

**WORTHINGTON CITY COUNCIL
REGULAR MEETING, JULY 23, 2007**

The meeting was called to order by Mayor Pro Tem Lyle Ten Haken at 7:00 p.m., in the City Hall Council Chambers with the following Aldermen present: Bob Petrich, Mike Woll, Mike Kuhle, and Ron Wood. Absent (excused): Mayor Alan Oberloh.

City Staff present: Joseph Parker, City Administrator; Mike Cumisky, Public Safety Director, Dwayne Haffield, Director of Engineering, Brad Chapulis, Director of Community/Ec. Development; Alice Hoffman, Acting City Clerk.

Others present: Darrell Stitt, KWOA; Ryan McGaughey, Daily Globe; Mark Shepherd, City Attorney; Ray Croaston, McDonalds; Liz Maiers and Greg Raymo, Southwest Initiative Foundation; Jorge Lopez, S.W.B.S.; Ron Reynolds, Betty Paine, Robert Engelson, Les Frodermann, Robert Yates, Randy Schmidt, Carla Schmade, Nicole Watje, and Adain Adolph, Eagles Aerie Lodge 3282.

HEARING FOR EAGLES AERIE 3282

The motion was made by Alderman Wood and seconded by Alderman Kuhle to open the hearing.

Mike Cumiskey provided background information about an incident that occurred at the Eagles Aerie 3282 Club on April 7, 2006. Mr. Cumiskey stated that an officer had been dispatched to the Eagles Club and upon arrival, the officer met a 20 year old male who fit the description of the dispatch call. The officer spoke to the individual outside the Eagles Club and asked him to have a seat in the squad car where the conversation was taped and videoed. He admitted that he had been served alcohol at the Club. The officer also spoke to Eagles Club staff who was serving alcohol. After investigation, the officer made a report and forwarded it to the County Attorney for formal charges to be filed.

Mark Shepherd, City Attorney reported that charges were filed. On May 30, 2007 the Eagles Club pleaded guilty to the charges of Furnishing Alcohol to a Minor after which the court adjudged and decreed that the Defendant was guilty.

The Liquor Committee met on July 2, 2007 and recommended that a public hearing be conducted to discuss the licensee's violation. City Code, Chapter 111 allows the City to govern liquor licenses within the city and allows council to revoke or suspend a license when this type of violation occurs. The Liquor Committee recommends that the Eagles Club's license be suspended for one weekend, beginning at 5 p.m. on Friday through 5 p.m. on Sunday on a weekend to be determined by City Council.

Alderman Kuhle questioned if this was the first violation of this type at the Eagles Club. Mr. Cumiskey stated that it was. The floor was opened for testimony.

Mr. Ron Reynolds, a trustee at the Eagles Club, gave testimony and apologized for the incident. He stated that the Eagles Club would accept whatever consequences the Council deemed appropriate. He submitted

a schedule of weekend activity and events for Council's review and asked that the schedule be taken into consideration when determining which weekend the license would be suspended. It would be unfortunate, for instance, if a wedding reception were scheduled on a weekend when they could not sell alcohol. Mr. Reynolds also inquired about the procedure the City follows when a violation occurs. He indicated that the only notification the Eagles Club had received was the letter from Janice Oberloh, City Clerk, stating the date of this hearing. Mr. Cumiskey responded that a letter had been sent to the Eagles Club shortly after charges had been filed in court. Mr. Reynolds said that he had not seen such a letter. Mr. Shepherd stated that the City does not take disciplinary action until after criminal action has been taken.

Les Frodermann, the Eagles Gambling Chairman, gave testimony. The Eagles Club has a motto of "People Helping People" and last year they made donations to the hospital, hospice cottage, hockey association, national child safety program, and Crailsheim, to mention a few. Mr. Frodermann asked that Council consider the good things the Eagles Club does for the community when determining what action would be taken against them.

The motion was made by Alderman Woll, seconded by Alderman Petrich and unanimously carried to suspend the liquor license for one weekend, beginning on Friday, October 19, 2007 at 5:00 p.m. through Sunday, October 21, at 5:00 p.m., as recommended by the Liquor Committee.

A motion was made by Ron Wood, seconded by Bob Petrich, and unanimously carried to close the hearing.

HEARING FOR NEW VISION

The motion was made by Alderman Kuhle, seconded by Alderman Wood and unanimously carried to open the hearing for New Vision.

Mr. Parker reported that since scheduling this hearing, New Vision has sold the grain elevator located at 706 Tenth Avenue to Ruby Development, LLC. Staff met with Mr. Ruby Carlton at 10:00 a.m. this morning to discuss nuisance issues relating to the property. Staff recommends that this hearing be left open and proceeding continue at a later date to allow adequate time for the new owners to be notified that a nuisance exists and to give them at least four weeks to bring forth ideas on how to resolve the matter.

The motion was made by Alderman Kuhle, seconded by Alderman Wood, and unanimously carried to continue this hearing at the August 27, 2007 regular Council meeting.

AGENDA APPROVED WITH CHANGE

Mayor Pro Tem Lyle Ten Haken requested that Item H-2 be moved forward on the agenda, to follow Item F-2.

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to approve the agenda with the change as requested.

MINUTES APPROVED

The motion was made by Alderman Woll, seconded by Alderman Petrich, and unanimously carried to approve the City Council Minutes of the Regular Meeting June 25, 2007 and the City Council Minutes of the Special Meeting July 6, 2007.

MINUTES OF BOARD AND COMMISSIONS

The motion was made by Alderman Petrich, seconded by Alderman Kuhle, and unanimously carried to accept for review the Traffic and Safety Committee Minutes of June 27, 2007, the Planning Commission Minutes of July 2, 2007, the Water and Light Commission Minutes of July 2, 2007, the Worthington Rediscovered Committee Minutes of July 5, 2007, the Airport Advisory Board Minutes of July 10, 2007 and the Golf Advisory Board Minutes of July 18, 2007.

FINANCIAL STATEMENTS

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to accept the Municipal Liquor Store Income Statement for the period January 1, 2007 through June 20, 2007.

The General Fund Statement of Revenue and Expenditures for the period of January 1, 2007 through July 31, 2007 was submitted for review. Inquiries were made about several line items listed in the statement. Council indicated that they would like to have Brian Kolander, Finance Director, come to the next meeting to answer questions and to clarify some of the items listed on the statement.

COOPERATIVE CONSTRUCTION AGREEMENT

McDonald's USA is developing the site immediately north of Walgreen's for relocation of its restaurant. A planned backage road is included as Phase 1 of the development. This phase consists of creating a median opening for the backage road's intersection with T.H. 59 and a westerly street extension through the McDonald's driveway. The street extension will be a city street, its extension is proposed to be developed through a cooperative construction agreement. The agreement establishes that McDonald's will construct the street to city standards (per approved plans) and provide adequate right-of-way. The City will there after maintain the street as any other street in the community. A permit from MD/DOT, which the City has applied for, is required for the roadway right-of way and McDonald's has agreed to comply with the conditions of the permit.

The cooperative agreement also addresses an extension of the sanitary sewer proposed by McDonald's. The sewer will extend south immediately west of the restaurant site. The sewer will allow for connection of Walgreen's sewer service by relocating it west rather than around the restaurant building. The sewer will also accommodate additional development west of the restaurant site if needed. Similar to the agreement's provisions regarding the street improvement, the agreement establishes that McDonald's will construct the sewer to City standards and provide a public utilities easement over the sewer, and that the City will thereafter maintain the sewer.

Mr. Ray Coaston, representing McDonald's USA, was present at the meeting to answer questions. He showed a diagram of the proposed building plan which will be made of brick, terra cotta, aluminum and a stucco front with a contemporary look. He noted that a majority of the 9 acres of real estate that McDonald's owns at the restaurant site will be used for future commercial development. The exact location of the street/backage road will be determined by the layout of future development. The cooperative agreement allows McDonald's to move forward with the project. All items are in order at this point and the agreement has been through the attorneys' offices.

The motion was made by Alderman Kuhle, seconded by Alderman Petrich, and unanimously carried to execute the cooperative agreement as presented and proceed with the restaurant development..

SECOND READING PROPOSED ORDINANCE - STORM WATER POLLUTION PREVENTION

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to give a second reading to the proposed ordinance to amend Section I, Worthington City Code, Title V, Chapter 54, so as to create Sub-Chapter 54.10 regarding storm water pollution prevention.

SECOND READING PROPOSED ORDINANCE - CHANGE OF ZONE

The motion was made by Alderman Woll, seconded by Alderman Kuhle and unanimously carried to give a second reading to the proposed ordinance to amend Title XV of the City Code to rezone property from "R-3" (low density preservation residential) to "B-3" (general business).

SECOND READING PROPOSED ORDINANCE - ILLUMINATED SIGNS

The motion was made by Alderman Petrich, seconded by Alderman Wood and unanimously carried to give a second reading to the proposed ordinance to amend Title XV, Section 153.17 of the Worthington City Code, pertaining to illuminated signs.

SECOND READING PROPOSED ORDINANCE - TO CORRECT AN ORDINANCE

The motion was made by Alderman Woll, seconded by Alderman Petrich and unanimously carried to give a second reading to the proposed ordinance to amend Title IX, Chapter 97, Sub-Chapter 97.09 of the Worthington City Code, pertaining to the disposal of vehicles not sold.

SECOND READING PROPOSED ORDINANCE - AREA TO FLOOR RATIO

The motion was made by Alderman Woll, seconded by Alderman Wood and unanimously carried to give a second reading to the proposed ordinance to amend Title XV of the Worthington City Code, Section 155, Appendix A; Table 1 regarding areas to floor ratios.

RECOMMENDATION FROM TRAFFIC AND SAFETY COMMITTEE - OPERATION OF CLASS II ATV's ON CITY STREETS

The Traffic and Safety Committee met on June 27, 2007 and discussed a proposed ordinance that would ban ATVs from city streets.

The motion was made by Alderman Woll, seconded by Alderman Petrich and unanimously carried to authorize drafting a letter to the State Commissioner of Public Safety asking for clarification on the legal requirements for persons operating ATVs on public streets, as state rules are unclear on this matter currently. The letter should also make recommendation that a valid driver's license is required to operate the ATVs.