

City of Springdale Council

October 21, 2015

President of Council Vanover called Council to order on October 21, 2015 at 7:00 p.m.

The governmental body and those in attendance recited the Pledge of Allegiance.

Mrs. McNear provided the Invocation.

Mrs. McNear took roll call. Council members Diehl, Emerson, Hawkins, Knox, Squires, and Vanover were present. Mrs. Harlow advised President Vanover that she was not able to be in attendance this evening.

President Vanover: Before we continue on, just for everybody here and everybody in the audience, under Ordinances and Resolutions, for Ordinance No. 22-2015, we are having a Public Hearing this evening. It doesn't say so on the agenda but that was scheduled and we will proceed with that. Council, we are going to add 5A and that is for Committee assignments - when we get there we will do that. With that said, we will move on to minutes.

Minutes

The minutes of the October 7th, 2015 City Council meeting were considered. Mr. Squires made a motion to adopt; Mrs. Emerson seconded. Minutes were approved as published with five affirmative votes; Mr. Hawkins abstained.

Committee Assignments

President Vanover: We need to do some quick housekeeping. We have unfortunately taxed our Boards with a few changes and so I want to bring those back up to full compliment. What my feeling and approach is, to assign Mr. Hawkins to Planning Commission to fill out the interim period - so basically for this month and November and then also to have Mrs. Emerson step into Board of Zoning Appeals, and again, that is just an interim assignment until we get into December and then everything will change at that point. I do need Council's approval so I guess I will throw it out. We will do Planning Commission first. Is Council in agreement that we assign Mr. Hawkins to Planning Commission? (Mr. Diehl made a motion to assign Mr. Hawkins; Mr. Knox seconded the motion. There were no other nominations or discussion. With six affirmative votes, the Council voted 6 – 0 to approve the motion.) (Mr. Diehl made a motion to assign Mrs. Emerson to the Board of Zoning Appeals; Mr. Squires seconded the motion. There were no other nominations or discussion. With six affirmative votes, the Council voted 6 – 0 to approve the motion.)

Committee and Official Reports

Civil Service Commission

Mr. Higgins: The Civil Service Commission met on October 1st, 2015 with all members in attendance and Mr. Thamann. The minutes from the August 6th meeting were approved with a 3 - 0 vote. It was noted at the prior meeting that the meeting time would be unanimously changed from 7:00 p.m. to 6:00 p.m. at all meetings going forward. It was requested that this change be made in the minutes and reflected to the Council. The Administrative Assistant hiring process in the Building Department is ongoing – the background check has been completed and that should move along quickly. There is a Violations Bureau Clerk test that was noted as a possibility for either December or January. There is currently a list that was set to expire the week after or it would reach its' one year, and therefore, could either be extended or expired. The Commission is looking at the probability of expiring that list for lack of available candidates. We reviewed the current eligibility lists for all positions with the newest one coming up as being the patrol officer test, which is set to expire in May of 2016. Currently the patrol officer eligibility list was reviewed with names replaced on it to bring it up to speed, with the need to look at hiring two additional candidates as two officers have indicated that they will be resigning from the City of Springdale and taking positions out of state. There is an Ohio Patrol Academy starting in January 2016 so for the need to move forward on that, the list was updated and approved. Various other correspondence between the Commission and Mr. Thamann we reviewed, with one of note, correspondence dated August 12, 2015 advising the Commission of the permanent appointment of Mr. Joseph Robers to the position of Patrol Officer. Thank you.

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Mr. Squires: The first item you mentioned was the Administrative Assistant in the Building Department and you mentioned the background check - did you say that was complete or is it still ongoing?

Mr. Higgins: The background check has been completed and at the time of the meeting, there was just a pre-employment physical left to do.

Mr. Thamann: Just to give you an update on that position - the candidate that we selected completed the background check, completed her pre-employment physical, and is slated to start November 2nd.

Rules and Laws	Mr. Hawkins	-	no report
Finance Committee	Mr. Diehl	-	no report

Planning Commission

Mr. Hawkins: Planning Commission met on October 13th and all seven Members were present. There were no matters of Old Business and one matter of New Business – the Compass Community Church came forward with a plan for revisions to the development plan at 161 Northland Boulevard. Specifically, they were looking to convert the existing professional office building at the southeast corner of Northland Boulevard and Boggs Lane into a religious place of worship. The property has 1.84 acres and is zoned General Business. It is basically a single-story 12,570 s.f. multi-tenant office building is what it had been and it's being converted into a church. The church has approximately 140 parishioners that attend. That was approved with a 7 – 0 vote. That concludes my report unless there are any questions.

Board of Zoning Appeals

Mr. Knox: The Board of Zoning Appeals met in this chamber last evening at 7:00 p.m. There were three items on the agenda before us. First of all, the owner of 11761 Lawnview submitted an application to appeal Section 153.097(B)(4) of the Code, requiring a shed must be set back a minimum of 5' from the rear property line. He was seeking a variance to allow the shed to remain in its current location. The Board of Zoning Appeals upheld his appeal on a 5 - 0 vote on the basis that his lot is a very unusual shape and if he had to move it, it would be a hardship to him. Next, the owner of 11744 Van Cleve Avenue had submitted an application to the Board to appeal Section 153.492(B)(1) of the Zoning Code requiring that there be no more than one detached accessory building other than the garage in a residential zoning district. The Board took a look at this and said that we didn't think it was proper that there be two sheds in the backyard and we turned it down, 0 – 5. Then the owner of 352 Cherry Street had submitted an application to appeal Section 153.097(B)(2) of the Code, prohibiting accessory structures constructed in the front yard setback and was seeking a variance. This is a very unique situation - this is on Cherry Street, which is in old Springdale. What he had done is he just extended his porch about 10'; he didn't get any closer to the road. In fact, he commented that the house was built before the road was put in so the fact that it is only 22½ feet from the road is an interesting point. We upheld his appeal, 5 - 0. That concludes my report. Thank you.

Board of Health

Mr. Squires: The Springdale Board of Health (BOH) held their meeting on October 8th at 7:00 p.m. All Members were present. The Minutes from the September 10th, 2015 meeting were approved. Under Old Business and New Business, those two items were combined into the one Health Commissioner's Report this time. The Health Commissioner, Mr. Clayton, gave a very detailed report on numerous items and I will attempt to hit the highlight of those for you. Under Nuisances, Animal Bites, and Foodborne Illnesses, there were seven of those, which is not very many but there was one animal bite in that particular group. However, the animal in question was found to have been properly vaccinated and no further actions were necessary. The Board did have its first reading of the food service license, retail food establishments and vending location licenses operating fees for the year 2016. That was the First Reading, a Public Hearing will follow that. Under the Ohio Healthy Community award, it is to be noted that the Springdale Health Department application for the Ohio Healthy Community award was submitted on September 14th; we saw it - it was over 240 pages. I hope they read it. The goal, of course, is to obtain the Gold Award. I had a short meeting with the Commissioner this afternoon about that and to give you an idea of where the Health Department is, the City of Cuyahoga Falls is the only city that submitted for this award to have taken properly three steps.

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Mr. Squires (continued): As I understand it, there is only one step to go. The City of Springdale has taken two proper steps with two to go and we share that with the City of Brunswick, the City of Cincinnati, the City of Oberlin, Columbus City, the City of Dayton, Genoa Township, the City of Kettering, and the City of New Albany. So those cities have all successfully completed two steps toward the goal of getting the Gold Award for that. Only one city has taken three steps. The Annual Health Fair conducted by the Health Department was held on Tuesday, October 13th at the Springdale Community Center. At that Health Fair, citizens were given their flu vaccinations and I will note they were free for children. Free blood pressure checks were given, free hearing screenings were given, free diabetic screenings were given, and free body mass index were also given at that particular meeting. The Healthy U Diabetes Workshop, Nurse Jean has that every year, and it is going strong again. It began October 15th. It will be a six-week program for those who are afflicted with that particular problem and are having trouble with their diets and so forth so they are getting some very professional advice there. To jump to the Nurse's Report, it was considerably about the upcoming marijuana issue. The Board of Health of course is not going to go on record as promoting smoking of marijuana; they don't promote smoking at all, so that is out. She did go into some details about Issue 2 and Issue 3. Issue 2, as I understand it, is an anti-monopoly issue of that, whereas Issue 3 gives the ten or so citizens of Ohio the exclusive right to grow that material and thus market it. So Issue 2 is anti-monopoly and Issue 3 just takes the whole works in.

Going back one little bit – The Willows. The first thing I mentioned was the nuisances, animal bites and foodborne illnesses - I hope that you have been taking some note about this as we go along in the reports that I have been giving to you - it seems the Willows are always numerically ahead of everybody else in that area. The Health Commissioner has taken some research onto that and he is certainly in agreement with that statement and he has set up a Willows Work Group. They had their first meeting October 9th and the Mission Statement is essentially this: "To promote safe, healthy, decent, habitable housing in the Willows Apartments." Under Objectives, one of them is well-maintained property including, but not limited to, well-kept grounds, well-maintained buildings' exterior and interior. That meeting had so many people in attendance that there wasn't room in this Council Chamber for them. They had to put it downstairs in one of our meeting rooms. The Mayor and I saw the pictures of those and it was considerably well attended. There were four groups there that represented the concerns: one was the Archdiocese; there was a labor group that was in attendance; the owners of the Willows were in attendance; and the people representing the residents were in attendance there. The Health Commissioner and the Board of Health have just taken a stand that they are going to solve some of these problems. They wanted a cooperative-type thing and the Health Commissioner feels very solid that if you are not cooperative with it, then you are part of the problem. It is on-going and he is very serious about it and it is the first time I have seen anything of this nature within an apartment complex like this. It is quite necessary that this be done; there are just too many problems coming out of there. One good thing that has come out already of that, and this is a tremendous quantity - the Mayor and I were both stunned when we heard it, but the owners of that complex have pledged \$700,000 for exterior improvements to be made by the first of the year; interior improvements is another case in point. I talked with the Commissioner about that and it is more involved than just knocking on the door and going in and saying, "May we see your place". It is not going to happen that way. Many of those residents over there, if they see you are from the government, they clam up, really. That's exactly where they are - they are afraid that things are going to happen to them. There is a lack of trust there and that has to be overcome. They are stepping in the right direction. It is a challenge, the City was involved in that meeting and we were represented by the Board of Health, the Fire Department, the Police Department, and Public Works, so they know that the City is behind them. The City wants their problems solved, it looks like the owners want the problems solved, so we have a very good thing going for us at this time. The Health Commissioner is doing a very positive thing about this. The meeting that I had with him indicated that he is very anxious to get this done and I think he is going to. It is going to take some time, but this is the first time in my career as liaison to the Board of Health that they have come up with something like this. This is a very positive thing. We will keep you informed as much as we can and just watch him. It's going to be very interesting. Unless there questions, that would conclude my report.

Public Utilities

Mrs. Emerson - no report

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Public Relations	Mr. Hawkins	-	no report
Capital Improvements	Mrs. Emerson	-	no report
Public Welfare, Safety, & Education	Mr. Diehl	-	no report
Housing Board	Mr. Squires	-	no report
Public Works	Mr. Squires	-	no report

O-K-I

Mr. Knox: Mrs. Harlow is going to report on last month's meeting at the November 17th meeting but there was nothing that really effected the City of Springdale.

Mayor's Report

Mayor Webster: It's with a heavy heart that I announce this evening the passing of a real Springdale patriot, Mr. Ronnie Basham. He was a Marine Corp veteran. He and his twin brother served two tours of duty in Vietnam. Ronnie was very active in the local Nazarene Church. I think that anyone that came into contact with Ronnie Basham left much, much richer. He was one fantastic human being and our prayers and thoughts go out to Ronnie's family and his friends and he had many, many friends.

Today we kicked off our SOS Christmas program for the needy children in the area. We need donor families so if anyone out there would like to get involved, please contact Marsha Hctor, who is one of our police officers who coordinates this for us. Her number is 346-5774 and if you want to adopt a family, that's great. If you want to do the shopping for them or if you want to just donate money, then we will furnish the people to go out and do the shopping and wrapping and so forth. As a matter of reference, last year we helped over 170 kids, I think 100 families. I am sure this year's need is just as great as last year's so please open up your hearts and, more importantly, open up your wallets. We couldn't have done this last year without the help of all the people here on the dais and I am sure that you guys will stand with us again this year.

Veteran's Day will be November 11, at 1:00 p.m. over at our Veteran's Memorial site. We will have a special part of the program for Mr. Basham.

On a lighter note, our Waffle House will open Monday, October 26th at 9:00 a.m. so get there early, get in line - I'm sure it will be a long one.

Halloween Trick or Treat will be Saturday, October 31st from 6:00 p.m. until 8:00 p.m. so please drive careful and don't run over our children. Thank you very much.

Clerk of Council/Finance Director

Mrs. McNear: I have a general fund update through September 30th - General Fund Receipts - we have a budget of \$16.153M and we have received \$13.145M. Our top five sources are Earnings Tax, Real Estate Tax, Paramedic Services, Local Government Funds, and Mayor's Court - that totals \$12.319M, or 94%, of our total receipts. For Expenditures, we have net expenditures of \$16.83M. We have spent \$12.124M, and that is 71% of our budget. Our ending General Fund ending balance is \$3.469M. That would conclude the Financial Report. Thank you.

Administrator's Report

Mr. Parham: Council, I just have one item for you. If you recall, at the April 1st Council meeting, we reported to you and requested legislation that you may have even adopted that evening on a number of pieces of City property that was no longer needed for municipal purposes. I just wanted to give you an update of where we are in that process. I think we had over 230 items to start. About 112 of those, I believe, were added to the trash list. About 96 of those went on GovDeals.com. Then another 17 of the items I believe we were able to donate to other organizations. For example, with the Fire Department, we had these gloves that they could no longer use. We were able to assist two other Fire Departments. One was a volunteer Fire Department and the other is a department that has less resources than ours. So, we were able to assist them and donate those gloves to those organizations.

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Mr. Parham (continued): Just to give you an idea on the process, we began advertising the items online on August 27th. The first round of items is anticipated to conclude on November 18th. The reason I said the first round is because we had a couple of things that were not bid on. As of this morning, 50 items have been posted online. Thirty-nine (39) items have been sold. Nine of the items received no bids. We had one sale that cancelled, and one bidder defaulted on the sale. As a result, we have been able to have a total amount in sales of \$18,109. Of that total, we have to pay GovDeals.com \$1,321 and then we have fees associated with PayPal and credit cards for another \$377.00. Therefore, our net revenue for this process so far, we have accumulated \$16,411. As of today, there are 17 items that are up for auction and then there will be another 23 items that will be posted over the next three weeks. The items are usually posted on Thursdays. With that, I will answer any questions that you might have. It sounds like a successful program. We will be doing some more spring cleaning in upcoming years.

Law Director's Report

Mr. Forbes - no report

Engineer Report

Mr. Shvegza: On the West Kemper Rehabilitation Project, the contractor has completed the work on the punch list items and now a final review of that work will need to take place. On the Boggs Lane Rehabilitation Project, the pavement repair and intermediate asphalt course has been completed. We anticipate that the final asphalt will be completed yet this week. They are looking at the completion of the entire project by the end of the month.

On the 2015 Street Improvement Program, we had discussion with contractor - because of the lateness of the year, they didn't think they would be able to complete any of the items that were part of the project. We didn't want those construction areas to be left uncompleted over the winter, so they have decided to wait until next year to begin work and that's JK Meurer is the contractor and their completion date overall is May 31st of next year. The Public Works staff has continued to work to acquire contractors to do some of the other aspects of the work, as part of that project but they're having difficulties because a lot of the contractors' projects were delayed from earlier in the year and they are very busy trying to complete that work so they're still anticipating trying to get some of that work wrapped up. The Vista Glen repairs at 403 Vista Glen, which consist of the catch basin construction, the removal and replacement of the rolled curb and pavement repairs have been completed. The Route 4 south-bound lane addition, really no change there - the land preparation is still in progress. The Stage 3 Plans will be submitted to ODOT November 16th. That concludes my report.

Communications

Mrs. McNear: Nothing this evening. Thank you, Mr. President.

Communications from the Audience

President Vanover: At this point, we will open the floor up for anybody that wants to address Council for any reason except for the Public Hearing - that will be carried under the Public Hearing. If anyone would like to address Council for any reason, please step forward. (None) Seeing there is no one, we'll close Communications from the Audience and we will move to Ordinances and Resolutions.

Ordinances and Resolutions

ORDINANCE NO. 22-2015

APPROVING A MAJOR MODIFICATION TO THE PLANNED UNIT DEVELOPMENT (PUD) AND PRELIMINARY DEVELOPMENT PLAN TO CROSSINGS AT THE PARK PUD (TRI-COUNTY COMMERCE PARK) AND DECLARING AN EMERGENCY

President Vanover: This is the Second Reading. At this point, I will open the Public Hearing for anybody that would like to speak in favor or against the project. Please step forward; there should be a pad there for you to sign in on. First we'll do a presentation from the developer and then we'll open it up.

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Mr. Dragon: Thank you. My name is Steve Dragon and I'm with Vandercar. We are the developer for the case in front of you this evening. I would like to thank the City of Springdale Staff and the Planning Commission for all of their hard work and effort through this process. In April of this year, we submitted a preliminary PUD plan for a major amendment to an existing PUD zone to permit development of the GEEAA Golf Course and former employee park to a business park known as Tri-County Commerce Park. Following public hearings at the May, June, and July Planning Commission meetings, the Commission voted not to recommend approval of that plan. In August, this Council voted not to approve any major amendment for the plan that is shown on the screen right now. Based on discussions from the Planning Commission meetings and after seeking concurrence from City Staff, we identified the primary objections to this plan and those were as follows: First, there were a number of concerns related to a large outdoor storage yard proposed adjacent to the Building 1 site, highlighted here in purple. Second, the overall building size of Building 1 and Building 2 in height were of concerns for Planning Commission. Finally, the building setback from the eastern property line was an additional concern or objection to the plan. In recognition of those objections, we have submitted a Preliminary Development Plan that is before you tonight and has been recommended by Planning Commission unanimously for approval. The plan includes the following revisions: first, the outdoor storage yard has been eliminated from the plan and we have submitted revised covenants, conditions, and restrictions for the development that remove provisions permitting development of outdoor storage areas as well. Buildings 1 and 2 have been reduced in size from 421,200 s.f. and 441,750 s.f. respectively to 374,400 s.f. for each building, which is a reduction of approximately 15% in total floor area. You can see the difference in the building sizes here. In addition, we have modified the plan to restrict the building height to a maximum of 44', which is a reduction from the previously proposed 48'. Additionally, we have increased the building setback on the eastern property line to double what was previously proposed, from 125' to 250', doubling the minimum distance from that property boundary. In conclusion, the modified plan that we are presenting tonight and that Planning Commission is recommending approval of, we believe offers the City the best opportunity for a responsible development of this property, it significantly improves the value of the property, and provides an engine for job creation and encourages major private investment in the City. We are excited about this development in bringing it to fruition and we respectfully ask this City Council approval this evening. We do, however, need to request a minor amendment to the approving condition that came out of Planning Commission. There was language included in the approving condition that is on the screen in front of you and I will read it. It says, "... any uses involving chemical, biological, or hazardous materials be reevaluated with the Final Development Plan". While I believe we are in agreement with the intent on the language, unfortunately the language, as written, is so broad as to limit every possible business that exists. A chemical material is any material including water or cardboard; it is every material. Biological is a little more circumscribed, but not much. It is anything that can be found in a living organism, again water and that kind of thing. We recognize the intent is to limit dangerous business from locating in the Park. We have included a number of the restrictions in the covenant and restrictions that are before you that attempt to address those items. We would also offer an additional restriction that we think better speaks to the concerns as we understand it, and that is the language that is in front of you. Basically, it reads, "No building shall be used for the manufacture, storage, distribution or sale of any product that causes or has the reasonable expectation to cause conditions of noxious fumes, odors, dust, gases, radiation, vibrations or noises that will be injurious or hazardous to other property in the Park or neighboring property or for any use that is in violation of valid applicable laws." We hope this addresses the concern, we've shared this with Staff and asked for comment on it; we have gotten, I think, a generally positive reaction to it. Unfortunately, the language that was in the approving condition is, like I said, so broad it restricts potentially any possible business from locating at the Park. I've made some copies of the two versions of the language. We'd ask you to consider a minor modification to change the language (passing out Draft Language of Planning Commission Condition handout).

Mr. Rob Smyjunas: Good evening, I'm Rob Smyjunas with Vandercar and I just wanted to make one short comment. Although we do agree with the intent of trying to keep out bad things from the park, we already want to keep out noxious and hazardous materials out of the park because the owners of the buildings don't want them in there either. We're building buildings before we know the tenants and that is why we have the declarations as part of this process, to make sure that any tenants coming in know what they are going to be leasing. They are going to be leasing a building that doesn't allow certain things to be put in there and they will be in violation of the lease if they do so. In order to build these buildings ahead of time to be ready to leased, we go out to banks and get a loan.

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Mr. Smyjunas (continued): The banks are looking at this kind of language and they say to themselves and they say to us too, because we ran this by them and they are saying, "this language is pretty broad, who are you going to be able to lease to if you have this kind of language?" That is the reason why we're putting forward this very specific language here to add to or to replace the language that was put into the approval to make it even more, I guess, more transparent as to what the intent is. We are just asking for a modification to that language to make it even more robust but also to make it transparent. Thank you.

Mr. Diehl: Mr. Forbes, have you had a chance to comment, to review it?

Mr. Forbes: I have seen both the language that came from Planning Commission and today I believe I saw this, the proposed language. I guess at this point all I would say to Council is it is well within Council's authority, when you are considering what is before you tonight, to make this type of modification.

Mr. Hawkins: I just want to be clear, the draft language that was approved by Planning Commission wasn't forbidding chemical, biological, or hazardous materials; it's just saying that any use involving chemical, biological, or hazardous materials be reevaluated with the Final Development Plan. Planning Commission didn't say they could not have biological, chemical, or hazardous materials on site - it just said that if that is going to happen, it's going to be reevaluated with the plan.

Mr. Smyjunas: That's correct. If I can comment to that, and that is the case, but we are building spec buildings so we wouldn't know what is going to go in those buildings. So our lenders would be saying that the language that we have here would not allow biological, or chemical, or anything to go in the buildings. So do you see what I am saying? We are trying to get a \$20M loan and I understand what the intent is - the intent isn't to just not have noxious uses inside the building; I understand that but biologics is just so broad. The definition of biologic is, literally, goes down to water.

Mr. Hawkins: And I understand; I'm not trying to be difficult necessarily but, on the other hand, this language doesn't say that you can't have it. It is just saying that if that is going to be the case, it is going to be looked at with the mindset of trying to make sure that it is not a bad situation. Now you are saying that you are going to the banks and the banks are telling you that you are building these spec buildings and because of the possibility that someone may say, down the road, if you come back and you fall under one of these situations, chemical, biological, or hazardous, it may get turned down. That is what it is.

Mr. Smyjunas: I guess what we're coming into - we are going to be coming back to your Planning Commission here, very shortly in fact, for three buildings and, in order for us to get a loan, we'll come back and we will get an approval but subject to these biologicals so we don't know what we can put into the building. We are not even sure what the tenants are going to be. We have talked to some tenants that are interested but they want a building up first because most of these users make their decision yesterday and want to be in it tomorrow. So we have to build spec buildings and this language kind of makes it a little difficult to build spec buildings.

Mr. Dragon: The other issue with the language as drafted is, you're right, it doesn't say you can't do anything; it just says that they are going to reevaluate. If I break it down, it says any uses involving chemical materials be reevaluated with the Final Development Plan. Every use involves chemical material. So basically there is no business that, no matter how benign, that is permitted in this park without reevaluation by Planning Commission, nor is there any guidance as to what that reevaluation may entail. It doesn't say it is related to hazards, it doesn't say it is related to dangers or fumes. It just says that we are going to reevaluate it. So basically, as it is written now, and I don't think this is the intent, what it says is every single business is reevaluated at the complete whim of the Planning Commission. Do you understand what I am saying? I don't believe that is the intent. I am not trying to cast dispersions on what the Planning Commission was doing, I am just saying when you look at it as a cold legal document, you are saying every business that comes in will be reevaluated before you even know if it can locate there and it doesn't say on what basis; it is just that it will be reevaluated, because we don't like the color of your logo? I am being facetious, but there is no guideline there. Nothing is permitted by right in this PUD with that language in place.

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Mr. Hawkins: But when you go back to the Planning Commission, you're not going to know what is going in the buildings at that time either, right?

Mr. Dragon: Correct.

Mr. Hawkins: I deal with language every day and it's important what it says. Some language is more favorable to one person than to another; I get that. If I were representing you, I would want the broadest language possible that benefits you. The concern becomes at some point, and again I probably went to all but maybe one or two of the Planning Commission Public Hearing meetings spectating, the concern becomes for all of the residents what will be there and what is the impact going to be potentially on the residents. And so, I am sure Planning Commission, part of that concern, was trying to limit what is going to go in there. Even when you go back to Planning Commission on the Final Development Plan, you are still not going to know what is going to be in there and it is going to be potentially broader. I understand and I appreciate the fact that you have come to try to solve a problem with a solution with the proposed language, but it is just a little bit concerning for me.

Mr. Dragon: No, and I agree that you are exactly right to a certain extent. Maybe this is better language for us; it lets us do anything we want because how can you enforce that? But I think it is in everyone's best interest to have a well-understood approval that we know what the City wants and we know what the expectation is and then we can move forward with all the best intentions to achieve it. That is what we were trying to provide language that we think delineates what the intent of it was and gives the City the protection that I think Planning Commission and the City Council wants in regard to that and doesn't leave it sort of open-ended and unenforceable.

Mr. Hawkins: Thank you, Mr. President.

Mayor Webster: Mr. Forbes, if Council adopts this proposed language, does this issue then go back to Planning Commission?

Mr. Forbes: Well, no, not necessarily. Council has the authority to make a modification tonight. What is before you, and by the way I know we are talking about this as a use restriction or draft language from the Planning Commission - this is an actual condition that was imposed by Planning Commission. Council has the authority to make a modification tonight and that modification would not go back to Planning Commission.

Mayor Webster: Okay. With that knowledge in hand, I would suggest that, and I too, Mr. Hawkins, was at all of the hearings and I think that this two-line statement here about the biological and chemical and hazardous waste was sort of a stop gap measure and I think there was a concern on Planning Commission that that be a safe site and that we not allow chemical, biological, hazardous waste materials on site and so on so I hear what the developer is saying, but I hear what the Planning Commission is saying also and I think that a more reasonable approach would be to have these guys go back to Planning Commission and have Planning Commission work out the language. This is their version. Let's let our Staff, Legal, Planners, and so forth and so on negotiate this and come up with something that is acceptable to everyone concerned. And then, if the two Council Members on Planning Commission vote that it is a minor modification, which I certainly would think that it would be, it doesn't have to come back to Council so all we're doing is sending these guys back to the Planning Commission, those were the ones that put this in here to start with. I think those are experts and we should use them. Just one man's opinion.

Mrs. Emerson: I have some of the same concerns that the Mayor and Mr. Hawkins have. With your verbiage, it basically takes all of the control away from the City; it puts it in your hands to decide what is hazardous, radiation, any of those - it takes all of that away from us to even reevaluate anything that you put in there. Where the top language, it still gives us the control to say yes, we will accept it or no, we won't - is that correct?

Mr. Smyjunas: I beg to differ with that because you have enforcement rights under the declarations and it is written into the declaration that you have enforcement rights under those. So that is not the case and, in fact, the City does have a bite of the apple all of the time because they are party to the declaration.

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Mrs. Emerson: Is that true, Mr. Forbes?

Mr. Forbes: Yes, let me address that. In fact, what we are talking about that came from Planning Commission is a condition of approval. So actually, Council, you do have a couple of options, if you have any interest at all in the proposed language. You could make a modification and substitute this proposed language for that condition for Planning Commission. But the other thing you could and probably should do, if you have any interest in ever doing this, is you could make another condition of approval that this language be inserted in the declaration, which I think is what they have proposed.

Mr. Smyjunas: It is.

Mr. Forbes: It may already be there. If that is the case and this language is part of the declaration and the covenants, then yes, the City is a party to that and you have enforcement rights under that. In the event that a use went in one of these buildings that the City believed was injurious or whatever that language says, you have enforcement rights under the declarations.

Mrs. Emerson: So are we going to be informed ahead of time, before these companies purchase and move in?

Mr. Smyjunas: All these companies will be leasing; it's subject to those declarations. So if they do violate the declaration, they will be subject to that violation themselves. So yes, you will have policing powers over those violations.

Mr. Knox: On a different subject, south of Building 8 and south of Building 2, there are two areas shown as ponds. Are they ponds or are they, in fact, detention basins?

Mr. Dragon: They are ponds in that they have a continuous pool of water. They will be used for storm water management as well. They will be wet ponds.

Mr. Knox: Thank you.

Mr. Hawkins: Also, along the lines of one of the Planning Commission meetings, there was some discussion about plaques that were on trees - the people had donated or were there to memorialize them in some kind of way, is there anything that is being done with regard to those plaques on trees - has that been part of the development in terms of how to preserve that in some kind of way?

Mr. Smyjunas: I guess the GEEAA has already been removing all of those plaques. That is my understanding from the last meeting, Mr. Neff was saying that.

Mr. Hawkins: Okay.

Mr. Diehl: Thank you. I actually think this thing has gone on pretty long and we need to come to a conclusion here. Mr. Forbes, I have a question for you - is there anything negative in the proposed language that I am reading here now, for the City?

Mr. Forbes: Is there anything negative for the City? What I would say is that the proposed language, as compared to the language that came from Planning Commission, I would say actually on one hand, on a positive note, it is more clear, in the sense that it does say no building shall be used for these things. So it is actually a little stronger, in a sense. The Planning Commission language says if any of those things are there they have to be reevaluated. This actually does go one step further to say that actually no building shall be used for this. The only question or comment that I have and it only goes to what I believe was the intention of Planning Commission, is that this speaks of whether this use would be injurious or hazardous to other property or neighboring property. The only thing that is missing from that is not just property, but persons or people, which I believe was part of the intent of Planning Commission.

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Mr. Parham: Mr. Dragon, the copy, since you referenced that Staff has had a chance to take a look at this language, the copy that we took a look at had language that says, "unless otherwise approved by Planning Commission", but I see that was removed from the current version - is there any reason that you removed that language?

Mr. Dragon: I don't think there was a reason. We can certainly put that back in if that improves it. I think we felt like we were being more restrictive without leaving that sort of back door. I guess that I am assuming that's sort of stating to a certain extent it is always an option to go back to Planning Commission to pursue something, a change. I don't recall making the revision to the language. I would say what we are showing tonight is a little more restrictive on the developer and the development than the previous versions but I don't specifically recall removing it. So I think we would be fine with either version though. We would still leave the Planning Commission as having review rights, I think that, to a certain extent, is a given.

Mr. Parham: I think that the previous language, the one that I am speaking of now, as well as the language that Planning Commission approved, as Mr. Hawkins indicated, does not prevent you from having those items. Clearly your language is a bit more specific, to call out certain things. But in any event, I think that the developer has to come back before the Planning Commission. Mr. Forbes and I were talking about this a little earlier; it is not necessarily clear when it says that it has to be reevaluated. What does reevaluated mean? The assumption is that reevaluated means that it has to come back before the body that gives the approval so I would suggest that they have to come before Planning Commission. The language they had in the previous version that I first saw yesterday actually clearly says, "unless otherwise approved by Planning Commission", which again, means that you have to come back before Planning Commission.

Mr. Dragon: Yes, the version without that clause doesn't give us the option to even deviate from the restriction, so that is the reason that I was saying it is a little more restrictive in this way. The intent was really to try to craft language, offer language that we felt met the intent of the concern, and we think we've done that. If it makes an improvement to add, "to persons or property", then I think we are comfortable with that too. It certainly wasn't the intent to limit it to real property. It was more trying to spell out what we, as developers, what future owners, maybe multiple owners down the road from us, have as an obligation to keep out of the park.

Mr. Squires: I like the idea of inserting "hazardous to other property or human beings", and so forth that you hinted at. Are we to the point now to take what the Mayor, I think, has suggested, that we do not act on this - that we send it back to Planning Commission for a thorough review of this language? I understand that you were going back there anyway. Is that correct?

Mr. Smyjunas: We would be going back there with the Final Development Plan. What we are asking is to have that language so that we can go back to the Planning Commission knowing that next time we go back that we are going back with the Final Development Plan for buildings. If you ask us to go back there to Planning Commission, we going back there for a modification of that language.

Mr. Squires: So you would like for us, as Council, to modify this proposed language?

Mr. Smyjunas: So that next time we go Planning Commission.

Mr. Squires: You will have this out of the way?

Mr. Smyjunas: Yes. And we would be going to Planning Commission with Final Development Plans for a couple of buildings, if not three.

Mr. Squires: Okay, thank you. Mr. Forbes, was that injurious or hazardous to other property, does that imply that it would be to human beings, as well?

Mr. Forbes: When we are talking about a restriction, I would hate to go through all the work that Planning Commission, Council, Staff, the developers have done and then let this rest on, does it imply something? If you want it to say something, then say it.

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Mr. Forbes (continued): That being said, and I don't want to speak for the Mayor, but I believe what the Mayor was talking about when he talked about sending something back to Planning Commission, when he was talking about whether that would be a minor modification, what that would mean is actually taking action on it tonight as it has been presented to you with the restriction that Planning Commission presented. Then the approval would be over and then, if the developers wanted to go back and seek a minor modification, or if the two Council Members deemed it to be a minor modification, that was how that process would work. I don't want to speak for the Mayor, but I don't think he meant send the whole thing back to Planning Commission now.

Mayor Webster: For someone that doesn't want to speak for me, he did an excellent job. No, I am not proposing that you reject Ordinance 22 - I am saying approve it as is, with this Planning Commission language in there; let them go back and negotiate, if you will, appropriate language that is satisfactory to the Planning Commission, to the developer and like they'd said, if the two Council Members vote it is a minor modification, it doesn't have to come back here so all we're asking these guys to do is to go back to Planning Commission with this issue and this issue only, before they present their Final Development Plan for the first three buildings or whatever they propose to do. That is all I am saying - good job Jeff.

Mr. Squires: One follow up question on that for either one of you gentlemen - there isn't going to be any building modification, is there?

Mr. Smyjunas: No.

Mr. Squires: Okay. This is the only modification that we have right here?

Mr. Smyjunas: That is the only modification, yes sir.

Mr. Squires: So the plan as we see in front of us is it - I am not talking about this language, I am talking about just the modification, the physical modification?

Mr. Smyjunas: Right.

Mr. Squires: Okay, thank you.

President Vanover: As a Planning Commission veteran of many sessions and years, these, when the final amendment is read, one of the last actions of our Secretary on Planning Commission is to ask the applicant if they can live with this. So at some point in time, in that process, the original, as it is right now, was presented to them and said, "Can you live with this?" Then there was an approval, and then Planning Commission voted on this. I will clearly state right now my feeling is, much as what Mayor Webster has stated, that we send this modification back to Planning and let them iron it out with Staff and Planning Commission. I quite frankly have full faith that the Planning Commission is capable of doing their job and allow them to do what they have done thus far. I have said my piece.

Mr. Squires: You having said that, let's get this thing moving and see how we go with it.

Mr. Dragon: Excuse me...

Mr. Squires: I would propose, as Mr. Vanover suggested, that Council, that we send this back to Planning Commission and have them review it and have them act upon it on this proposed language modification, as it exists.

Mr. Dragon: I just wanted to comment and I don't suspect this changes the course of events at all, and I don't disagree with Mr. Vanover's description of what is customary - we were not given an opportunity to comment on this language at the Planning Commission meeting. It was read after the Public Hearing and discussion portion was closed, as the motion was made. Unless I missed it, and that is possible, we were not given an opportunity on this occasion to comment on the language, so again, just wanted to put that out there. Thank you.

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Mr. Parham: Just one clarification - I think that we have to be clear, we are not sending anything back to Planning Commission. The only thing, Council, what they request of you is that you consider modifying this particular language and then adopt it. If you choose that you do not want to modify the language, then I believe what they would like for you to do, is to adopt what is before you this evening. If you adopt what is before you this evening, we don't send them there, they then make a choice as to whether they are going to go to Planning Commission or not.

Mr. Forbes: What Mr. Parham said. I will also point out, just procedurally speaking, that we are in the middle of a Public Hearing so it's not appropriate to take any action on anything right now. Continue the Public Hearing and once it is closed, then Council can have that discussion.

Mr. Squires: I withdraw it on that.

President Vanover: At this point then, the floor is open for anybody that wants to speak either for or against the proposal. Please come forward and identify yourself, please.

Mr. Sam Sheffield: I live at 222 Edinburgh Lane; I live in the Crossing at the Park. With your discussion tonight, I work for a chemical company and I have for thirty years, hazardous materials get shipped in limited quantity. There is paint to consumers that gets shipped that are not considered hazardous materials. There's poison like chloroform, methylene chloride, if you ship it in light enough weight, it goes in limited quantity. My suggestion would be that no manufacturer produce or manufacture anything that carries UN number. My other comment is about the traffic. People at Crossing at the Park need to have a light on one of the roads to get in and out. That diagram up there said that it was going to produce a thousand jobs. I don't see parking lots for a thousand cars, or is that number unrealistic, a thousand jobs? Again, the traffic is the biggest concern. Just adjusting the lights isn't going to do it. Any manufacturer company that is a thriving company is probably going to have between twenty and thirty trucks coming in on a daily basis. Thank you.

Mr. Dan Shroyer: I live on Ruskin Drive. Not necessarily here to speak on either side of the overall issue but, as many of you may know, I have pretty extensive background in code enforcement, hazardous materials regulation, and hazardous materials emergency response. In fact, I have taught for a number of years hazardous materials emergency response to the Fire Service. The original language that he put up there that is in question that Planning Commission has proposed, I understand the thought process and I understand what we are trying to do to protect the people in that area and protect the development but with that specific language, probably a high percentage of our existing businesses couldn't operate now. Avon, is one that comes to mind. But with that language we are all the way down to the furniture refinishing store that is using lacquers or thinners and to me that sounds like pretty restrictive language, again, without getting on either side. What I did want to point out to Council is, regardless of whatever language that you may put into this development, there are layers and layers and layers of protection, as far as Federal regulations on hazardous materials, State regulations, reporting regulations, Fire Code restrictions, Building Code restrictions. If they build a spec building, to bring in a tenant that would present some of the types of major issues that we would be concerned about, would probably require a complete rebuild of their building anyway. There is going to be sprinkler restrictions, there is going to be separation wall restrictions; there is going to be restrictions on stock pile, how much of a product they can have in place. So that is my only thought, was to point out that whatever language we do, is not the do all or say all anyway. They are going to be under so many other restrictions and guidelines that our language may not be as critical as we think it is. Thanks.

Mr. Ralph Colegrove: I live at 758 Ledro, in Heritage Hill, a place that used to be nice. I have a question of the developer; is it not true that you have no idea what tenants that you are going to have in there?

Mr. Smyjunas: No. At this point in time, no, we do not know any of these.

Mr. Ralph Colegrove: You are not negotiating with anybody - can you say that?

Mr. Smyjunas: We are not negotiating with anybody on a letter of intent, with a user.

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Mr. Ralph Colegrove: What I don't understand, how can you build buildings, whatever they may be, and not know what you are building them for?

Mr. Smyjunas: We do this all the time.

Mr. Ralph Colegrove: Okay, poor guys. At the risk of millions of dollars for that?

Mr. Smyjunas: On the first one, about \$20M, or something like that.

Mr. Ralph Colegrove: That is beyond me. The next thing that I would like to bring up, well, it has already been addressed, is the traffic. As Tom knows, many years ago we went through the same issue. The fact, we as the residents of Heritage Hill were out there doing the traffic study every day. It was hard for me to believe that that few amount of cars is going to effect the traffic. What I am saying is, you are only going to have nine or ten cars extra? How many of you have been in front of GE Park at 4:00 p.m.? Are you going to widen that road or are you going to let a traffic jam sit there forever? I know you can't restrict development because of that issue. I am just asking you to take a look at it and see what can be done to alleviate that between the traffic there and the traffic going out the other way with that development going in there. I may never get out again. I may not live to see eighty-five, or something like that. The third thing is, you have a million plus square feet, where is all that extra water going to go? Some of you don't remember and some of you aren't old enough to remember but fortunately I lived in Springdale for fifty years, how many of you remember the flood about thirty-five years ago? That was a fifty year storm; that is what they called it. The creek overflowed, Heritage Hill School was flooded and some of the houses on the backside was flooded. Most people needless to say don't have flood insurance; why would you? With this extra amount of concrete, blacktop and everything else and we get a hundred years storm, not a thousand year storm but a hundred year storm, where is all that water going to go? I'm sure you have but has anybody really examined that, taken a look at that or really cared about it? I am not being cynical, you guys don't live back there. The only person that lives back there is Tom. I would hate to see something like that. The last thing that I would like to bring up and it has been so long since you brought it up but the word reasonable; what is reasonable? What is reasonable to me is not reasonable to Tom or the Mayor. I would like that defined a little more than just reasonable. It is like, which wouldn't happen, but if Rumpke decided to use that park as a dump. The smell coming from that dump would be reasonable to some people but not reasonable to other people. That is all I have to say.

President Vanover: Anybody else?

Mr. Ralph Colegrove: If I could, there is one other thing I would like to add. In review to the options that we have, I am not against this project. Thank you.

Mr. Smyjunas: I just wanted to make a comment - the landfill is not allowed on the property. I just wanted to make sure that that is one of the covenants on the property. To answer about the storm water, the ponds and all of the engineering that we have done for this site, as Don could tell you, is designed for the prescribed storm that I think was spoken about, the big storm, I guess, in 1985 so that is what the engineering in the storm water was designed for.

President Vanover: Anybody else? (None; Public Hearing was closed.) Council, you have heard the reading, this is our second reading, and this does include an emergency clause before you. What is your required action? (Mr. Knox made a motion to adopt, Mr. Squires seconded the motion.) Council, it is your call. Do we vote on the approval of the proposed plan that was approved by Planning Commission without this language amendment and let them go back to Planning if they so require and get that revised? Or do you want to amend this evening?

Mr. Knox: I move to adopt the plan that was presented by the developers. (Mr. Squires seconded the motion.)

Mr. Hawkins: I wanted to inquire from Mr. Diehl, since he was on Planning when we were going through this, and I would do the same for Mrs. Harlow if she were here - do you think this language is far off from where Planning Commission was when they looked at it?

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Mr. Hawkins (continued): Obviously the City has a little broader control in the first one but I don't think it is the end of the world if they add "persons or property". What was your impression of this language verses what Planning Commission dealt with?

Mr. Diehl: Thank you for that question. I believe Planning Commission thought that way. I think it is important that we add the comment that Mr. Forbes made, to our motion tonight, about the property and the persons. I am sure you could eloquently do that.

Mr. Hawkins: Based on that, I am okay with the proposed language if we are adding "injurious or hazardous to other persons or property in the park or neighboring persons or property for any use". I will say for the record, while trying to help Mr. Forbes publicly, I think that injurious and hazardous is broad enough for us to argue things.

Mr. Forbes: I just wanted to point out again, procedurally - right now you already had a motion and a second to adopt what was presented from Planning Commission. If you want to take any action to modify, then what would be appropriate, even with that motion and the second on the floor, you can make a motion to amend Ordinance 22-2015 to add whatever other language you want. If you do that, I will just carry out the process - if you make that motion and it gets a second, and then that motion is approved, then you would just restate your motion to adopt, would be then adopting Ordinance 22-2015, as amended. But you would have to make that motion to amend to even get this modification.

Mr. Hawkins: Mr. Forbes, for clarity sake, you were speaking of making sure that we would also include that in the articles?

Mr. Forbes: In the declaration of covenants and restrictions. I suspect it is already there but I haven't seen a final copy. So, if that is the direction the Council wants to go, in an abundance of caution, I would include that as part of any modification.

Mr. Hawkins: Based on that, I move to amend Ordinance No. 22-2015 to also include, "No buildings shall be used for the manufacture, storage, distribution, or sale of any product that causes, or has the reasonable expectation to cause, emission or noxious fumes, odors, dust, gases, radiation, vibrations, or noises that will be injurious or hazardous to other persons or property in the park or neighboring persons or property or for any use in violation of valid applicable laws". I would also move to have that included in the declaration if it is not already. (Mr. Squires seconded the motion.)

Mrs. McNear: Mr. Forbes, I now have three motions.

Mr. Forbes: Let me be clear - you had a motion and a second to adopt. Whatever that second motion and second were? That was a repetition of the first. Really I am going to say to make it clear for everybody, that second motion and second carried no impact, no weight, because that was the motion and the second that was already on the floor. Now you have a motion to amend Ordinance 22-2015, as Mr. Hawkins described. That is, the motion to amend, is what is currently before Council for consideration.

Mrs. McNear: So the first one is also off of the table?

President Vanover: No. It is still standing.

Mrs. McNear: So we are going to do the motion to amend first and then to adopt? For the motion to amend, I have the first from Mr. Hawkins and the second from Mr. Squires.

President Vanover: Any further discussion?

Mr. Knox: Would it not be a good idea to strike the language that says any use involving chemical, biological or hazardous, etc. so that we don't have both things?

Mr. Squires: You're amending the Amendment now.

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Mr. Forbes: Well, perhaps Mr. Hawkins may clarify his motion to amend, and that may be good for him to do so, but I believe his motion to amend was meant to include this language in place of that condition.

Mr. Hawkins: As Mr. Forbes spoke for the Mayor, he's speaking for me too. For clarity sake, the amendment with the proposed language included was to replace the language in the Ordinance that said, "Any uses involving chemical, biological or hazardous materials be reevaluated with the Final Development Plan". The proposed language that is part of the amendment is to replace that language.

President Vanover: I have one question because the City, obviously Administration was presented with another version of this in a meeting and part of that was not included in this language and I would like to pursue that just a little bit.

Mayor Webster: I am not sure exactly what you are referring to; this is the first time I have seen this.

President Vanover: Right, exactly. What was presented to the Administration, the change was not the same wording as what is before us this evening.

Mayor Webster: It was nothing presented; it was just that they were not happy with original draft from Planning Commission. That surfaced yesterday, to my knowledge, for the first time. It was not, as you indicated, presented to Planning Commission. We had a first reading of this thing two weeks ago; there was no mention that they were unhappy with this and then all of a sudden yesterday, I find for the first time that they're unhappy with it and they want to come before Council and have it changed. You know, I hope all of you turn on your televisions this weekend and replay this meeting. I think every one of you are going to be very embarrassed because I think we look like we don't know what the hell we are doing up here. We are taking one piece here and we are going to change it to satisfy this developer. We ought to send this developer back to where he belongs and that is to Planning Commission with just this language. That is where it needs to be worked out. We are coming in here at the eleventh hour at a request from the developer and we are going to change this - why? He has had ample opportunity to present his case to get this changed before now. So we sit here, we make motions and we have three or four motions on the floor and nobody knows what the devil they are going to be voting on or what we are changing. By Mr. Forbes' own admission, he hasn't seen all of the conditions and the restrictions and so forth. We need to do this right. This is too big of an issue for us to botch it up here. For what?

Mr. Parham: As the Mayor indicated, as I indicated earlier, I saw this language for the first time yesterday. Mr. Vanover, you are correct, there was and I did mention that there was language in the earlier versions that we saw that simply said that they would go back to the Planning Commission; Mr. Dragon responded to that. That was the piece which was omitted.

President Vanover: We have a motion to amend before us, we have a motion to second. Any further discussion?

Mr. Hawkins: I just want to respond to the Mayor's comment. I understand the perspective that you are giving and I was the person who said last time when the developers came with a major modification that we let that go back. I do think that this language, while, as I indicated, obviously the language that was put in there and approved initially by the Planning Commission is more liberal. I think it is clear that there may be some issues with regard to how general it is with regard to chemical and biological materials. I think that the proposed language with the changes we made to it, is likely to be, and if it comes back to Planning Commission and I'm on Planning Commission, I would approve that language coming back. That is why I wanted Mr. Diehl's input from when Planning Commission was listening to it. So I don't have a problem if it is Council's prerogative to say, "let's just approve it as it is and send it back", but I think at some point, we are wasting some time. Not that it has to be rushed through, but I think the language is such that I'm okay with it. I think that the statement of "injurious or hazardous to persons or property", I think that is sufficiently broad enough for the City to act if there is a resident or resident's property that is in question or in danger, that we can act of that. So that is my position.

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Mr. Hawkins (continued): I cannot speak for anybody else on Council but I understand what you are saying but I think that we are going to end up in the same place. I don't care if it takes another month or two months, that is fine but I think we are going to end up in the same place and that is why I am taking the position that I have tonight.

Mayor Webster: And I totally agree with you. We may very well come back with the same language. I have no problem with this language but I would like to have the professional people that come up with this language to take a look at this and let our Planner look at it. Maybe there are other jurisdictions, other zoning issues, where they have had a similar type issue where we can pull that exact wording out of there. I just don't think this is the place for us to do that. At the eleventh hour effort to make those changes, I just don't think that is the way we should operate but it is a Council decision.

Mr. Knox: I agree wholeheartedly with the Mayor. People at Planning have done an awful lot of work on this; they know it better than we do. Let them make the decision. Thank you.

Mr. Diehl: I'm in agreement with Mr. Hawkins even though I recognize what the Mayor has been saying, I don't find any fault in that but I agree with Mr. Hawkins. Thanks.

President Vanover: Any further discussion? Alright, we have a motion to amend and it has been seconded. Any discussion? (None.) This is the vote to amend. (With a vote of 3 – 3, the vote to amend failed.) It is a 3 - 3 tie, so it failed.

President Vanover: Alright, we have a motion before us then to approve the plan as presented and the motion was seconded. We've had discussion. Any further discussion? The motion including the original, the initial wording, is what we are voting on now. Is there any further discussion? (None.) (With a vote of 4 – 2, the ordinance was approved.) Ordinance No. 22-2015 passes with four affirmative votes.

ORDINANCE NO. 23-2015

AUTHORIZING A PRELIMINARY ORDINANCE WITH THE STATE OF OHIO DEPARTMENT OF TRANSPORTATION (ODOT) FOR THE STATE ROUTE 4 SOUTHBOUND LANE ADDITION PROJECT AND DECLARING AN EMERGENCY

(Mr. Squires made a motion to adopt; Mr. Knox seconded.)

Mr. Parham: The legislation that is in front of you at this point is the legislation associated with the STP funds (Service Transportation Program) that we were successful in being awarded. As you recall, the overall cost of the project estimate is \$603,475. The STP funding covers 80% of that, or \$482,780. The City would be responsible for the remaining 20%, about \$120,000. At the same time, we have submitted an application for Municipal Road Funds for 50% of that money and hopefully we will be successful in that venture as well - that would limit the City's cost to \$60,348. I shouldn't say limit because then if there are any overruns, then we will be responsible for those additional cost. This is the first piece of legislation that we will have to adopt relative to this process. There will be, later on, a second piece of legislation that will come before Council. Thank you.

President Vanover: Any further discussion? (None.)

Ordinance No. 23-2015 passed with six affirmative votes.

ORDINANCE NO. 24-2015

AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH MACY'S CORPORATE SERVICES, INC. RELATED TO JOB RETENTION AND CREATION INCENTIVES AND DECLARING AN EMERGENCY

(Mr. Squires made a motion to adopt; Mrs. Emerson seconded.)

Mr. Parham: At this time I would ask our Economic Development Director, Mrs. Christine Russell, to please come forward. I think she will have a few words for you and a few guests.

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Mrs. Russell: Good evening. It is a pleasure to be here with two ordinances before you tonight. The first, as you just heard, is an ordinance to approve a job retention and creation incentive agreement for Macy's Corporate Services. Macy has signed a lease for 110,000 s.f. in the former Avon building and they will be converting that space into an office use. Their lease is contingent upon approval of this agreement. Macy's plans to bring 150 jobs with an annual payroll of \$8M to Springdale and there is potential that those numbers could grow in the future. I would like to introduce Jason Williams, who is Macy's Senior Real Estate Manager and James McGraw; he is a partner with KMK Law and also the CEO of KMK Consulting. They are going to tell you a little bit more about the Macy's project and the timing.

Mr. McGraw: Thank you for having us this evening; we appreciate your time. We found the need in the Cincinnati area to relocate some office space because of another lease expiring elsewhere in another jurisdiction. Under Jason William's leadership, we looked at a lot of sites around this region and I have other clients in Springdale and we are very happy that we found a great site at the Avon building. Mr. Williams can talk to you about the terms of the lease if you are interested but that lease is signed and is contingent, as Mrs. Russell pointed out. We are anxious to get underway with some modifications to that property; that is the need for us moving now. We are anxious to start as soon as we can. We have to have people in that building, we hope by April 1st. This would help us significantly along the way so we can make our final determination relative to the actual number of folks that will be there. Obviously 110,000 s.f. is significantly larger than what we would need for 150, so we are anxious to move on that. I would like to yield the floor to Mr. Williams in case you have some questions for him. Thank you.

Mr. Williams: Thank you, Mr. President. We really look forward and we have enjoyed a great relationship with the City of Springdale. As you know, we have a store here in the City. We are really looking forward to moving these offices. We are relocating, as Mr. McGraw stated, from another jurisdiction in the Cincinnati region. We are also creating new jobs and we are moving jobs from outside of the state as well. As Mr. McGraw pointed out, 110,000 s.f. is awfully big for 150 employees. We do anticipate that number to grow significantly. We definitely need to be in the building by April 1st, if we are going to stay with this field. Our deal is contingent upon the discussion here tonight. We look forward to a long relationship with the City of Springdale.

Mrs. Russell: If there are any questions from Council, all of us are available to answer those. (None.)

Ordinance No. 24-2015 passed with six affirmative votes. (Applause)

President Vanover: Welcome to Springdale.

Mayor Webster: Welcome to Springdale.

ORDINANCE NO. 25-2015

AUTHORIZING THE MAYOR AND CLERK OF COUNCIL/FINANCE DIRECTOR TO ENTER INTO AN AGREEMENT WITH PROCESS PLUS, LLC RELATED TO JOB RETENTION AND CREATION INCENTIVES AND DECLARING AN EMERGENCY

(Mr. Squires made a motion to adopt; Mr. Knox seconded.)

Mrs. Russell: Before you tonight is a second ordinance to approve a job retention and creation incentive agreement for Process Plus, LLC. Process Plus is an Engineering firm that is currently located in Forest Park and they have signed a lease for 30,000 s.f. at 135 Merchant. That building is now called Springdale Corporate Center; you may also know it as Executive Plaza III. They will be taking the entire third floor in that building, so a significant lease for that building. Like Macy's, their lease is also contingent on approval of this agreement. Process Plus currently has 106 employees that they will be bringing to Springdale with a year one payroll of \$5M. I will point out that that \$5M is a conservative number because they may encounter some delays in getting in that first year. They wanted to be conservative in that first year. Over the ten years of the incentive agreement, they expect to grow to 121 employees with a payroll of \$12.9M.

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Mrs. Russell (continued): I would like to introduce Ken Popham, he is the Director of Operations and a Principal with Process Plus. Ken, I would like you to tell the Council a little bit more about your firm and also about the timing for your move to Springdale.

Mr. Ken Popham: Very good. Thank you very much for your time tonight. I am the Director of Operations and an architect at Process Plus. We are a little over 100 people right now. We really expect more growth than what was stated. We are growing rapidly right now. We are hoping to actually make the move by January, so it is very imperative to get this rolling. It took a little while to get the lease resolved with the distant owners but we finally did get all the parts and pieces in place. We really look forward to moving our company into Springdale.

Mrs. Russell: And again, we are available for any questions from Council. (None.)

Ordinance No. 25-2015 passed with six affirmative votes. (Applause)

President Vanover: Welcome to Springdale.

Mayor Webster: Welcome to Springdale. Christine, do you have to leave? Don't you have any more – do you have to leave?

Mrs. Russell: That is all for tonight but I hope to be back here soon. Thank you.

Mayor Webster: You are welcome any time.

Old Business - none

New Business

Mrs. McNear: I do have two liquor license requests this evening. The first one we have is Incept Beverage, Inc., doing business as Tri-County Beverage at 350 Northland Boulevard. This is a C1/C2. C1 - beer only in original sealed containers for carry-out only until 1:00 a.m. C2 - Wine in certain pre-packages mixed drinks in sealed containers for carryout only until 1:00 a.m. This is just a name transfer. Any objections? (None.)

Mrs. McNear: The next one – it's the same thing but on a different form. Let's make sure there isn't any other.

President Vanover: Just a liquor agency.

Mrs. McNear: It's odd that we got the two different forms.

President Vanover: Two separate notices for this location. This notice is for a liquor agency and a second notice for a carry-out liquor license. So two different operations with the same name.

Mrs. McNear: This one does not give us a type of license.

President Vanover: I'm taking it as it gives them the right to sell. It is a liquor agency.

Mrs. McNear: I have not seen one of these types of documents in twelve years.

President Vanover: Any objections, Council?

Mr. Forbes: I think maybe we can have some clarification to this - I think the second notice and the reason that there is no permit type listed, is because it's the liquor agency; it's basically a state store. It might be the first one of these I have ever seen.

Mrs. McNear: I've never seen one in twelve years in this position and my years as a Council Member before, I've never, so maybe this is something new. Any objections? (None.) I will go ahead and file the paperwork. That concludes it for me.

President Vanover: Any more New Business?

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Mr. Forbes: Thank you, Mr. President. Not exactly New Business, but I wanted to take a moment just to give Council some clarification on something that happened earlier in the meeting and that is with respect to Ordinance No. 22-2015 on the GEEAA. That ordinance was presented as an emergency and it passed with a vote of 4-2. Pursuant to your Charter, it takes five votes for the emergency provision to be in effect. It only got 4 votes and your Charter says that in the event an emergency ordinance is presented and only gets 4 votes, it still passes but it does not pass as an emergency. That ordinance will not go into effect for 30 days, just like any other non-emergency ordinance. It took me a minute to actually find that Section in the Charter just to clarify that.

Meetings and Announcements

Mr. Squires: Thank you, Mr. President. The Springdale Board of Health will meet on November 12th, 7:00 p.m.

Mr. Hawkins: Thank you, Mr. President. Planning Commission will meet on November 10th at 7:00 p.m. in these chambers.

Mr. Knox: Thank you, Mr. President. The Board of Zoning Appeals will meet November 17th at 7:00 p.m. in these chambers. I misspoke when I said Mrs. Harlow would make the OKI report on the 17th; she will make it on the 18th.

Mr. Thamann: Thank you, Mr. President. A couple repeat items from the last meeting, just as reminders. The Springdale Gone Wild Series, Batty about Bats, will be held at Community Center, Tuesday, October 27th at 7:00 p.m. They will have a naturalist from the Great Parks of Hamilton County there and will give the participants an opportunity to learn more about bats and get up close to them. It is free and open to all ages.

One of the other items that I mentioned at the last meeting was the Monster Mania Halloween Carnival. That is for children age 2 through grade 4 and again that will be held at the Community Center. That will be Saturday, October, 31st from 2:30 p.m. until 4:30 p.m. and Club Rec will be designing some type of a haunted room or haunted house for the kids and also they will have Halloween-themed games and other activities, again free of charge. They are asking you to contact the Community Center for registration.

One final thing, the Recreation Department is accepting applications for part-time fitness center instructor as well as part-time park patrol. If anyone is interested, you can pick up an application up either here or at the Community Center or also you can download it from our website but they ask that you drop that completed application off at the Community Center. Thank you.

President Vanover: We're back to Communications from the Audience. Would anybody in the audience like to address Council for any reason? Just take a note that I see a Scout out there; I'm sure he's fulfilling his Merit Badge, but welcome. Here's your chance.

Communications from the Audience

- None

Update on Legislation Still in Development

Mr. Squires: Council, as you have look through your Internal Memorandum, you will see that Item I was taken care of with Ordinance No. 25-2015. Item II was taken care of with Ordinance No. 24-2015. Item III was taken care of with Ordinance No. 23-2015. Item IV was taken care of with Ordinance No. 22-2015; declaring an emergency won't be effective, it takes place in thirty day because it had to have five votes; it still passed but it had to have five for the emergency clause. Item V, as you see it there, is forthcoming and likewise with Item VI and Item VII; both of those are forthcoming.

Recap of Legislative Items requested for the next Council meeting

Mr. Squires: I have a clean slate, Mr. President.

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Mr. Parham: The only thing is, as he stated in the report, we do have the Municipal Tax Ordinance, which is a result of House Bill 5 and that's the only thing we have scheduled at this point.

Adjournment

Council adjourned at 9:00 p.m.

Respectfully submitted,

Kathy McNear
Clerk of Council/Finance Director

Minutes Approved:
Tom Vanover, President of Council

_____, 2015