Campbell said they are building according to the rules they've been given; that's not their fault. Mr. Lynch said their request is to rezone it to R-4A and he's recommending to council that might not be the smartest thing to do. Ms. Campbell said how are they going to build if they are only allowed to build 5 feet from the next one; that's your rule trying to make it harder on everybody. She said those houses will have basements. Mr. Lynch said they are building another development off Burkhardt. Ms. Campbell asked if they were the ones who built Valley View. Mr. Lynch said yes.

Mr. Chodkowski said as a point of clarification; Beazer Homes started Valley View and there were numerous problems with Beazer and they went out of business; Ryan bought out the remaining parcels and they have been very cooperative in addressing several issues that were left by Beazer. He said there are some outstanding issues with Beazer but we have not had any issues with Ryan filling in those lots and addressing their issues.

Ms. Campbell asked if they had any pictures of the homes that would be going up there. Mr. D'Urso said he doesn't have those with him.

Mr. Fullenkamp said in our proposed code, 5 foot set backs aren't going to be around so why can't we specify a larger minimum set back; do we have another zoning layer that says 7 1/2 feet. Mayor Flaute said he thought the question was why don't we have that 5 foot set back in the new code; clearly today people want to build on smaller lots, that's kind of the norm. He said people don't want the 1/2 acre lot like it used to be so why wouldn't we do that in the new code.

Mr. Lynch said it certainly would be nice to get into your back yard with a load of mulch. Mayor Flaute said that's what you think and that's what he thinks, but it is not what a lot of other people think.

Mr. Fullenkamp said it was stated earlier that the average house width is 40 feet. Mr. Lynch said that's not true. Mr. D'Urso said they have a variety of home sizes from 36 feet to 48 feet; there are a couple 50 feet homes which we are not planning to build in this development. He said if a person wants a 3 car garage that's where we wanted some flexibility; how many people will choose that, they don't know and whether or not that would work on a 60 foot lot he couldn't answer tonight; he will have to get back with the builder.

Mr. Chodkowski said the next less dense classification is R-4 with a minimum 8 foot side yard and a 20 foot total between homes. He said based on the models just discussed we would need something like an R-4A1 that has a 15 foot side total. He said if you want to reduce the building envelope, he would guess there is an option to do that. He said the developer in this instance has chosen a district that exists and at this point meets the requirements and is immediately bordered to the south by a similar zoning district. He said as you've heard Mr. D'Urso speak, density is an issue related to the mathematical outcome of the project; would we like to see a different zoning, a different home, a different value - that's up to each of us, we live where we live but it's what the market dictates and it's what the zoning allows and he thinks that accommodation is why the applicant made the choice for rezoning.

Mr. Fullenkamp said he thought it was interesting that this classification goes away when the new code is passed and that choice would not have been made available after October. He said he didn't know if that was odd or it's common sense or it's a good thing, he can't say for sure. Ms. Campbell said we can't compare what their work is going to be, compared to the other set of houses. Mr. Fullenkamp said he was not doing that. Ms. Campbell said she wasn't saying he was; she was just making a comment.

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Mr. Chodkowski said in the new code, R-3 would be the middle ground and would accomplish what you would want and what they would need. He said the side yard set back will be 7 feet minimum with 15 feet total in the upcoming R-3. Mayor Flaute asked why they chose to do that. Mr. Chodkowski said because we were aware of the fact that density in today's market is based on the surveyed information we received by going to ULI and some of those conventions; people want density today - they don't want to have to cut 2 acres or maintain a half acre. He said they want the house to be the investment and not the property and they want to be able to come and go and not have those issues that folks of a different generation wanted to move to the suburbs to have a bigger property. He said we designed our R-3 to accommodate single family density at a level that is greater than the R-4A but at a level we felt would still be appropriate for small lots.

Mayor Flaute asked if there was any one else wishing to speak in favor of or in opposition to the proposed rezoning. Being none; he closed the public hearing at 8:46 p.m.

**b. TIF District for the Brantwood Subdivision Project (Ordinance No. 11-O-473)**

Mr. Chodkowski said this public hearing is in regards to the proposed legislation for council to establish a Tax Increment Finance (TIF) district for the proposed Brantwood Subdivision. He said this public hearing is required by the Ohio Revised Code and pursuant to the ORC both the county and the school district have been advised in advance of this meeting of the intent of the legislation and they have been provided a copy. He said as the owner of the property, which in this case is the city, the proposal of the TIF is the maximum of 100% with payment in lieu of tax being paid to Mad River Schools so they are not affected and the remaining balance towards infrastructure and project costs, to be determined by council at a later date for a period of up to 30 years but no later than the date the agreed amount is paid in full.

Mayor Flaute opened the public hearing at 8:48 p.m. and asked if there was any further report from staff. Mr. Chodkowski said there was nothing further but he would be happy to answer questions.

Mayor Flaute asked if the applicant wished to give a report. Mr. D'Urso said he would be available for any questions.

Mrs. Reynolds said her questions are based upon the actual time for the build out and asked if we had an expected time for the build out. Mr. Chodkowski said based on his understanding of the arrangement between the developer and the home builder, the home builder is anticipating 2 homes per month which would put the total build out at about 2 1/2 years. He said based on actual times for similar developments, they anticipate 3 homes per month which would be about 2 years.

Mrs. Reynolds said she is a novice on build outs like this and TIFs so please bear with her; we are going to insure Mad River Township Schools receive the full dollar they would receive on the improved property parcels. Mr. Chodkowski said yes. Mrs. Reynolds said there's going to be 2 sections; the improved property, what CESO will be doing, that will generate one pot of dollars that they are assessed on; and then as each house is built, there will be a different assessment. Mr. Chodkowski said at the start of the TIF, the property will be evaluated and assigned a value by the county. He said that value will be taxed and those taxes will be disseminated just like they are today. He said as lots are subdivided, infrastructure is invested, and homes begin to come out of the ground, the value on the site will continue to increase. He said the difference between the increasing value and the undeveloped rate, those residents will all be charged payment in lieu of taxes which will all be deposited to a special fund at

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the city. He said when tax time comes the city will write a check to the school district so they receive the same amount of money as if the TIF did not exist. He said the difference is instead of 55 home owners paying the county and the county paying the school; 55 home owners will pay us and we will pay the school. He said the balance of the money will sit in the special fund until such time as the developer would submit for payment the appropriate documentation. He said we would then make payment to the developer; a process that would continue until such time that the total investment we agree to pay for and the TIF is done or the 30 year clock ticks off.

Mrs. Reynolds said so the first payment will come due in 2013 and we would have received "x" number of dollars from the 10 improved parcels that were in that tax year; how much record keeping is this and how do we know at any point in time what the school district is going to receive and what the developer is going to receive under this time schedule. Mr. Chodkowski said how we make payment to the developer is something that will be specific to the terms of the yet-to-be-negotiated TIF agreement. He said while he is not familiar with the specific cut off of determination of what improvement is made in what year, but whatever mathematical formula the county would apply would be the formula we would have to apply. Mrs. Reynolds asked if the county will say how much the school district should be receiving and we just write the check. Mr. Chodkowski said yes.

Mayor Flaute asked if it would require an extra system on the computer. Mr. Chodkowski said no; this is all just bookkeeping. Mrs. Reynolds said it's all left up to the county. Mr. Chodkowski said right, the county is collecting this payment in lieu of taxes just like it would taxes.

Mrs. Reynolds said we received some documents – exhibits a, b, c, and d. She said exhibit d, the project and development agreement, is pretty specific to what we've been talking about – dollar amounts, percent of TIF, etc. She asked if this was the document the city manager will be negotiating with along with exhibit c and the specific costs. She said again, because we don't have the total amount of the project cost its really difficult to answer some of these questions and it seems to her that we are doing this backwards; we are going at approving something that is a total unknown. She said if we are looking at a TIF and thinking there is going to be a \$5.0 Million TIF and looking at the anticipated repay schedule; when we originally started this process we talked about 65 years rate of return – its going to take a long time.

Mr. Chodkowski said many moons ago when we had the discussion on this property the council's marching orders were not to bring a project that will give us "X" rate of return on our initial investment for the business park; the orders were, the parcel was designed to do "a" and since it has not facilitated "a" find something of value to go on this parcel. He said to the extent that council wants to consider recouping its investment to build a business park from what has never developed as such after its contributions to the TIF, yes, but that was not a point of consideration that council provided to him when addressing this parcel. He said there was a similar disproportionate rate of return or negative equity situation on other parcels we've addressed that council has provided direction on as well. Mrs. Reynolds said as best as she can remember the night we left that meeting in which the marching orders were given – using your terminology, nothing along these lines was discussed that evening other than we were willing to work with a developer; so to see all this come before council, she doesn't have enough information to make a logical decision on any of this – we don't know what its going to cost, the cost of the infrastructure, and now we are hearing things we hadn't heard before. She said she understands a developer might have those situations but now we have a TIF agreement coming before them and she's hearing that the city manager is going to negotiate something later on. She said this is backwards and she needs the information up front in order to make a decision that's best for the community and the property owners that sit around this parcel. She said

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we are going to change the total makeup of that community and she thinks we need to be concerned about that.

Mayor Flaute said we knew we were going to change that regardless of what we put in there; the minute we made it a business park it was going to change the whole neighborhood so he didn't think it was a fair thing to say as far as turning this down.

Mr. Chodkowski said specific to the question about exhibit d, it simply says that we agree and the developer agrees, that we have a project and that project is exhibit b which is occurring on exhibit a with exhibit c.

Mr. Schock said it's his understanding that if we pass this TIF ordinance and we don't feel comfortable with the negotiations, we can just back away. Mr. Chodkowski said if council doesn't agree and the developer doesn't agree and the yet-to-be-negotiated agreement isn't signed by either party, then it all goes away. Mr. Schock said so by not having all the hard and fast numbers right now, we aren't locked into anything and we can still back out. Mrs. Reynolds said that step could be done now. Mr. Schock said it could, it's just not set up that way. Mrs. Reynolds said we should reverse it. Mr. Schock said let's get this forward first then if we are uncomfortable we'll back out.

Deputy Mayor Smith said his concern is there is no maturity date on this development agreement. Mr. Chodkowski said the ordinance specifically references 3 conditions on which the TIF could expire. He said it is on page 2 of the ordinance, Section 2 – *ending on the earlier of: a. 30 years after such commencement, b. on the date on which the city can no longer require service payments in lieu of taxes, or c. when the actual cost of the public infrastructure improvements have been fully reimbursed all in accordance with the TIF statutes.*

Mr. Fullenkamp said so the manager is going to insure there are fall back provisions in this TIF agreement. He said he is concerned that we are developing green space with the TIF which seems to be one of the no-no's he's read about; one of the things people generally discourage. He said he knows it's been frustrating for council to deal with this property - almost despair that we've got to get rid of this property. He said he is not going to support it but he understands what's going on. Mayor Flaute asked why Mr. Fullenkamp wasn't going to support it. Mr. Fullenkamp said he has a problem subsidizing housing at over \$25,000 to \$30,000 per unit.

Mr. Schock said as fast as our homes are depreciating, we have to do something to put new homes up. Mayor Flaute said BRAC is also coming and the community needs to take advantage of that. Mr. Schock said he wouldn't bet on that one.

Mayor Flaute asked if there was anyone wishing to speak in favor of the proposal. Being none, he asked if there was anyone wishing to speak in opposition to the proposal.

Mr. Bernie Theis took the oath to give sworn testimony. He said he agrees with Mr. Fullenkamp; he doesn't understand why we should be subsidizing any housing and he wondered if council had thought about 5 years down the road when the developer walks away He asked if anyone had visited one of these sites or if they had any information on how well this works or people that have done this with the subsidy. He said he was opposed to this and everything about it.

Mr. Schock said in today's environment – the economy, it's a chance we have to take; anyone can walk away from it. He said if you are not out there taking a chance on development then you are always going to be sitting in the back seat.

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Mr. Theis said he had a business over on Brandt Pike and you are not over there subsidizing it. Mayor Flaute said hopefully it will help your business. Mr. Theis said he didn't think it will, in fact he could guarantee it won't.

Mayor Flaute asked if there was any one else wishing to speak in favor of or in opposition to the proposed rezoning. Being none; he closed the public hearing at 9:10 p.m.

Ms. Campbell asked if the developer had other areas they build in. Mr. D'Urso said the closest development would be the one in Fairborn. Ms. Campbell asked if that was what the development will look like and did he have pictures. Mr. D'Urso said he would get those to the City manager. Ms. Campbell said it sounds like they are going to be better than the ones in Valley View.

ITEM 13: CITY MANAGER'S REPORT:

(1) FYI Items

- a. Council Request Sheets.
- b. Code Rewrite Request Sheet.
- c. Council Agenda Calendar.
- d. Weekly City Manager's Report.
- e. Minutes of the May 24, 2011 BZA meeting.
- f. Minutes of the July 28, 2011 Health and Safety Commission meeting.
- g. Minutes of the July 19, 2011 Parks and Recreation Commission meeting.

(2) Monthly Reports

- a. Fire Department
- b. Police Department
- c. Service Department
- d. Planning and Economic Development
- e. Finance Department

Mr. Chodkowski said you have my report as well as supplements from staff and we would be happy to answer any questions.

Mr. Denning said on Law's Trailer Court the last report we got was that it was done but when he drove by there are still 1/2 dozen trailers boarded up inside the park. Mr. Chodkowski said there were "z" number of trailers and "x" number of trailers were covered under the grant and "y" number of trailers were required to be moved. He said there were also a few trailers Mr. McMahan was attempting to rehab. He said the "y" component dealt specifically with the Health Department and the city wasn't part of that. He said everything our grant was designed to do, we were able to do. Mr. Denning asked if we could poke the Health Department to get more done because it still doesn't look like we want it to look. He said when people drive by there it still gives a bad reputation to the city. Mr. Chodkowski said we are very conscientious of that and we intend to address it in a more aggressive manner now that all terms and conditions of the project are done including final restoration and punch list items

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which sometimes are subjective in nature. Mr. Denning said so we have to get everything to the finish line before we can start griping about new stuff.

Mayor Flaute said he just has one question for the Service Department; he saw we went 13 hours overtime and he wondered if there was any particular reason for that. Mr. Miller said most if that was a direct result of the Fairfax Bridge closing; the County Engineer required we do that immediately and required specific safety criteria that was not well defined prior. He said his crew was out there trying to make the situation a safe environment to prevent accidents.

Mayor Flaute asked if we heard anything about the emergency funds for that. Mr. Chodkowski said he had been forwarded OPWC information for application to access their emergency funds and he is also currently trading phone calls with ODOT in regards to the Municipal Bridge Fund. He said he believed there was a Local Road and Bridge Fund as well. He said we are working through that and he has the information; there have been other items that required his attention but it is on his to-do list.

Mrs. Reynolds asked if there was any new information on the Job Ready Sites and if he knew when we might hear about the grant. Mr. Murray said he had a meeting planned for Tuesday and we are moving forward with it. Mrs. Reynolds asked when it was due to be submitted. Mr. Murray said they haven't given him a submission date yet and they haven't finished the final applications so the state is still trying to put that together. He said after that, he will have 2 months; so it's a little up in the air right now but he is speeding towards making sure the application is right. Mrs. Reynolds said she's heard an October 1<sup>st</sup> submittal date. Mr. Murray said he had not heard that yet but he will find out.

Mrs. Reynolds asked on the Safe Routes to School application if LJB had given everything to the school that they need. Mr. Chodkowski said yes.

Mrs. Reynolds asked if there were any new court cases pending. Mr. Chodkowski said he was not aware of any.

**ITEM 14: PUBLIC COMMENT ON AGENDA ITEMS:** Mr. David Cole of Sanford said he wanted to encourage council to support every one of the resolutions before them tonight. He said the first one regarding people paying for the lights – that's simple and doesn't take much conversation. He said what about the one to cut people's grass – of course put it on their taxes, it's what we've done traditionally. He said he would really appreciate council's support on the flagpole; it's on track and we're going to have a party at the festival during opening ceremonies. He said as far as recognizing the Festival Committee as promoting the public health, safety, welfare, and contentment – he thinks that is an obvious one too and he hoped they could continue it next year. He said it is kind of based on the number of people who get behind it all the time. He said the last one on the agreement with the Eintracht Club, he thinks it's a great idea; done in an odd manner but something that could really benefit the community. He thanked council and the audience.

Mayor Flaute thanked Mr. Cole and said he appreciated his efforts in looking into what is going on in the city – always right on top of it. Mr. Cole said he tried.

Mrs. Nina Thompson of Cranberry Place said she is actually here regarding the parade before the Festival starting at 10:00 a.m. She said the parade will start at Eastman and Spinning and go to Shellabarger Park down Burkhardt. She said those roads will be closed at 9:45 a.m. She said to make arrangements to come and watch the parade.

Mrs. Thompson said if you have a business or community group or you just want to walk in the parade – talk to her and she will get you in the parade. She said line up

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starts at 8:30 a.m. on Eastman so if you have to go down Eastman it will be blocked off; we will let you in but you will have to travel slowly – we have lots of kids we will be trying to corral so you will have to be very attentive of that. She said signs will be out on Spinning and Burkhardt about the parade to remind people and there will be flyers at Kroger as well.

Mrs. Thompson said she had paperwork if anyone wanted to enter into the parade and the phone number is on the marquee in front of city hall. She said the city also has the information as does the council members. She said come and enjoy the parade next Saturday.

Mr. Schock asked if they had a lot of participants. Mrs. Thompson said there are 50 units. Mr. Schock asked if that was more than last year. Mrs. Thompson said yes; we have lots of nice cars and corvettes coming, political people, several community groups, high school bands, Stebbins Color Guard, the Am Vets, the VFW, Riverside Jaycees with their Haunted House stuff, and lots of candy for the kids. She said we do not have a lot of outside political advertisement right now; it's not filled up with people running for county stuff so there's a lot of nice stuff for the kids.

Deputy Mayor Smith asked if they had notified RTA about the parade route. Mr. Chodkowski said the city was asked to do that.

Mayor Flaute thanked Mrs. Thompson for all her hard work.

**ITEM 15: NEW BUSINESS**

**I. ORDINANCES**

- a. **Ordinance No. 11-O-472 by the Council of Riverside, Ohio approving a change in the district boundaries as shown on the Zoning Map of the City of Riverside, Ohio for property located on Brandt Pike, Parcel I.D. No. I39-00520-0033 from "RE-1" Residential Estate District to "R-4A" Single Family Residential District. (FIRST READING)**

Mr. Chodkowski said this ordinance is brought forward to council pursuant to the request of the applicant and the recommendation of the Board of Zoning Appeals in regards to the rezoning of 19 acres on Brandt Pike from RE-1 to R-4A.

A motion was made by Mr. Denning to read Ordinance No. 11-O-472 for the first time in its entirety and approve its first reading. Ms. Campbell seconded the motion.

The clerk read Ordinance No. 11-O-472 for the first time in its entirety and Mayor Flaute asked if there were any questions or discussion from members of council.

Mr. Denning asked if the Planning Commission held a hearing. Mr. Chodkowski said yes they did have a hearing and as Mr. Lynch indicated, there were only 3 members present with 2 voting in favor and 1 voting against.

With no further discussion; a roll call vote was as follows: Mr. Denning, yes; Ms. Campbell, yes; Mr. Fullenkamp, no; Mrs. Reynolds, no; Mr. Schock, yes; Deputy Mayor Smith, no; and Mayor Flaute, yes. **Motion passed.**

- b. **Ordinance No. 11-O-473 providing for the construction of certain public infrastructure improvements within the city by creating an**

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incentive district encompassing a certain parcel of real property, declaring improvements to such parcel to be a public purpose, exempting such improvements from taxation, requiring the owners of such parcels to make service payments in lieu of taxes, providing for the distribution of the applicable portion of such service payments to the Mad River Local School District, establishing a Municipal Public Improvement Tax Increment Equivalent Fund for the deposit of the remainder of such service payments, describing the public infrastructure improvements made or to be made that benefit or serve the parcel and approving and authorizing the execution of one or more project and development agreements. (FIRST READING)

Mr. Chodkowski said pursuant to previous discussions held by council, consultations with the Law Director and discussions with CESO Engineering and DDC LLC this legislation is brought forth announcing council's intent to establish a TIF District.

A motion was made by Mr. Denning to read Ordinance No. 11-O-473 for the first time in its entirety and approve its first reading. Mr. Schock seconded the motion.

The clerk read Ordinance No. 11-O-473 for the first time in its entirety and Mayor Flaute asked if there were any questions or discussion from members of council.

Mr. Fullenkamp said the line after Section 12 states this ordinance would be adopted as an emergency. Mr. Chodkowski said when this legislation was originally drafted it was requested it be read as an emergency; it is not being presented as an emergency and that language will be struck.

Mr. Schock said since that language is here and we read the ordinance, we have to make a motion to strike it – correct. Mr. Chodkowski said no; this is not substantial – it wasn't published as an emergency and it wasn't declared an emergency. He said this is just a typographical error.

With no further discussion; a roll call vote was as follows: Mr. Denning, yes; Mr. Schock, yes; Ms. Campbell, yes; Mr. Fullenkamp, no; Mrs. Reynolds, no; Deputy Mayor Smith, no; and Mayor Flaute, yes. **Motion passed.**

II. RESOLUTIONS

- a. Resolution No. 11-R-1582 certifying to the Montgomery County Auditor for collection assessments for lighting within various lighting districts of the City of Riverside, State of Ohio.

Mr. Chodkowski said is presented to council at the request of the Finance Director for the assessment of lighting in various districts of the city.

A motion was made by Mr. Schock to approve Resolution No. 11-R-1582. Mr. Fullenkamp seconded the motion.

Mrs. Reynolds asked about the yearly cost changes; is it vacant homes that generate the change. Mr. Chodkowski said we signed a contract that changed the rate for 2011. Mrs. Reynolds said it goes back down for 2012 but she would call them.

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With no further discussion, all were in favor; none were opposed. **Motion passed.**

- b. **Resolution No. 11-R-1583 by the Riverside City Council authorizing the assessment of delinquent charges for cutting and removal of weeds, vegetation and/or grass to be placed on the Montgomery County Property Tax Duplicate.**

Mr. Chodkowski said this is brought forth per request of the Finance Director to certify to the tax role fees and charges associated with property maintenance.

A motion was made by Mr. Schock to approve Resolution No. 11-R-1583. Deputy Mayor Smith seconded the motion. All were in favor; none were opposed. **Motion passed.**

- c. **Resolution No. 11-R-1584 authorizing the placement of a flagpole and plaque in Shellabarger Park in memory of former Mayor Johnie Doan.**

Mr. Chodkowski said this resolution is by request of the Festival Committee and the VFW for placement of a flagpole in Shellabarger Park to honor Johnie Doan.

A motion was made by Mr. Schock to approve Resolution No. 11-R-1584. Mr. Denning seconded the motion. All were in favor; none were opposed. **Motion passed.**

- d. **Resolution No. 11-R-1585 recognizing the Riverside Community Festival as a function that promotes the public health, general welfare, and contentment of the Citizens of the City of Riverside.**

Mr. Chodkowski said pursuant to council's request, this resolution is to authorize disbursement of city funds for the Riverside Festival as a function that promotes the public health, general welfare, and contentment of the citizens.

A motion was made by Mr. Schock to approve Resolution No. 11-R-1585. Mrs. Reynolds seconded the motion and asked a donation of \$250 (two hundred fifty dollars) be inserted. Mr. Schock agreed to the donation amount.

Mr. Chodkowski said funds that remain unencumbered in that account is approximately \$2,000; traditional giving indicates council will give approximately \$1,500 at the end of the year to various organizations. He said with this donation it will leave approximately \$250.

With no further discussion, all were in favor; none were opposed. **Motion passed.**

- e. **Resolution No. 11-R-1586 authorizing the City Manager to negotiate an agreement with the Eintracht Singing Society & Working Mens Singing Eintracht Society for the purchase of 5.906 acres located at 2707 Old Troy Pike in Riverside, Montgomery County, Ohio.**

Mr. Chodkowski said this resolution is brought forth pursuant to council discussion regarding an agreement to purchase the property at 2707 Old Troy Pike.

A motion was made by Mr. Schock to approve Resolution No. 11-R-1586. Mr. Denning seconded the motion.

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Mayor Flaute said just a note to the audience, we are purchasing this but we are not spending any city money. Mr. Chodkowski said the funds will be provided by ODNR and the Miami Conservancy District. Mayor Flaute said it is so we will have a place to launch kayaks and those types of things.

Mr. Fullenkamp asked if we had enough with the in-kind and other contributions. Mr. Murray said we hope to, we have to go through the math; we have 2 additional contributors.

Mrs. Reynolds said Ms. Hippensteel stated we could strengthen our application by additional match dollars; have we looked at any corporate sponsorship such as DPL or Vectren. Mr. Murray said that was a good idea and he would look into it.

Mayor Flaute said we are in competition with 2 other communities so we hope this comes to fruition.

With no further discussion, all were in favor; none were opposed. **Motion passed.**

**ITEM 16: PUBLIC COMMENT ON NON-AGENDA ITEMS:** (see item 14)

**ITEM 17: COUNCILMEMBER COMMENTS:** Mrs. Reynolds thanked everyone for being here tonight; and said she always enjoyed seeing a room full of people. She thanked staff, council, and the clerk.

Mayor Flaute offered information on the car show that will be held during the festival. He said he only had 2 weddings this week; it's the lowest it's been. He said if anyone wants to get married at the car show, he is willing to take care of that for them.

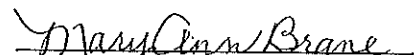
Mayor Flaute said the Ohio Municipal League is having their annual conference September 28, 29, and 30. He said he encouraged someone on council to go, they are going to be talking about aggregation of electric facilities which is something he thought we needed to know more about. He said there are some communities that have done that especially with lighting districts but his understanding is you can get the whole community aggregated and save a bunch of money for the residents. He said he would be willing to go but he would need some money. Mrs. Reynolds said she was going to try to go.

Mayor Flaute said he had a meeting with the President of the Vectren Association, Ms. Colleen Ryan and she had some very interesting things for us to consider. He said if council would like for her to come back to talk about Vectren and what's going on in their company, she is willing to do that. He said possible aggregation there also. He said if anyone wants to do that, let him know and we will get it on the agenda for a presentation.

Mayor Flaute thanked everyone for their patience during the long meeting.

**ITEM 18: ADJOURNMENT:** A motion was made by Ms. Campbell to adjourn. Mr. Denning seconded the motion. A roll call vote was as follows: Ms. Campbell, yes; Mr. Denning, yes; Mr. Fullenkamp, yes; Mrs. Reynolds, yes; Mr. Schock, yes; Deputy Mayor Smith, yes; and Mayor Flaute, yes. The meeting was adjourned at 9:53 p.m.

  
William R. Flaute, Mayor

  
Clerk of Council