

Ontario City Council met in regular session on February 5, 2009 in the City Offices, with Council President Dave Metzger presiding. The meeting opened at 7:06 p.m. with the Pledge of Allegiance.

The following persons were in attendance when roll was called: Council members Paul Williams, Dan Zeiter, Charlotte Hellinger, Leon Blackwell, Mark Weidemyre, Barry Lewis, and Joseph W. Cinadr; Mr. Metzger; Law Director Rebecca Thomas; Mayor Kenneth Bender; Service/Safety Director Charles Au; and Clerk of Council Cathy VanAuker. A number of interested citizens were present in the audience.

The minutes of the regular Council meeting of January 22, 2009 were presented for approval. Mr. Williams made a motion to approve the minutes and Mr. Blackwell seconded the motion. At roll call, seven members voted Aye, zero Nay, and the motion to approve the minutes passed.

### **PUBLIC COMMENTARY**

Larry Arnold, 2385 Whitney Avenue and Kevin Morehead, 2374 Whitney Avenue, came before Council. Mr. Arnold said: We come here today representing the Charter Commission that has been meeting every Tuesday, and in some cases, Wednesday. We want to give you an update and a heads up. Before we do that I would like to extend my personal thanks to Mrs. Thomas and many of the Council members for attending those meetings. Sometimes they get a little long but we've had a lot very good input from many of the Council members, so we would like to thank you on that. We met last night and finalized much of the Charter except for one section that we're waiting for some participation from the Chief of Police and the Union Representative; we'll be meeting with them next week. We had a tight deadline to meet the primary election cut-off. We spoke with the Board of Elections today about the 75 day advance filing but it is actually 60 days and they did agree to that. We will work with Mrs. Thomas and our legal counsel to present the ordinance at the next Council meeting, have you preview that, which will still give us enough time, if approved, to put on the ballot. Mrs. Thomas interjected that the ordinance is done and waiting on what date to put in it and for the Charter to attach. Mr. Arnold continued: They thought they may have to call a special Council meeting but that won't be necessary, they will still fall within the deadline to submit to the Board of Elections. Again, I want to extend thanks to all of the Council members for attending and Mrs. Thomas. There is time to get the mailing out thirty days before the May election. After the ordinance is passed by Council the intent is to have public commentary. As Charter members what we are going to do is visit the various organizations, like the Rotary, to conduct informational meetings and, if need be, go door to door to educate the public on the facts of what exactly the Charter is. Thank you very much.

### **COMMITTEE REPORTS**

Mr. Williams said he would research Ordinance No. 08-22. He felt a vote had been taken during the committee meeting not to send it back to Council.

Mr. Blackwell scheduled a Personnel/Finance Committee of the Whole meeting for February 9, 2009 at 6:15 p.m.

Mr. Weidemyre commented on highlights from the Streets Committee meeting held January 28, 2009.

- Quotes were obtained to widen PAW between Home Road and Lexington-Springmill to five lanes including curbs, gutters and sidewalks that could possibly be a shovel-ready project. The quote was \$5 - \$7 million for this project. The engineering has not been done for this project and they will look at grants.
- ODOT will possibly pave St. Rt. 309 and PAW in 2010.

- A motion passed to pave Lexington-Ontario Road from PAW to the south, Old Oak Trail from Walker Lake to the golf course, Rock Road from PAW to the north city limits. Legislation for this paving is on this evening's agenda.

Mr. Zeiter, Mrs. Hellinger, Mr. Lewis and Mr. Cinadr had no report this evening.

### **MAYOR'S REPORT**

Mayor Bender reported on the following.

- A meeting was held yesterday at the Longview County Building regarding the Catholic Charities' involvement in assisting homeowners who are unable to make their mortgage payments. They are urged to contact the Catholic Charities, 35 N. Park Street in Mansfield.
- Thanks were extended to the Streets Department for the snow and ice removal. The crews worked very hard and were very dedicated.
- Thanks were also extended to the Water Department for the long hours they have been working to quickly repair the daily leaks in the waterlines.
- The waterline leak on Park Avenue across from Woodbine is a Mansfield line which they are responsible for fixing.

### **SERVICE/SAFETY DIRECTOR'S REPORT**

Mr. Au informed Council members that City crews maintained traffic control for the 16" water main break until Mansfield could arrive. Due to freezing temperatures the area was salted.

Street paving will be voted on tonight. Mr. Au urged Council members to pass the legislation this evening in order to be able to bid early and get the lowest possible price.

Mr. Au directed his next comments to Mr. Weidemyre. Miscellaneous engineering has been forever in this city and we've had a city engineer in this city forever. One engineer can not possibly do all of the various things that are necessary, they don't all have the same expertise. It's very important we go forward with these grants and if we don't get these in, in a timely fashion, we're going to miss out. That's being quite foolish on our part if we don't do this. I would like to have those passed if we possibly can tonight.

### **LAW DIRECTOR'S REPORT**

Mrs. Thomas had no report.

Mr. Weidemyre asked Mrs. Thomas to explain to those present the letter she gave him. Mrs. Thomas said, because Mr. Weidemyre could possibly have a financial interest in the Ferguson Road area rezones she discussed with him and put it in writing that she recommends he not be involved in anyway in that rezone, in discussing it, any involvement in it or to vote on it. He's not to be commenting because it could be a conflict of interest to his financial interest in that area.

Mr. Metzger presented two liquor permit transfers from the Ohio Division of Liquor Control. Discussion took place during Caucus not to request a hearing, therefore, the applications will be processed and returned.

### **PUBLIC HEARING**

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At 7:27 p.m., Mr. Metzger opened the public hearing to rezone property owned by Eva Jean Schluter, located north and south of Ferguson Road between Stumbo Road and Fulwell Drive,

from R-2 Medium Density Residential District to R-1 Low Density Residential District. This is Ordinance No. 09-05.

Attorney Jerod Them, 76 N. Mulberry, representing property owner Eva Jean Schluter, came before Council to say: Mrs. Schluter has owned these two parcels of land that are subject of this rezone since 1975. I believe at the time she purchased that property it was zoned in its current state, that being R-2. It's also my understanding that even prior to her purchase of these parcels they were zoned multi-dwelling which is essentially very similar in the type of uses that R-2 allows. I'm pretty young but I can also remember how everything has changed on Ferguson Road and Lexington-Springmill. To the best of my knowledge all of the development, including the residential development on Ferguson, has all occurred with the same zoning structure. All those single family homes for the most part, I do know there are some condominiums as well as some apartment buildings, were all constructed and developed while the properties were zoned R-2. Mrs. Schluter requests for all of you to take the recommendation of the Planning Commission and deny this proposed rezone from R-2 to R-1 for the simple reason if her property is zoned R-1 we feel it would become unmarketable. Her property abuts State Route 30 and there's a reason why there is no development clear back off of Ferguson Road. No one wants to build their home right next to an adjacent state route. You may be able to get away with that in Cleveland or Columbus but you're not going to be able to market your land or development if you're going to have single family homes abutting State Route 30. If her property is zoned R-1 you're essentially creating an island R-1. You have to go all the way to the eastern city limits to find the next R-1, you have to go clear to the west side of Lewis Road to find the next land zoned R-1, and south of 309 to find properties zoned R-1, to the best of my recollection and looking at the zoning map. To me, that's per say, potentially spot zoning, it creates an island of R-1. Just her two properties alone that she will be subject to an R-1 zoning with everything else around her at the very least R-2 and then very near R-3 and subsequently Business. I don't even believe that that possible rezone from R-2 to R-1 would qualify as tier zoning by given the current state of the zoning map, as I recollect it. I also appreciate Attorney Thomas' advisement of Mr. Weidemyre because it is our thought that arguably Mr. Weidemyre could financially benefit from the rezone of Mrs. Schluter's property due to the fact that he does own a condominium very near or adjacent to her property. If her property is zoned from R-2 to R-1 and she has no current intended use, arguably that could have a financial benefit to Mr. Weidemyre. In conclusion, I would like to reiterate that this was unanimously denied by the Planning Commission and my client Mrs. Schluter would appreciate a similar verdict from Council when they ultimately make this decision in denying the proposed rezone from R-2 to R-1. Thank you for your time and if you have any questions of me I would be glad to answer them.

Mr. Weidemyre asked how he will financially gain from this rezone. Attorney Them commented: Mr. Weidemyre would have far less competition if any developer would want to put condominiums in there, there would be far less competition in trying to sell your condominium one day compared to if they are all single family homes back there. When Mr. Weidemyre said, you can't put condominiums in R-2, Attorney Them said he was speaking concerning the other rezones from the prior meetings.

Merv Shaffner, 580 Dogwood, was next to come before Council. Mr. Shaffner distributed copies of two maps and said: We started back in 1999 developing what is called Yeager Drive. We knew the zoning was R-2 and we knew we could build doubles, then we came before the Planning Commission with a plan to go with condos. I would like to ask how many of you live on Ferguson or Whitney, can I have your hands? How many of you checked the zoning before you bought? And, what was the zoning? One of the things I learned since 1961, I am probably the oldest acting realtor in Mansfield at this time, but the one thing I learned over the years is before we bought this property from Mr. Yeager we checked the zoning. We knew we could build doubles in there but didn't know if we could build condos. We went to the Planning Commission and with the help of the Planning Commission and Richland Engineering we got approved for the building of twenty-four units plus a future of twenty-four more. We also own on the north side of Ferguson Road which abuts the Schluter properties. We know that that is

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also zoned R-2. We're concerned. Ontario has done a very good job with their zoning and what we've done on Yeager Drive, as far as I can see, has not hurt the value of Fulwell Drive.

Because the sales of our condos are going under the trying times right now, everybody has a challenge, there isn't anybody in this room that doesn't have a challenge. Down the road, and I think I'm going to see it happen, the big four bedroom two story homes may start losing their value; heating, maintenance, insurance and overall costs. We're going to see the times, like I said to the young girl last night about carrying her cell phone, one of these times some of the people are not going to be able to afford all of these amenities. I live in the world of reality. Ford Motors sells more Fords than they do Lincolns, General Motors sells more Chevrolets than they do Cadillacs. With the R-2 zoning presently on both sides of Ferguson Road and Whitney that's going to give you other avenues to travel as far as future development. I think I'm more right than I am wrong because as this economy goes, as I said before to this Council, I said before Mansfield and Richland County Commissioners, Mifflin Township where I live, Madison Township, you've got to start being a little frugal with your money. It's not doom and gloom but I don't need to tell everyone in this room and all of you that we have a major challenge coming down the road and the biggest thing I'm definitely concerned about is General Motors. I'm concerned about where Ontario goes, I'm concerned where Mansfield goes, I'm concerned where the County goes, I'm concerned where Mifflin and Madison Township goes. We have a piece of property that is joined. I gave you maps and it's in the northwest corner of this property. We own the parcel on the north side of Ferguson Road, and yes, we would have to extend Ferguson Road. I would like to keep the avenues as much open without destroying the whole area. I am concerned about you people that one of the things you want to do, you can do whatever you want to but my advice is when you buy something check the zoning before you buy to make sure you feel comfortable with it. The only difference between R-2 and R-1 that I see in the regulations is single dwellings versus doubles. Coming up Ferguson Road you have Business, then you have the R-3 property on the north side of Ferguson Road, then you have the condos, then the single dwellings. Take a long consideration; I know you have good judgment. The one thing I found in real estate in order to survive, all the doors I can open that are legal, I use; residential, condos, apartments. I've always said over the years the more doors I have to open the more I'm going to survive. Thank you for your time.

Hearing no one else who wished to speak, Mr. Metzger closed the public hearing at 7:40 p.m.

At 7:41 p.m., Mr. Metzger opened the public hearing to rezone the property owned by Kent Sayers, located at 2200 Ferguson Road from B Business District to R-2 Medium Density Residential District. This is Ordinance No. 09-06.

Mr. Metzger read the letter submitted by Kent Sayers, 23 Stewart Avenue, because he could not be present this evening. The letter stated: I am the owner of the land at 2200 Ferguson Road, also known as the Ontario Pool and Tennis Club and Pelican Cove Miniature Golf, which is no longer in existence. I am against zoning my property from B to R-2. In 1981, I purchased the Ontario Pool and Tennis Club and I thought there was a need in the Village for a swim club. I remodeled it and I put thousands and thousands of dollars in it. I had the club for 18 years, not subsidized by the Village but privately owned by me and only me. I spent all of my time and money on this project and unfortunately I could not get the memberships up, therefore, I had to close. At this particular point, I still owe a lot of money on this place. I put a lot of time and effort into this and it just didn't work out. If you are going to zone me from B to R-2 the difference is quite substantial in the cost of the property if I should sell. Target was going to go in there and I was going to get a substantial amount of money for it but they backed out. We have been waiting all of these years, this is my retirement money that we're talking about, and I don't want to see that go down the drain. This would totally devastate me to switch to R-2. I think it is well deserving with the time and effort that I put into this community that we keep it at B. I am hoping that we can sell it as is and I can get a retirement out of that to help offset what I have put into this property over all these years. I really don't see any need to rezone, it's been this way for years. It's right behind Applebee's and hotels and I don't see it interfering with anything there. I'm asking Council to consider that and take my life into consideration and what I've done for this community over the years and what I've had to do. Thank you.

Hearing no one else who wished to speak, Mr. Metzger closed the public hearing at 7:43 p.m.

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At 7:44 p.m., Mr. Metzger opened the public hearing for the rezone of property owned by Max Scott Family Trust, located at 2248 Ferguson Road and city owned Stowell Park, from R-3

High Density Residential District to R-2 Medium Density Residential District. This is Ordinance No. 09-07.

Larry Arnold, 2385 Whitney Avenue, approached Council to say: I've been taking down some notes and I'm about to jump out of my skin on some of the comments. Mrs. Thomas, I respect the guidance that you gave Mark regarding potentially abstaining and I think that's appropriate conflict of interest. I think it a stretch to call it financial gain related to that property. I don't know if the attorney actually lives in that area but the reality is we've had a home sitting there for sale for I don't know how many years. There's been condos sitting there for sale for at least a year that I'm aware of, so as far as financial gain, I think it's a bit of a stretch. Island of R-1. I guess my question is what is so bad about an island of R-1? The way we are going and they way were are zoning everything Business and multi-family dwelling we won't have any R-1 in Ontario. You've got Lexington-Springmill that we're looking to zone all of those properties and that's fine, that's within their right, but where will we put all of these multi-family or if we want single family dwellings, where are we going to put them? It's like it is something bad to want to have single family dwellings. I point out on the multi-family, the R-3s, I don't know if those people are going to be paying much of a tax base towards the City. Again, I don't feel like there is anything wrong with an island of R-1 knowing that everything else seems to be zoned multi-family dwelling or Business. As far as financial benefit, again, it is a bit ironic. I understand the position that he's in and he can't vote, but make no mistake the individuals that are either bringing their attorneys up or are speaking, they are speaking on their behalf because of financial benefit. They want to make money. That's what it's about. The gentleman said right in his letter, you're talking about my retirement. Well, guess what, if you vote and zone it R-3 you're talking about my retirement and their retirement. There's no difference, I don't understand how Mrs. Schluter, that's a great family and I don't have anything wrong with them, I don't have any problems with the Scott family, they're a great family. I don't have any problems with any of those individuals but it is about money. It is about money for them and for us. You have a few families that have a financial gain and a ton of families that stand to lose for that. Make no mistake, it is about money; we're all here about money. He stated in his letter, there's no difference. It really gets down to, do you vote for three or four people to financial gain and everybody else loses the value of their homes or do you vote in the community where there's fifty, sixty, I don't know how many condos we have that are the R-2s and single family, how many are there? Do the math. There's a few to stand to gain if it stays R-3, and a lot to lose. Speaking to the gentleman, he said he spent a lot of money. I've been here at least eight almost nine years, that place has looked terrible until they bulldozed it down. I'm not going to say he didn't spend any money, but we looked at it for eight years as we drove by it and its finally been bulldozed down. It's not like it's been the Taj Mahal looking type business for a long time. I would just ask, you guys are put here on the constituents' behalf and there are times when you have to make tuff decisions, but I would like to think that when you make the decisions, it's for the greater good of the constituents not for a small minority of the constituents. Thank you.

Attorney Jeffrey Heck, representing the Max Scott Family Trust, 1 Marion Avenue, Suite 104, stood before Council to say: I am here tonight to speak on behalf of the Max Scott Family Trust and the Scott family farm at 2248 Ferguson Road. As Council is obviously aware of, there's a zoning change that's being proposed to change the zoning of my client's property from R-3 to R-2. My client does not wish to have the property rezoned. This request stems from Mr. Weidemyre and a group of individuals in the neighborhood in the general vicinity. And, indeed existing R-3 property already sits between those individuals' properties and my client's property; R-3 property is already sitting there. In some cases, there are individuals in the audience who own R-3 property and wish to have their R-3 property, of course, protected, but to affect the property rights of my clients and their R-3 property either across the street or basically right next door. The property we're talking about, the Scott family farm, has been owned by the Scott family for sixty years. It's been zoned R-3 since the beginning of R-3 zoning and prior to that time under the old terminology used by the Village of Ontario at that time, it was multi-family. It has been zoned that way since, as we understand it, the early seventies when zoning was put into effect out there. Bottom line, that zoning has been consistent for thirty-five plus years. In the meantime, those who wish this change have built, or

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bought homes or condominiums in that area well knowing of that very long standing zoning. I think Mr. Arnold's comments aren't structured in that regard, he's talking about the property

that he knew well was zoned Business when he bought out there. He drove by it for eight years, he said. He knew what it was, he bought out there, he made that choice, as did all these individuals who, as Mr. Shaffner points out and appropriately so, knew or had an obligation to know what the zoning was in the surrounding area in that community. They chose to buy or build in that area with the zoning as it is, as that zoning has been for, as I said, thirty-five plus years. Now, however, they wish to arbitrarily change the zoning for, let's be clear, their own benefits without regards to my client's property rights. They wish their property be enhanced and my client's property to be decreased in value. They are seeking to change the zoning. My client's are only asking the zoning be kept as it has been for thirty-five years. There is no justification for that, there's no zoning plan for that, there's no consistent method of zoning in that area right now to justify any such change. Bottom line is, there is no legal, there is no factual basis for any rezone and any change that this Council might chose to make over, I might add, the unanimous vote of your Planning Commission who you appoint to make these decisions and make recommendations to you. Their recommendation was 4-0 not to make a change. Any such change, ladies and gentlemen, would be unconstitutional, would be arbitrary, would be capricious, and would candidly subject the City of Ontario to potential liability. I think your law director can speak to that. It would be, in a couple of words, spot zoning, classic spot zoning. It would do nothing but hurt this particular property owner, restrict its use, it's a long existing use of its property when others surrounding it and immediately contiguous to it and across the street from it have already taken advantage of that R-3 zoning and continue to take advantage of that R-3 zoning as it stands right now. This is not, again, a part of any legitimate land use or zoning plan, it is simply for individual personal benefit for those owners in that area. Does it have to do with financial interest of my client's property, of course it does, decreasing my client's existing financial interest to the benefit of others increasing their financial interest that they don't presently have. They bought it as it is, they knew what it was or should have, and that's all we're asking is maintain it as it is. Now, Mr. Arnold talks about taxes. He talks about how people living in an R-3 aren't going to pay taxes. Well people living in an R-3 certainly pay city income taxes if they're working and the property owners, whether it be those individuals living there or whether it be the owners of property in general certainly pay property taxes that benefit this community, the schools and the like as a whole. So that argument, frankly, is without merit completely. Again, we're asking you very simply to consider the valid property rights as they exist right now, to not change this zoning, to follow the recommendation of Planning Commission and to vote, as you should, to maintain the zoning at R-3 of the Max Scott family farm that Max Scott Family Trust owns at 2248 Ferguson Road. Thank you and I will be willing to answer any questions that Council may have.

Mr. Weidemyre said: I was asked by my constituents to do this request, it was not for my personal benefit, I wish to point that out. If I make one dime more I will share it with everyone in this room.

Attorney Heck replied: I did not mean to suggest, Mr. Weidemyre that you weren't responding to a request. My point was that it was at your request that it was sent to the Planning Commission for consideration. And, along those lines, and I'm not going to labor the potential conflict of interest, the law director has addressed that, that is not for me to determine or to discuss at this point, but it is an issue. My point about that is, in our opinions with that potential conflict of interest this resolution and the reference to the Planning Commission by Mr. Weidemyre, for that reason, should never have been done in the first place and we think the underlying legislation is flawed because of it.

Mark Shaum, 2168 Ferguson Road, declined to speak, stating he had nothing to add to the previous comments.

Mr. Metzger closed the public hearing at 7:56 p.m.

## MISCELLANEOUS MATTERS

Mr. Zeiter made a motion pursuant to Section 26 of the Rules of Council, Procedure for Reconsideration, to bring back Resolution No. 09-01 before Council. Mrs. Hellinger seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion passed. Mr. Zeiter read Resolution No. 09-01, by title only.

A RESOLUTION AUTHORIZING THE SERVICE-SAFETY DIRECTOR TO ENTER INTO AN AGREEMENT WITH K.E. MCCARTNEY & ASSOCIATES, INC. FOR MISCELLANEOUS ENGINEERING SERVICES.

Mr. Williams made a motion to suspend the rules requiring the reading of Resolution No. 09-01 on three separate days. Mrs. Hellinger seconded the motion. Five members cast their votes Aye, two Nays by Mr. Weidemyre and Mr. Lewis and the motion to suspend the rules failed. Mr. Zeiter read Resolution No. 09-01 for the first time, by title only.

## CONSIDERATION OF ORDINANCES AND RESOLUTIONS

### ORDINANCE NO. 09-01

(THIRD READING) AN ORDINANCE REZONING PROPERTY ON THE SOUTH SIDE LEXINGTON SPRINGMILL FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO OS OFFICE SERVICE DISTRICT.

Mr. Williams read Ordinance No. 09-01 for the third time, by title only.

Mr. Lewis stated he received a letter from the Law Director suggesting he should not vote this evening due to a conflict of interest based on where he lives and the rezones of the properties on the east side of Lex-Springmill Road. Mr. Lewis said: There is no financial gain. I own a piece of property there that has a house in the middle of it that I've lived in for three years and as Mr. Shaffner said, I checked those residences before I bought the property to build on and it was all R-1. I only want to keep what I have which is a nice home in a nice neighborhood and is all R-1. Nobody on Creston Road, which is at the rear of these properties, is in favor of these rezones. There are numerous people even on Lex-Springmill, on the other side of the street, that are not in favor of this rezone. If I take the logic that the Law Director has put in this letter anything that would come up that would be subject to Ward 2, I wouldn't be allowed to vote on it because it would be a conflict of interest because I live in Ward 2. I live in Ward 2 and I ran in Ward 2 and I am the Ward 2 Councilman, therefore I will be voting.

Mrs. Thomas responded: You didn't tell everybody the whole story. Number one, your property abuts these rezones, that's the only reason this even came up is because it abuts the rezones. If it was someplace else in Ward 2 there wouldn't be a problem. The rest of the story here, I'm going to read the memo that I sent to Mr. Lewis.

We have previously had discussions concerning your voting on the Lexington-Springmill rezone ordinances. After researching the topic, case law goes both ways on the issue. However, to protect the City from this issue if there is future litigation I would strongly recommend you do not vote on the three ordinances concerning Lexington-Springmill. A court of law could very well look at your vote as a conflict of interest. It could go the other way too. As an elected official you also have to consider the appearance of a conflict even if one does not exist.

Mrs. Thomas continued: I never said anything about financial gain, I never said anything otherwise, it was all a matter of appearance of conflict and what could end up in a court of law because the courts have gone both ways on it.

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Mr. Lewis added: We operate under Roberts Rules. Roberts Rules says that I can vote on it and even if there is monetary gain, which I don't have, I can not be compelled not to vote, that is a direct quote.

Mr. Lewis made a motion to adopt Ordinance No. 09-01. Mrs. Hellinger seconded the motion. Two members cast their votes Aye, five Nays by Mr. Zeiter, Mrs. Hellinger, Mr. Blackwell, Mr. Weidemyre and Mr. Lewis, and the motion to adopt Ordinance No. 09-01 failed.

#### ORDINANCE NO. 09-02

(THIRD READING) AN ORDINANCE REZONING PROPERTY ON THE SOUTH SIDE LEXINGTON SPRINGMILL FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO OS OFFICE SERVICE DISTRICT.

Mr. Zeiter read Ordinance No. 09-02 for the third time, by title only.

Mrs. Hellinger made a motion to adopt Ordinance No. 09-02. Mr. Lewis seconded the motion. The motion to adopt Ordinance No. 09-02 failed with a vote of zero Aye, six Nays by Mr. Zeiter, Mrs. Hellinger, Mr. Williams, Mr. Blackwell, Mr. Lewis and Mr. Cinadr, and one Abstain by Mr. Weidemyre.

#### ORDINANCE NO. 09-03

(THIRD READING) AN ORDINANCE REZONING PROPERTY ON THE SOUTH SIDE LEXINGTON SPRINGMILL FROM R-1 LOW DENSITY RESIDENTIAL DISTRICT TO OS OFFICE SERVICE DISTRICT.

Mrs. Hellinger read Ordinance No. 09-03 for the third time, by title only.

Mrs. Hellinger made a motion to adopt Ordinance No. 09-03. Mr. Blackwell seconded the motion. The motion to adopt Ordinance No. 09-03 failed with a vote of zero Aye, seven Nays by Mr. Zeiter, Mrs. Hellinger, Mr. Williams, Mr. Blackwell, Mr. Weidemyre, Mr. Lewis and Mr. Cinadr.

#### RESOLUTION NO. 09-02

RESOLUTION OF INTENT TO CONDUCT AN INTERNET AUCTION FOR THE SALE OF UNNEEDED, OBSOLETE OR UNFIT CITY PERSONAL PROPERTY IN CALENDAR YEAR 2009.

Mr. Blackwell made a motion to suspend the rules requiring the reading of Resolution No. 09-02 on three separate days. Mr. Williams seconded the motion. Seven members cast their votes Aye, zero Nay, and the motion to suspend the rules passed. Mr. Blackwell read Resolution No. 09-02 for the first time, by title only.

Mr. Blackwell made a motion to adopt Resolution No. 09-02. Mr. Lewis seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Resolution No. 09-02 was adopted.

#### RESOLUTION NO. 09-03

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A RESOLUTION AUTHORIZING THE SERVICE/SAFETY DIRECTOR TO BID AND AWARD A CONTRACT FOR THE 2009 STREET IMPROVEMENT PROJECTS.

Mr. Williams made a motion to suspend the rules requiring the reading of Resolution No. 09-03 on three separate days. Mr. Cinadr seconded the motion. Six members cast their votes Aye, one Nay by Mr. Weidemyre, and the motion to suspend the rules passed. Mr. Weidemyre read Resolution No. 09-03 for the first time, by title only.

Mr. Weidemyre made a motion to adopt Resolution No. 09-03. Mr. Williams seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Resolution No. 09-03 was adopted.

RESOLUTION NO. 09-04

A RESOLUTION AUTHORIZING THE SERVICE/SAFETY DIRECTOR TO ENTER INTO AN AGREEMENT WITH RICHLAND ENGINEERING FOR MISCELLANEOUS ENGINEERING SERVICES.

Mr. Williams made a motion to suspend the rules requiring the reading of Resolution No. 09-04 on three separate days. Mr. Blackwell seconded the motion. Five members cast their votes Aye, two Nays by Mr. Weidemyre and Mr. Lewis, and the motion to suspend the rules failed. Mr. Lewis read Resolution No. 09-04 for the first time, by title only.

RESOLUTION NO. 09-05

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO CONTRACT WITH JULIAN & GRUBE, INC. FOR THE 2007 AND 2008 AUDIT.

Mr. Cinadr made a motion to suspend the rules requiring the reading of Resolution No. 09-05 on three separate days. Mrs. Hellinger seconded the motion. Six members cast their votes Aye, one Nay by Mr. Williams, and the motion to suspend the rules passed. Mr. Weidemyre read Resolution No. 09-05 for the first time, by title only.

Mr. Cinadr made a motion to adopt Resolution No. 09-05. Mr. Lewis seconded the motion. Hearing no discussion, seven members cast their votes Aye, zero Nay, and Resolution No. 09-05 was adopted.

ORDINANCE NO. 09- 05

ORDINANCE REZONING PROPERTY NORTH AND SOUTH OF FERGUSON ROAD BETWEEN STUMBO ROAD AND FULWELL DRIVE FROM R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT TO R-1 LOW DENSITY RESIDENTIAL DISTRICT.

Hearing no motion to suspend the rules, Mr. Williams read Ordinance No. 09-05 for the first time, by title only.

ORDINANCE NO. 09-06

AN ORDINANCE REZONING PROPERTY 2200 FERGUSON ROAD FROM B BUSINESS DISTRICT TO R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.

Hearing no motion to suspend the rules, Mr. Zeiter read Ordinance No. 09-06 for the first time, by title only.

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## ORDINANCE NO. 09-07

AN ORDINANCE REZONING PROPERTY 2248 FERGUSON ROAD AND THE ADJACENT 4.929 ACRE CITY OWNED STOWELL PARK FROM R-3 HIGH DENSITY RESIDENTIAL DISTRICT TO R-2 MEDIUM DENSITY RESIDENTIAL DISTRICT.

Hearing no motion to suspend the rules, Mrs. Hellinger read Ordinance No. 09-07 for the first time, by title only.

## ORDINANCE NO. 09-08

AN ORDINANCE ESTABLISHING PERMANENT APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF ONTARIO, OHIO FOR THE FISCAL YEAR BEGINNING JANUARY 1, 2009 AND EXPIRING DECEMBER 31, 2009.

Mr. Williams made a motion to suspend the rules requiring the reading of Ordinance No. 09-08 on three separate days. Mr. Cinadr seconded the motion. Four members cast their votes Aye, three Nays by Mrs. Hellinger, Mr. Weidemyre and Mr. Lewis and the motion to suspend the rules failed. Mr. Blackwell read Ordinance No. 09-08 for the first time, by title only.

## ORDINANCE NO. 09-09

AN ORDINANCE AMENDING ORDINANCE 09-08 KNOWN AS THE PERMANENT APPROPRIATION ORDINANCE, FOR 2009 BY MAKING ADDITIONAL APPROPRIATIONS TO THE ENTERPRISE FUND AND SPECIAL REVENUE FUND.

Mr. Weidemyre read Ordinance No. 09-09 for the first time, by title only.

At 8:12 p.m., there being no further business to come before the meeting, the same was adjourned upon a motion by Mr. Blackwell and a second by Mr. Lewis. At roll call, seven members voted Aye, zero Nay, and the motion to adjourn passed.

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President of Council

Regular

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Clerk of Council