

CITY OF OAKWOOD
STATE OF OHIO
OCTOBER 2, 2006

The Council of the city of Oakwood, State of Ohio, met in a work session at 6:00 p.m. in the conference room of the city of Oakwood, 30 Park Avenue, Dayton, Ohio, 45419. Council then met in a regular session at 7:30 p.m., in the council chambers of the city of Oakwood. Mayor Cook opened the meeting by asking all present to participate in the Pledge of Allegiance. The Mayor, Mrs. Judy Cook, presided, and the Clerk of Council, Ms. Cathy Blum, recorded.

Upon call of the roll, the following members of council responded to their names:

MRS. JUDY COOK.....PRESENT
MR. CARLO C. MCGINNIS.....PRESENT
MR. WILLIAM D. DUNCAN.....PRESENT
MR. ROGER C. BLUMENSHEID.....PRESENT
MR. STANLEY CASTLEMAN.....PRESENT

Officers of the city present were the following:

Mr. Norbert S. Klopsch, City Manager
Mr. Robert N. Farquhar, Deputy City Attorney
Mr. Jay A. Weiskircher, Assistant City Manager
Mr. Brad Beachdell, Finance Director
Chief Alex Bebris, Public Safety Director
Lt. Keith Benson, Public Safety Department

The press this evening was represented by the editor of the *Oakwood Register*, Mr. Lance Winkler and Mrs. Helen Bebbington, *Dayton Daily News*.

The following visitors registered:

Richard & Cynthia Robinson, 7455 Forest Creek Drive
Lynn & Mike Disbrow, 2750 Ridgeway Road
Faye Wenner, 1900 Coolidge Drive
Roger Doolin, 228 Byers Road
Carolyn & Harold Angel, 2400 Fairmont
James Hiller & Susan Gardstrom, 2754 Fairmont Avenue
Dan Deitz, 901 Oakwood
Larry Trittschuh, 901 Acorn
Sue & Scott Gunnell, 2744 Fairmont Avenue
Robert Curry, 530 Maysfield Road
John & Heike Kennel, 1541 Runnymede Road
Steven Byington, 45 Triangle Avenue
Kathy & Frank Hollingsworth, 420 Ridgewood
David Key, 138 Wisteria
Susie Seleem, 2420 Shafor Boulevard
Pokey & Tony Huffman, 1100 Runnymede Road
Philip Chick, 256 Beverly Place
Rhonda Wootton, 2736 Fairmont
George Kinzeler, 2730 Fairmont
Mark Ledenbach, 265 Volusia Avenue
Family & Friends of Lt. Benson

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Mr. Duncan, Chair of the Council Committee on Minutes, advised council he had read the minutes of the regular and work sessions of council held September 18, 2006. Mr. Duncan reported the minutes were complete with two corrections – page 302, fourth paragraph, word should be “going” not gong; and on page 303, fifth paragraph, word should be “insulted” not “assaulted”. Mr. Duncan complimented Ms. Blum for her work in preparing the 14-page minutes. Therefore, it was moved by Mr. Duncan and seconded by Mr. Blumensheid that the minutes of the sessions of council aforementioned be approved as corrected and the reading thereof at this session be dispensed with. Upon a viva voce vote on the question of the motion, same passed unanimously and it was so ordered.

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STATUS REPORT

Proclamation. Mayor Cook indicated October is breast cancer awareness month and during this time, they need to pay special attention to the disease and what can be done to keep people alive through early detection and treatment. She noted there are local programs for mammograms and read the Proclamation in its entirety.

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MVCC. Mr. Blumensheid referenced the recent MVCC Open House which he, Mayor Cook and Mr. Duncan attended. He announced in the near future, citizens will be able to view council meetings on their computer. He indicated the city is currently working on the website with the MVCC consultant. Mr. Blumensheid noted at the Open House they also reviewed safety department video training, and camera equipment training; he extended thanks to Mr. Husemann and his staff for all the preparation. He indicated the MVCC is working on a reduced budget, new technology, utilities in the right-of-way, etc.

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Fall Family Festival. Mayor Cook announced the first Festival, an outgrowth of Scarecrow Row will be held on Sunday, October 15, 2-5. She indicated it will be a fun-filled day with hayrides, games, food, etc., at Shafor Park.

Lieutenant Promotion. Mayor Cook was privileged to recognize and promote Officer Keith Benson to the rank of Lieutenant. Chief Bebris indicated one of his favorite things is to promote within the organization, and although he has only been at the city a short time, he has heard a lot of positive things about Lt. Benson. He reviewed the highlights of Lt. Benson's career. Mayor Cook pinned the lieutenant badge onto Lt. Benson's uniform. She also recognizes Mrs. Benson.

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Mayor Cook recognized other visitors and asked if there was any business. There were no comments. The following legislation was reviewed.

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AMENDING THE ZONING MAP OF THE ZONING ORDINANCE OF THE CITY OF OAKWOOD TO REZONE A DESIGNATED PORTION OF THE LOT LOCATED AT 2750 RIDGEWAY ROAD FROM R-1 TO R-4.

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Mr. McGinnis explained this is the second reading of the legislation, has been recommended by the Planning Commission and council will render a decision but not take additional testimony.

Thereupon, it was moved by Mr. McGinnis and seconded by Mr. Blumensheid that the ordinance be approved.

Mr. Castleman referenced an article from the *Oakwood Register* depicting a couple on their front porch enjoying the view, however, explained when you purchase real estate, you do not own the view. However, he believes amending the zoning from R-1 to R-4 is inconsistent with the Oakwood Zoning Code.

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Mr. Blumensheid explained there are many zoning models to follow and in Oakwood they use the "Euclidian" model which establishes zoning and then gives the city tools such as special uses. He indicated there are established setbacks in the business district, multi-use district and the four residential districts. He explained the Charter and ordinances allow residents to ask for exceptions and change the zoning, everyone has the right to ask. Mr. Blumensheid indicated council's job is to determine whether or not to approve the request. He indicated the zoning is designed to meet the exceptions and the Comprehensive Plan notes that housing stock will last 126 years, which means owners are only "temporary" in the property. Mr. Blumensheid noted they have to look to the future in making decision. He has studied the zoning map amendment, walked the property and spoken with team members (residents). He noted there are always two sides to an issue and he again used his pro/con list based on input he has received. He believes this request to amend from R-1 to R-4 will change the neighborhood, even though he agrees with Mr. Castleman that property owners don't own the view. Mr. Blumensheid indicated such a zoning change should not be repeated, would force estate break-ups, sets a precedent, changes the ambiance of the street and he has difficulty in agreeing with the request.

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Mr. Duncan explained since the property owners are his clients, he will recuse himself.

Mr. McGinnis reported as council's liaison to the Planning Commission, he has been charged to look at proponents and opponents and ensure that a fair process has occurred. He indicated the Commission has taken that approach and this action is permitted by Oakwood laws. At the commission meeting, questions relating to the number of lots, appearance, etc., were not reviewed at that time, only the request to change the zoning. Mr. McGinnis indicated council is to determine, as representatives of the community, whether the zoning could be changed, a difficult decision since the applicants are fine people with good intentions. He noted the zoning was established by forefathers of the city and added estates make Oakwood unique. He added this is a significant change to the zoning and believes such a change should only occur if there is a clear consensus from the community. Mr. McGinnis reiterated the process has been fair, proponents and opponents have expressed their views and since there is no clear threshold, it is not in the best interest of the city to approve this request.

Mayor Cook was not surprised with the unanimous recommendation from the Commission since the applicant's property is twice as large as what is required for the R-1 zoning district. She noted this would not disturb Ridgeway nor would any of the new lots create a non-conformity, something which the commission felt met all requirements. She extended thanks to everyone for their views and noted change is often a "four letter word" and not well embraced. She indicated the issues of drainage, property values, safety, etc., are all subject to debate. Mayor Cook believes the change in the zoning map would not make the neighborhood or city better, the answer to both questions is no, particularly since the zoning map would look like at "add on" or afterthought. She noted this is one of their border streets which they need to protect, particularly since it abuts busy Dorothy Lane. Mayor Cook noted this request is not in the best interest of the city.

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....NAY
MR. CARLO C. McGINNIS.....NAY
MR. WILLIAM D. DUNCAN.....ABSTAIN
MR. ROGER C. BLUMENSHEID.....NAY
MR. STANLEY CASTLEMAN.....NAY

There being no (0) yea votes, four (4) nay votes and one (1) abstention, said ordinance was declared duly denied and it was so ordered.

ORDINANCE

BY MR. CASTLEMAN NO 4615

TO REPEAL CURRENT CHAPTERS: 919 PERTAINING TO WATER SERVICE, 921 PERTAINING TO WATER SPRINKLER SYSTEMS, 941 PERTAINING TO PRIVATE WATER WELLS, AND 943 PERTAINING TO FIRE HYDRANTS, AND TO REPLACE THEM WITH NEW CHAPTER 919 ENCOMPASSING ALL FOREGOING TOPICS IN A SINGLE CHAPTER.

A copy of the ordinance, having been placed on the desks of each member of council prior to introduction, was given a second reading.

Mr. Beachdell, via a PowerPoint presentation, reviewed information about the legislation. The amendment is before them since the last major review was in 1994, this standardizes the format, organizes and consolidates sections, and updates procedures, etc. He indicated there are several housekeeping/minor changes - page numbers were added to the index for reference, purpose and definition sections were added, the water rate chart was included for convenient reference, and the billing rate was changed from "per 1,000 cu. ft." to "per 100 cu. ft." In regard to direct bill payment, although the city permits customers to authorize direct bill payment from a bank account for payment of utility bills, that was not in the current ordinance. In regard to construction, there was previously a \$50 fee for water for construction and a meter was not provided until construction was completed. This amends that so there is no fee but the meter is to be installed during construction so the consumption is measured and billed. Mr. Beachdell indicated two other housekeeping changes relate to payment plans and pro-rate utility bills. The amendment outlines authorization so the city may approve payment plans of reasonable duration for reasonable cause; and minimum billing for a partial period if prorated based on consumption and the computation formula is noted.

Mr. Beachdell reviewed the substantive changes to the ordinance. Previously, customers saved 1/2 cent per hundred cu. ft. of water used in excess of 10,000 cu. ft.; the new ordinance will eliminate the savings of 1/2 cent. The result is the largest inside and outside customers are expected to see no more than \$5-7 increase in quarterly billing. Another substantive change relates to the updated cost of service. Previously there was a \$5 cost for annual removal and resetting of water sprinkling meters; the proposed language increases the cost to \$25. Mr. Beachdell noted another new substantive change relates to a returned check charge; previously there was no charge and this would implement a \$20 administrative fee for returned checks. The final substantive change relates to revising the appeal timing. Previously, the Board of Water and Sewer Appeals was to hear an appeal within 15 days and the new amendment amends that to 30 days. Mr. Beachdell reviewed the appeal process.

Mayor Cook extended thanks for the graphics which helped make a "dry subject" more interesting. Mr. Castleman also extended thanks for the summary. Mr. McGinnis was pleased with the appeal process and the ability for the city to file civil action but expressed concern with the fourth degree misdemeanor penalty. Mr. Beachdell indicated that is not a change from the existing ordinance. Mr. Klopsch indicated they can review that process at the next meeting. Mr. Duncan believes that penalty is on the books for excessive unreasonableness. Mr. Klopsch agreed, only an extreme deterrent.

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Thereupon, it was moved by Mr. Castleman and seconded by Mr. Blumensheid that the ordinance be passed.

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RE: ONLY 1 READING (NOT EMERGENCY) "it was moved by _____ and seconded by _____ that a reading thereof on two different days be dispensed with" and then "passed with only one reading"

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....YEA
MR. CARLO C. MCGINNIS.....YEA
MR. WILLIAM D. DUNCAN.....YEA
MR. ROGER C. BLUMENSHEID.....YEA
MR. STANLEY CASTLEMAN.....YEA

There being five (5) yea votes and no (0) nay votes thereon, said ordinance was declared duly passed and it was so ordered.

RESOLUTION

BY MR. MCGINNIS NO 1641

A RESOLUTION GRANTING IN PART THE APPLICATION FOR AN ADDITIONAL USE SPECIFICALLY FOR RELIGIOUS PURPOSES, ON A PORTION OF THE SUGAR CAMP SITE.

A copy of the resolution, having been placed on the desks of each member of council prior to introduction, was read by title. Mr. McGinnis explained this resolution is pursuant to the motion from last month's meeting and includes a lot of information. He noted many Oakwood residents expressed comments on the issue and several urged for a master plan for Sugar Camp. He reviewed the following approval conditions.

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That the Council of the City of Oakwood hereby approves and authorizes the special use of Building C for religious purposes as a church, chapel, synagogue, temple, mosque, or other place of religious assembly and worship to include the use of accessory parking on the 4.48-acre tract on which Building C is located.

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Pursuant to Section 1004.8 of the Oakwood Zoning Code, Council conditions this approval on the following:

- *The use of Building B shall, by agreement of the applicant on the record at the public hearing, be considered later, either as a part of a master plan for the redevelopment of the entire Sugar Camp site or by a separate application relating exclusively to Building B.*
- *The property owners, again by agreement of the applicant on the record at the public hearing, shall submit a master plan for the redevelopment of the entire Sugar Camp property, which master plan shall meet the requirements of the Oakwood Zoning Code, by the December 2006 meeting of the Oakwood Planning Commission.*
- *If a new master plan for the entire site is approved, it shall include Buildings C and B, and the use and maintenance of those buildings and the accessory parking shall conform to the master plan.*
- *The proposed use of Building C must conform and its reconstruction shall comply with all Oakwood Zoning and other Code provisions.*

Therefore, it was moved by Mr. McGinnis and seconded by Mr. Castleman that the aforementioned Resolution be adopted.

Mr. Duncan indicated at the December Planning Commission meeting, the owners will submit a master plan for review at a public hearing and at some point a recommendation will be forwarded to Council. Mayor Cook agreed and noted it will probably take more than one meeting given all the information. She reminded the community that the master plan is the initiative of the owners and the Comprehensive Plan, Subarea Plan and Zoning Code will be included in the discussion. She looks forward to an open and healthy discussion and the goodwill of the developer to listen to suggestions.

Upon call of the roll on the question of the motion, the following vote was recorded:

MRS. JUDY COOK.....YEA
MR. CARLO C. MCGINNIS.....YEA
MR. WILLIAM D. DUNCAN.....YEA
MR. ROGER C. BLUMENSHEID.....YEA
MR. STANLEY CASTLEMAN.....YEA

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There being five (5) yea votes and no (0) nay votes thereon, said resolution was declared duly passed and it was so ordered.

CITY MANAGER'S REPORTS

Pedestrian Signal. Mr. Klopsch reported last Friday the new signal at Far Hills and Orchard was put into operation, however, on Sunday he tried to use it and the timing hadn't yet been worked out. He hopes this will get people to park on the west side, where there is ample parking, and then cross in a safe manner. Mr. Blumensheid questioned the existing markings. Mr. Klopsch indicated those thermal plastic markings will be removed on the north side. Mr. Blumensheid urged pedestrians to be very cautious until the motorists are aware of the signal.

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Patterson/Dixon Project. Mr. Klopsch extended thanks to those citizens for enduring a two plus month construction project. He indicated any underground utility project can run into unexpected work. He noted the pavement has been milled and weather permitting, final asphalt will be placed this week. Mr. Duncan noticed bricks underneath the street. Mr. Klopsch agreed, it was previously a brick road, and extended thanks to Mr. Weaver and Mr. Bornhorst for overseeing the project.

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Leaves. Mr. Klopsch noted with the upcoming change in leaf color, they will begin to make leaf pick up rounds within a couple weeks. Mr. Blumensheid reminded citizens not to bag the leaves nor include pumpkins in the piles. Mr. Klopsch explained the only exception for anything in the street is during leaf season, no branches, etc., should be included therein.

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Water System. Mr. Klopsch indicated with the adoption of the amended water rules, they are complete with a comprehensive water system upgrade. He referenced the fire hydrant replacement, water main valve project, upgrade to the water production wells, repainting of the water tower, replacement of master meters, construction of the eighth well and near completion with the home meter replacement. He was pleased to report they have an excellent water system and the city's rates compare very favorably, particularly given the investment made.

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Old River. Mr. Klopsch reported two weeks ago, council appropriated funds for the purchase; the closing occurred on September 22 and the city officially owns the 28-acres.

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COUNCIL COMMENTS

Mr. Castleman invited the community to the ribbon cutting of the new Oakwood Business Centre on Thursday. He indicated the building owners hope to announce the new tenant for the remaining space.

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Mr. Duncan recognized *Dayton Daily News* Reporter Helen Bebbington, who left the meeting earlier, and extended congratulations to her husband on becoming the new editor for the *Springfield Sun*. Mr. Duncan indicated the next meeting is scheduled for November 6 which he will be unable to attend. He noted the next day is the election and urged everyone to learn about the issues and exercise their right to vote. Mr. Duncan explained Oakwood has a 2.72 mill levy on the ballot and urged citizens to vote for this renewal which will continue to support the fine services, particularly given the recent income tax rate increase in neighboring cities which impacts Oakwood's revenue.

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Mr. McGinnis has heard many questions about how the city can protect its zoning code and green space, particularly given recent applications. He indicated the city has the Comprehensive Plan to utilize and it serves them well. However, he believes there is more that can be done to maintain natural green space and suggested they analyze the cost benefit and feasibility of purchasing land, tax deductible donations, etc. He urged citizens to get involved in this analysis.

Mayor Cook announced in the upcoming City Scene, a survey will be included on the upcoming centennial celebration. She urged citizens to complete and return the survey.

▼ Council adjourned. The public meeting concluded at 8:38 p.m.

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MAYOR

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