

**CITY OF SPRINGBORO
320 W. CENTRAL AVENUE, SPRINGBORO, OH**

CITY COUNCIL WORK SESSION

THURSDAY, SEPTEMBER 15, 2011

6:00 PM

COUNCIL

John Agenbroad, Mayor
Tom LaDu, Deputy Mayor **Marie Belpulsi**
Jim Chmiel **Sheila Lairson**
Bruce Moore **David Vomacka**

CITY STAFF

Chris Thompson, City Manager
Chris Pozzuto, Assistant City Manager
Alan Schaeffer, Law Director
Lori Martin, Clerk of Council

ITEM 1. CALL TO ORDER. Mayor Agenbroad called the Springboro, Ohio City Council Work Session to order on Thursday, September 15, 2011 at 6:00 PM in Council Chambers at the Springboro Municipal Building, 320 W. Central Avenue, Springboro, Ohio.

ITEM 2. ATTENDANCE. Council: All present. **Staff:** Ms. Thompson, Mr. Pozzuto, Mr. Schaeffer, and Ms. Martin were present.

ITEM 3. LEGISLATIVE AGENDA. –Five legislative items were reviewed for September 15.

- 1) **EMERGENCY ORDINANCE: FIRST READING.** AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$2,000,000 OF REVENUE RENEWAL NOTES BY THE CITY OF SPRINGBORO, OHIO FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR MUNICIPAL PURPOSES IN THE CITY; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH NOTES; AUTHORIZING NECESSARY AND APPROPRIATE DOCUMENTS; AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH NOTES; AND DECLARING AN EMERGENCY.

The Finance Director has requested that Council waive the second and third readings of this ordinance.

There were no objections of Council to this request.

Council will consider a motion at tonight's Regular Meeting to waive the second and third readings of this ordinance.

Mr. Vomacka asked for an explanation concerning this legislative item. Mr. Vomacka commented that the original amount of the loan was \$4.36M and it is now down to \$2.5M that needs to be refinanced. Mr. Vomacka began again by stating that the original loan amount was \$4.36M and the City paid \$1.66M, which leaves a balance of \$2.7M. He acknowledged that the City would pay \$500,000 right now, but that still leaves \$200,000 not accounted for.

Ms. Thompson explained that this is a renewal of a not to exceed amount of \$2M. The remaining \$200,000 that is "missing" has already been paid down. Ms. Thompson commented that the cover

memo simply did not indicate that properly. The City is only renewing an amount not to exceed \$2M. In essence, the amount that has been paid down on the original loan was greater than the amount indicated in the cover memo.

Mr. Vomacka confirmed that the City has actually paid \$1.86M of the loan rather than the \$1.66M reflected in the cover memo.

Ms. Thompson replied yes.

Based on the Finance Director's request, Mayor Agenbroad stated that he would ask for a motion to waive the second and third readings of this ordinance following the first reading at tonight's Regular Meeting.

- 2) **EMERGENCY ORDINANCE: FIRST READING.** AN ORDINANCE APPROVING THE RECORD PLAN FOR THE ASCENT AND DECLARING AN EMERGENCY.

No discussion.

- 3) **RESOLUTION:** A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR. (WARREN COUNTY)

No discussion.

- 4) **RESOLUTION:** A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR. (MONTGOMERY COUNTY)

No discussion.

- 5) **RESOLUTION:** A RESOLUTION ACTING UPON THE COURT ORDERED MEDIATION FROM THE WARREN COUNTY COURT OF COMMON PLEAS AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS PERTAINING TO SAID MEDIATION.

No discussion.

ITEM 4. CITY MANAGER. –Issues/Reports.

Executive Session: Ms. Thompson requested an Executive Session, following the Work Session discussion, for the purpose of discussing pending litigation.

At this time, Mayor Agenbroad requested a motion to enter Executive Session, under R.C.121.22(G), following the Work Session discussion to discuss pending litigation.

Ms. Belpulsi motioned to enter Executive Session under R.C.121.22(G), following the Work Session discussion, to discuss pending litigation. Mr. Chmiel seconded the motion.

No discussion.

VOTE: Moore, Yes; Vomacka, Yes; Lairson, Yes; LaDu, Yes; Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes. [7-0]

ITEM 5. CLERK OF COUNCIL. –Issues/Reports.

Calendar Update: Ms. Martin announced that Marty Heide, Warren County Outreach Coordinator for the 3rd U.S. District, will be in the Community Room on Friday, September 23 from 1:00 to 2:00 PM to conduct office hours on behalf of Congressman Turner. As a reminder, the next Council Work

Session will be held on Thursday, October 6 at 5:00 PM in the Community Room to accommodate the 5-Year CIP presentation and discussion followed by the Council Regular Meeting at 7:00 PM in Council Chambers. The City will be hosting a Safety Expo on Saturday, October 8, 4:00-7:00 PM at the City Building. Beggars' Night in Springboro will be observed on Monday, October 31 from 6:00 to 8:00 PM.

2012 Budget Work Session: Ms. Martin commented that the Budget Work Session is currently scheduled for Thursday, November 17 at 5:00 PM in the Community Room.

Ms. Belpulsi commented that in past years conducting the budget meeting before the Regular Council Meeting seemed rushed and she inquired if a separate meeting date could be set.

Ms. Thompson stated that after reviewing schedules of Council Members and staff, November 10 or November 12 are available alternative dates for the budget meeting. Ms. Thompson added that she does agree that a separate meeting date for the budget meeting would be appropriate.

After a brief discussion, Council reached a consensus to conduct the 2012 Budget Work Session on Thursday, November 10 at 5:00 PM.

ITEM 6. CITY COUNCIL. –Issues/Reports.

Mr. Moore – No issues/reports.

Mr. Chmiel – Mr. Chmiel will present a Park Board report at tonight's Regular Meeting under Committee Reports.

Ms. Belpulsi – Ms. Belpulsi will present a Planning Commission report at tonight's Regular Meeting under Committee Reports.

Mr. Vomacka – Mr. Vomacka will present an Architectural Review Board report at tonight's Regular Meeting under Committee Reports.

Ms. Lairson – No issues/reports.

Mr. LaDu – Mr. LaDu will present a Finance Committee report at tonight's Regular Meeting under Committee Reports.

Mr. LaDu also suggested that, based on the lack of items on the upcoming agenda schedule, Council consider consolidating the November 3 and November 17 Council Meetings.

Ms. Thompson stated that during the review of the Agenda Plan at the most recent staff meeting there were no potential action items slated for the November 3 meeting at this time.

Mayor Agenbroad commented that he would need to review his schedule and revisit the upcoming Council Meeting schedule at the October 6 Council Meeting.

Mayor Agenbroad – Mayor Agenbroad commented that a Proclamation in observance of Constitution Week, September 17-23 will be read at tonight's Regular Meeting under Item 5, Presentations. The local chapter of the Daughters of the American Revolution will be in attendance to receive the signed Proclamation from Mayor Agenbroad following the meeting. In addition, Mayor Agenbroad commented that the City has received a Proclamation sponsored by Representative Pete Beck on behalf of the Ohio House of Representatives in recognition of being ranked 42nd on the list of best cities in the country to live by Money Magazine.

Mayor Agenbroad stated that he attended the 9/11 Memorial Groundbreaking Ceremony for the memorial they are building in Lebanon at which Chief Kruthoff served as Master of Ceremonies. During the ceremony, it was asked that various businesses, villages, townships, and cities consider

making a donation to the 9/11 Memorial. Mayor Agenbroad commented that it would be nice for Springboro to recognize the police, firefighters, and EMTs by contributing, as the other communities would also be contributing, and asked for an opinion from Council as to what they felt would be an appropriate contribution.

Mr. LaDu commented that, based on his inquiry earlier this week regarding the total estimated cost of approximately \$100,000 for the memorial, he thought 5% or \$5,000 would be a nice gesture on the part of the City.

After briefly discussing this suggestion, Council reached a consensus to contribute \$5,000 to the 9/11 Memorial at the Warren County Administration Building in Lebanon.

Executive Session: At approximately 6:14 PM, City Council entered Executive Session to discuss pending litigation with the City Law Director in attendance.

With no objections, City Council exited Executive Session at approximately 6:40 PM; whereby, no votes were taken.

ITEM 7. ADJOURNMENT. *With no further discussion, Mayor Agenbroad adjourned the September 15, 2011 City Council Work Session at approximately 6:40 PM.*

CITY OF SPRINGBORO
320 W. CENTRAL AVENUE, SPRINGBORO, OH

CITY COUNCIL REGULAR MEETING

THURSDAY, SEPTEMBER 15, 2011

7:00 PM

COUNCIL

John Agenbroad, Mayor
Tom LaDu, Deputy Mayor Marie Belpulsi
Jim Chmiel Sheila Lairson
Bruce Moore David Vomacka

CITY STAFF

Chris Thompson, City Manager
Chris Pozzuto, Assistant City Manager
Alan Schaeffer, Law Director
Lori Martin, Clerk of Council

ITEM 1. CALL TO ORDER. Mayor Agenbroad called the Springboro, Ohio City Council Regular Meeting to order on Thursday, September 15, 2011 at 7:00 PM in Council Chambers at the Springboro Municipal Building, 320 W. Central Avenue, Springboro, Ohio.

ITEM 2. PLEDGE OF ALLEGIANCE. Mayor Agenbroad led the Pledge of Allegiance.

ITEM 3. ROLL CALL. Agenbroad, Present; Belpulsi, Present; Chmiel, Present; LaDu, Present; Lairson, Present; Moore, Present; Vomacka, Present. Staff: Ms. Thompson, Mr. Pozzuto, Mr. Schaeffer, and Ms. Martin were present.

ITEM 4. APPROVAL OF MINUTES: THE MINUTES OF THE CITY COUNCIL WORK SESSION AND REGULAR MEETING OF SEPTEMBER 1, 2011.

Ms. Lairson motioned to approve the Minutes of the City Council Work Session and Regular Meeting of September 1, 2011. Mr. LaDu seconded the motion.

No corrections.

VOTE: Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes; Moore, Yes; Vomacka, Yes; Lairson, Yes; LaDu, Yes. [7-0]

ITEM 5. PRESENTATIONS: A PROCLAMATION IN OBSERVANCE OF CONSTITUTION WEEK, SEPTEMBER 17-23, 2011.

At this time, Mayor Agenbroad read a Proclamation in observance of Constitution Week, September 17-23. *(A copy of the Proclamation is attached for the record and follows.)* Mayor Agenbroad commented that he would sign the proclamation and have his photo taken with the Members of the Jonathan Wright Chapter of the Daughters of the American Revolution following the meeting.



ITEM 6. LEGISLATION: City Council held a Work Session at 6:00 PM tonight for approximately 14 minutes to discuss the following legislation as well as other City business. During the Work Session, City Council entered Executive Session for approximately 26 minutes to discuss pending litigation; whereby, the City Law Director was present and no votes were taken.

- 1) **ORDINANCE O-11-29: FIRST READING.** "AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$2,000,000 OF REVENUE RENEWAL NOTES BY THE CITY OF SPRINGBORO, OHIO FOR THE PURPOSE OF ACQUIRING REAL PROPERTY FOR MUNICIPAL PURPOSES IN THE CITY; PROVIDING FOR THE PLEDGE OF REVENUES FOR THE PAYMENT OF SUCH NOTES; AUTHORIZING NECESSARY AND APPROPRIATE DOCUMENTS; AUTHORIZING OTHER ACTIONS IN CONNECTION WITH THE ISSUANCE OF SUCH NOTES; AND DECLARING AN EMERGENCY," was read by the Clerk of Council. Ms. Thompson's comments are summarized as follows:

This is the first reading of an ordinance providing for the issuance of not to exceed \$2,000,000 of revenue renewal notes by the City for the purpose of acquiring real property for municipal purposes. In 2004, the City borrowed \$4.36M to purchase 90 acres of property at South Tech Industrial Park. Since that time, the City has paid down this note and is currently proposing to renew the note for a not-to-exceed amount of \$2M. The remaining balance has been paid off by virtue of land sales the City has made to various users such as Dayton Children's Medical Center, Renegade, and more recently some land the City sold to a company that has yet to move to Springboro, but plans to construct on the 2.5-acre site next to the Millat Building. Those sales have generated enough revenue for the City to pay down this note, and the Finance Director requests that Council renew the note for not-to-exceed \$2M. Currently, there is a \$500,000 payment required to maintain the tax exempt status of the bonds. The Finance Director will ask for a supplemental appropriation of \$500,000 to make that payment yet this year leaving the \$2M balance on the note. The City is required in the terms of the note to pay down the debt each time the City sells land. The minimum the City is required to pay back is the amount paid per acre for the land; therefore, the minimum payment would be \$47,000.

Mayor Agenbroad presented the item for questions/comments of Council. No questions/comments.

Ms. Belpulsi motioned to suspend the rules and waive the second and third readings of this ordinance. Mr. Chmiel seconded the motion.

No discussion.

VOTE: Moore, Yes; Vomacka, Yes; Lairson, Yes; LaDu, Yes; Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes. [7-0]

Ms. Lairson motioned to adopt Ordinance O-11-29. Mr. Vomacka seconded the motion.

No discussion.

VOTE: Lairson, Yes; LaDu, Yes; Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes; Moore, Yes; Vomacka, Yes. (7-0)

- 2) **EMERGENCY ORDINANCE: FIRST READING.** "AN ORDINANCE APPROVING THE RECORD PLAN FOR THE ASCENT AND DECLARING AN EMERGENCY," was read by the Clerk of Council. Ms. Thompson's comments are summarized as follows:

This is the first reading of an ordinance approving the record plan for The Ascent, which is the southern most portion of the land at South Tech Business Park, located within Warren County. This record plan will allow for the dedication of right of way for West Tech Road to complete some construction in that area of South Tech in order to open it up for development. This is the record

plan for that property and contains 43.85 acres of which two acres are in the right-of-way for the West Tech Road extension project.

Mayor Agenbroad presented the item for questions/comments of Council. No questions/comments.

No action required at this time.

- 3) **RESOLUTION R-11-35:** "A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR. (WARREN COUNTY)," was read by the Clerk of Council. Mr. Pozzuto's comments are summarized as follows:

Mr. Pozzuto commented on Legislative Agenda Items 3 and 4. This resolution and the resolution that follows accept the amounts and rates as determined by the Budget Commission of Warren County and Montgomery County respectively and authorize the necessary tax levies. The purpose of this legislation is to authorize the City to accept the amounts and rates as determined by the Warren County and Montgomery County Budget Commissions prior to October 1, 2011. The acceptance of the amounts and rates from Warren County and Montgomery County is a formality each year, which verifies for the City of Springboro revenue projections from real estate property taxes and homestead and rollback amounts calculated by the counties.

Mayor Agenbroad presented the item for questions/comments of Council. No questions/comments.

Mr. LaDu motioned to adopt Resolution R-11-35. Mr. Moore seconded the motion.

No discussion.

VOTE: Vomacka, Yes; Lairson, Yes; LaDu, Yes; Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes; Moore, Yes. (7-0)

- 4) **RESOLUTION R-11-36:** "A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR. (MONTGOMERY COUNTY)," was read by the Clerk of Council. Ms. Thompson's comments are summarized as follows:

(Please refer to comments under Legislative Item 3.)

Mayor Agenbroad presented the item for questions/comments of Council. No questions/comments.

Ms. Belpulsi motioned to adopt Resolution R-11-36. Mr. Vomacka seconded the motion.

No discussion.

VOTE: Lairson, Yes; LaDu, Yes; Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes; Moore, Yes; Vomacka, Yes. (7-0)

- 5) **RESOLUTION R-11-37:** "A RESOLUTION ACTING UPON THE COURT ORDERED MEDIATION FROM THE WARREN COUNTY COURT OF COMMON PLEAS AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS PERTAINING TO SAID MEDIATION," was read by the Clerk of Council. Mr. Schaeffer's comments are summarized as follows:

This resolution acts upon the court ordered mediation from the Warren County Court of Common Pleas and authorizes the City Manager to execute all documents pertaining to said mediation. Mr. Schaeffer began his comments by reading the entire Resolution before Council. (A copy of the Resolution is attached for the record and follows.)



Mr. Schaeffer commented that all resolutions or legislation are presented to Council in the affirmative and Council Members would either vote "yes" or "no." Because the legislation is presented in the affirmative obviously does not indicate or send any messages or suggest that any foregone conclusions have been made. No decisions have been made until Council votes "yes" or "no." Mr. Schaeffer stated that he would like to review

very briefly for City Council and for the audience listening exactly what has gone on in this mediation and how it relates to what came out of the Planning Commission and City Council. Mr. Schaeffer further stated that he is going to divide the presentation into three sections. Mr. Schaeffer explained that there is the existing developed section that has roads, etc. There are three other sections, which include the condos that have not yet been developed in any way i.e. they have not been platted, no roads have been constructed, etc. To begin with the area of the project that has been developed or where the existing homes have been built, the recommendation before Council tonight calls for all one-story, or one-story with loft, houses in that section of the project that already has existing houses constructed so that no existing house will be next to anything other than a single-story, or single-story with loft, house or essentially, one way or another, is very similar to what is already there. The other roughly one-half of that section upon which there are no existing houses may be two-story depending on what the property owner ultimately buying those lots and building houses wants to put in. However, those houses must have 70% masonry on the front elevations, first floor brick wrap on the side and rear elevations, and the remainder must be "Hardie" material (cement board). In this entire area, there is no vinyl other than for such things as windows, gutters, downspouts and trim, but no vinyl siding or features. That, which was just described, would be the existing developed section. Moving to the middle section that surrounds the clubhouse, there are a few lots there that have been subdivided and the house or the property on the corner, which is the only existing house within that section. The four lots immediately abutting them are also single-story houses with full brick wrap the same as in the section just described, the first section. Finally, the third section, which relates to the first two just mentioned. The area in which there are five lots, which is the entrance to the condo project, will also call for ranch only, no vinyl, the same as the existing section or the area just talked about with a few additions that are all ranch or ranch with lofts with one-half of the undeveloped area providing for the ability to have two story homes, but no vinyl, etc., but with full brick wrap or masonry, which ties in very well, although not completely, with a recommendation that was made to Mr. Schaeffer based upon a document that was provided to him by Mr. Woeste (Ron Woeste, Homeowner, The Springs). He does not know who prepared the document or does not know under what circumstances the document was prepared, but he knows that Mr. Woeste provided it to him and it was represented to him as being a document prepared by a planner that he and members of his group had hired. But for the two-story aspect of the area, everything else plugs in very well with what the planner called for. In the middle section, it allows for two-story homes and also allows for some vinyl, a mix of vinyl and natural materials, which also to a degree, but not completely roughly one-half, and one-half meets with the planner's recommendation that was provided to him; his plan called for the natural materials in part of it and natural materials and vinyl in another part of it. This mediation recommendation would allow for some vinyl throughout that area. The third section, which is single family; it lines up identically with what the planner called for. It does not go into the materials or detail that the recommendation before Council goes into, but on the planning document itself it simply says a mix of natural and vinyl materials. The mediated plan does go into a lot more detail about how that can work, but it obviously matches up. In the condominium section, a key there for the City was garages and garages will be provided for all condominium units and those units will be brick construction from Mr. Schaeffer's understanding, as that is what the documents call for. In addition, there will be 12 inch minimum overhangs on front and back elevations on all houses i.e. front elevations and rear elevations throughout the entire project. Mr. Schaeffer stated that his

previous comments pretty much summarize what they have and how it plays out and what came out of the mediation. Mr. Schaeffer further stated that he just summarized it to give everyone a feel. Council has seen it before, but he also wanted to make sure in this public arena that he got some of these issues out in the open so that everybody had a chance to at least have an idea of the time that went into this process and what the outcome has been.

Mr. Vomacka asked that before Mr. Schaeffer proceeds he would like to check on one piece of information specifically Mr. Schaeffer's statement regarding the overhang on all houses. Mr. Vomacka explained that the data he has had up to this point shows overhangs only front and rear of houses in Area 4.

Mr. Schaeffer commented that the information that was provided calls for 12 inch overhangs throughout the development.

Mr. Vomacka commented that that information is different from what they were told before.

Mr. Schaeffer confirmed that a 12-inch overhang was the minimum. Mr. Schaeffer continued by stating that the last item is roof pitches in the area along Springs Boulevard in the developed section. Those have a minimum roof pitch of 8:12 and in the balance of the project roof pitch is a minimum of 6:12.

Mr. Schaeffer continued by commenting that in this process, which is a difficult process, as he has stated to Council before, the hardest decisions that they have to make are land use decisions and the hardest decisions to deal with in the City in which you live are land use decisions. In that process, clearly input from the citizens is critical, not important, not necessary, it is critical to the process and citizen input has made a huge difference at both the Planning Commission level and in this mediation. In regard to a number of the most recent correspondences that have been received and residents' input, he would like to address a few of those because it is important that there is a clear understanding of how this progressed through the process. Mr. Schaeffer explained that in the May-June timeframe that he received information from Scott Phillips, an attorney who was representing Mr. Woeste and maybe the rest of the group too on this matter, that they were going to hire a city planner or planner type to look at the project. Mr. Schaeffer responded, great, we welcome it; get that information to us as soon as you can. He had a subsequent follow up conversation with Mr. Woeste, he is not sure if he called Mr. Woeste or Mr. Woeste called him, but they had a conversation and Mr. Woeste told him that the planner was on board. Mr. Schaeffer stated that he contacted Mr. Woeste to find out the scheduling or when he might expect this information from him. Mr. Woeste gave Mr. Schaeffer the proposed schedule and he believes the other individual was going to be on vacation for a week and there was kind of a three-week timeframe there that they thought they might have some information back to them. Mr. Schaeffer commented that they invited the information; they wanted the information, and he followed up with Mr. Woeste at least one other time to find out where the information was. Again, the input is critical to have; it was critical to have that information before them. In fact, he invited Mr. Woeste and this information to come into the process to help them. Any suggestion that in the mediation process Mr. Schaeffer acted solely and exclusively simply is a mischaracterization of what happened. Mr. Schaeffer explained that he has been doing this for some 38 years. The vast majority of his years in practice he has been dealing with zoning and land use issues in the legal context representing both the private sector and the public sector. He has been involved in some really huge projects, The Greene Town Center and the Mall at Fairfield Commons, are two that come to mind in addition to having been involved with the development on the private sector side and the public sector side in this type of situation with literally hundreds of subdivisions representing thousands and thousands of individual lots. Mr. Schaeffer stated that, accordingly, he would never go into a mediation of this nature by himself and he did not. There was plenty of help there, plenty of other people with him in this, and they worked through it. The process and how they got here is important. Mr. Schaeffer explained that when you own a piece of property, you come to that piece of property with certain inalienable rights and those rights include the right to use that property pretty much the way you want to use it. Back at the turn of the century, New York started imposing or really created the whole concept of zoning and after the issue went

through the courts and it reached the U.S. supreme Court, the court said, yes, zoning is an appropriate limitation on these inalienable rights to the use of your property if the zoning is done in an appropriate fashion and then of course zoning cropped up all around the country. Since then, it has been refined and redefined and expanded, but the court's basic instructions about limitations on the power is still there and the reason is to protect the property owner, but not just the property owner, the stakeholders, which are obviously the City on the one-hand and the property owner on the other hand. And, there are other stakeholders in the process, primarily the citizens who live in close vicinity to where this development is going to be most prominently. In this case what happened was, the Fischer people bought the property so they are the property owner and when they bought the property they bought it subject to what was there, the zoning that was there, which was PUD in 2001 and 2005 and they asked for a major change, which is like a rezoning in essence or as if you were to move from an agricultural zone to a PUD; you are taking one PUD and asking for major changes to it and go through the whole process as if starting from scratch on a rezoning. Mr. Schaeffer continued by commenting that they (Fischer) followed the limitations that have been set in the zoning code, which have to apply to everybody equally so that no one is getting favorable treatment one way or another. Those limitations apply to the property owner. The property owner cannot come in and put an industrial operation in a residential zone, and Fischer did not ask that. The City spent some six months plus or minus working through the planning process for this development. The project that came in on day one and the project that was ultimately voted on by the Planning Commission six months later were two pretty majorly different documents. The plan had gone through multiple iterations as the result of the Planning Commission's excellent work, he thinks, in hammering on the project to get it to a point where it could be voted on and everybody was in a position to move forward. At that meeting, where the plan was in front of the Planning Commission for action, the vote was taken and the plan was voted down four to three. Under the City of Springboro's zoning code, the Planning Commission recommends in major zoning matters as opposed to minor issues that Planning Commission has exclusive jurisdiction over. The Planning Commission recommends to City Council, and City Council has the last word on what happens at that point. The matter then progressed to City Council who had the matter in front of them, and City Council voted on the plan and upheld the recommendation of the Planning Commission. What the Planning Commission voted on was the record that was made by the Planning Commission and the recommendation to the City Council that the City Council voted on was that record. Fischer believed that the record that was made in that six months in front of the Planning Commission does meet all of the requirements of the City's zoning code and is in compliance with the laws, rules and regulations of the City as well as the laws that apply to the zoning arena in general so they appealed the matter, and what they appealed, in the form of an administrative appeal, is the record. There is no *de novo* meaning there is no new evidence taken; there is no re-trial of any of the issues. The file is duplicated and sent to the court and that is what the court gets and that is what the court has to deal with. Fischer argues that the record says A, B, C and D; the City's laws, rules and regulations require A, B, C and D and they complied in all respects. The City's position is, no, they did not; they did not comply in all respects and the City thinks that the position of the Planning Commission and City Council needs to be upheld. Of course, stating the case of either side is what litigation is all about. In addition, Fischer's second or companion law suit is very focused and simply asks for the right to build three houses in Section 4A, which is right at the entrance where it is currently developed on the theory that the 2005 Coffman plan that was approved by Council did not limit to simply the type of houses that were there and that for instance they could build two story houses there if they wanted to. The record simply was not very complete in that issue and they thought they had that right. Those are the two cases, and they have filed their case, and the City has taken a very aggressive approach on that issue too in opposition. Mr. Schaeffer stated that that is where the case stands today; that is where it stood as of about June 1 of this year. Subsequent to June 1, the court ordered that the parties take the matter to mediation. They appointed a court appointed mediator; they met here at the City with that mediator and spent most of the day in mediation. They worked on the issue before the mediation and have worked on the issue since the formal mediation, but the mediator has been involved throughout and the net result is what is before Council tonight for a vote. The basis for the recommendation is this; the document that is before Council that the mediator recommended is better than the plan that came out of Planning Commission and was recommended to City

Council. Mr. Schaeffer stated that he would submit to Council that there are significant additional concessions that have been obtained from Fischer through this mediation process. Is it perfect? Probably not, there is no such thing as perfect. If every single item and the complete information that Mr. Woeste specifically provided were incorporated into this plan someone would still be unhappy. Perfection is impossible, but it is a supportable plan in the sense that it is something significantly different than what was already there. From the court's perspective, the court only cares about how it deviates from the plan that the Planning Commission voted on and that City Council supported the Planning Commission's action. The records came in and said this is what the developer wants to do; Planning Commission voted it down and City Council supported that vote. The court is now looking at recommendations from the mediator that take that plan and add to it and make it better, make it more comprehensive, make it reach a number of issues that have been addressed multiple times throughout the process and that is all the court is going to look at. If the action tonight is in favor or is to support the resolution that is in front of Council then that which came out of the mediation is what the new plan will be for the Fischer Project. If Council decides not to support the resolution in front of them, the court is only going to be looking at the plan that is in front of them that came from the Planning Commission through City Council and into the court. They are not going to look at this new plan because from the court's perspective it does not exist. All the court has in front of it is the record. Litigation is full of vagaries; you can have the greatest case in the world and you might not win and you can have the worst case in the world and you might win. Mr. Schaeffer stated that he is not going to stand before Council and tell them that the City has no case at all because that is simply not right, but he will tell them that when he looks at the record and compares it to the requirements, and he is choosing his words carefully and he does not know how Council is going vote, he has come to the recommendation and has had legal help coming to this conclusion that the best interests of the City are served by moving forward in a positive fashion on this resolution as opposed to engaging in further litigation that if is lost by the City will certainly result in something worse than what is before you tonight and could result in there being damages awarded against the City. Mr. Schaeffer concluded his comments by stating that he thinks he has covered all of the bases and unless Council has any questions he thinks he is finished with his comments.

Ms. Lairson asked when Council votes on this tonight and if it is voted down and it goes back to the court, then the court decides whether or not to let Fischer build based on the original plan that go voted down the first time.

Mr. Schaeffer replied yes, that is correct, and that is all the court will decide.

Ms. Lairson asked if Council votes to accept the mediation results, then is Fischer allowed to start building on Tuesday.

Mr. Schaeffer replied no, Fischer still has multiple administrative procedures or actions they have to go through before they can start building. Those are all actions that any building would have to go through. The plan still needs some fleshing out in the sense that they know where the roads are going to go, but the City needs to see the construction drawings and issues of that ilk. Other than maybe moving some dirt, which they might be able to do, but he does not know that they would; they have no indication that they are going to. The only indication that moving dirt might happen is that they have indicated that they will build a clubhouse first, which would be the very first thing that they would build and it is not inconceivable that they will bring the appropriate paper work in, but it is not going to happen on Tuesday. There could be some construction started by the end of the year and it will probably be on the clubhouse if the action tonight is in favor of the resolution.

Mr. Moore commented that when Mr. Schaeffer talked about the condominiums he mentioned there were going to be garages. Mr. Moore stated that he did not hear anything about carports; he thought there was some understanding that there would be carport shelters rather than garages at the condominiums. Mr. Moore confirmed that it would not be like a shelter for cars to park; it would be a garage at the condominium areas.

Mr. Schaeffer commented that condominiums provide for garages for roughly 75% plus or minus, maybe more than that, maybe 80%, but the garages that will now be added to the condominium area are brick garages.

Mr. Moore confirmed that there would be no carports.

Mr. Schaeffer confirmed it would not be a carport situation.

Ms. Thompson added that the garages are four-car units.

Ms. Schaeffer confirmed they are four-car units and everybody has a one car garage whether they are built into the condominiums or separate.

Mayor Agenbroad asked if there were any other questions or comments of Council.

Mr. Chmiel thanked Mr. Schaeffer and is quoted as follows: "I'd just like to thank Alan for dissecting this into so many parts that we could make a good evaluation on the decision tonight with all the effort you and Chris and Dan Boron have put into this and Marie and Planning Commission. It's a lot of information; it's a lot of detail and you've really simplified it well so I do thank you for your efforts and all the hard work you put into it."

Mr. Schaeffer thanked Mr. Chmiel for his comments; he appreciates it.

Mr. Vomacka stated that he wanted to make an extended comment with somewhat contrary ideas. Mr. Vomacka is quoted as follows: "I'm a wild-eyed optimist; I believe in God, Motherhood, and American pie. I believe in the judicial system in this country even though occasionally in Southern California or Central Florida I am not so sure I totally agree with the decisions that they reach, but this process has me seriously questioning the validity, the value of the mediation process if not the entire judicial system. I am painfully disappointed with what is coming out of this process. I am looking at the plan that City Council voted down, that the Planning Commission voted down and the changes that are now coming to us, and in my mind these changes are truly minimal. I don't have my old drawings to say exactly how many additional lots are no vinyl, but I know the current count is 64 lots and some portion of those were no vinyl in the plan we voted down and I don't know those numbers, but there are certainly more properties that have been taken out of the vinyl and there are certainly garages that have now been added on. They are not attached garages, but unfortunately, I don't think we ever mentioned attached garages. I'm not sure we ever really realized the difference out there. Five homes that line The Springs boulevard will get the roof pitch of 8:12 instead 6:12, that is five units that they made that particular improvement on; units that line the entrance into the subdivision. We have rear amenities on 12 units that separate Area 3 from Area 4. There is no definition that I see that says what the amenity is, but I believe it is such things as bay windows and porches on the back and other things that break up that horrible flat expanse of vinyl, which is so characteristic of Fischer Properties every place that I have looked at them at least. I'm sorry we don't have or I haven't seen the clear definition of what amenities are because I have learned by bitter experience that the people at Fischer have a very loose usage of the English language. You have to crack them down and nail them down on every comma that's there or they will find some way to be less desirable. They had put rear and side amenities on four units, two on Clearsprings and two on what to my mind is an unnamed street that is coming in from Settlers Walk and into The Springs. Again, it is the entrance ways that they are concerned with not the development as a whole. There are no amenities, none that I have been able to identify, on the 21 lots that back up against the existing homes on Stanton in Settlers Walk. They told us something along the lines of well the homeowners will certainly choose amenities on those. Homeowners in other Fischer Developments have not chosen any amenities. I can't imagine what is going to force them to do it this time if Fischer doesn't lay that out there for the courts do not. There is the issue of the overhang and you're right it does say 12 inch minimum front and rear and it also says 1.5 in on the side; one and half inches on the side overhang is another concession. All of these to my mind make it look better to a new purchaser coming in and looking

around for their first impressions, and of course first impressions are always the key thing. I don't see anything that's just a, gee, we really need to work with the homeowners and work with the people of Springboro to make things better. Fischer bought this property for a song; they bought it at a distressed price. They told us repeatedly it was distressed and they bought it at that kind of a price. They knew what was in the general plan that they bought it for and we knew that they were going to come in for some changes so this was kind of the ground work initially. Council has been very flexible in being responsive to the kinds of things that Fischer was looking for. We allowed them to increase the number of units. We allowed this increase, a significant increase I think, in the number of units by changing the nature of the condo area. Initially, the condos were going to be the entire north side of the property and there were going to be basically duplexes, it was basically a large area of duplexes. Instead, they concentrated these units in a much smaller area about a third of the original size. They are putting up multi-story units; and frankly, I think that's better for the community than the sprawled out single duplexes that were there in the first place. They have totally revised, they have created a whole new concept in this area called Area 2, but the homes in there, and I don't know what prices they're planning on selling anything for, but my guess is these are going to be the lowest cost units anywhere in the City of Springboro. That's just the way they are set up; that's just the size of the properties. The least expensive units anywhere in the City of Springboro look to me to be what we're going to be seeing in there, and we allowed that; we needed diversity in housing costs and prices in the community and that was not something that Planning Commission objected to nor I personally. We allowed them to eliminate the no-load boulevard that led into the development in the first place. A very expensive thing for a developer to do and we said, no, you can get rid of that. These are all major advantages, major financial advantages, either additional revenues or reduced costs to Fischer. In return, in exchange for granting them these concessions, I and I think others have been looking for some protection for the existing residents of The Springs, of Settlers Walk and of Springboro in general. I know I made a request that they limit the number of two story houses in Area 4, the ones near the existing homes. The answer we got back was we are unable to further limit the availability of two-story floor plans in Area 4. They are not unable to do it; they just don't want to do it. There's a big a difference. In response to a question of amenities on the rear of homes that are going to back up to the homeowners on Stanton. The answer was, and I went through this before, customers will likely select amenities for lots 19-35; they haven't elsewhere and I don't know why they're going to start now. That's just two examples of a long history of intransigence as far as I am concerned on the part of Fischer throughout this process from November, and I am one of the lucky people who've been in it since November of last year; it is almost November of this year. Their written materials are almost impossible to understand. They overload you with just all kinds of irrelevant material. They gave us a book that was a good inch thick that was filled with picture after picture after picture after picture of what houses might look like. Each picture was so small you couldn't see anything; they were thumbnail sketches of what we were supposed to be making decisions on. We repeatedly questioned them to pry information on what the exterior materials were going to be over and over and over. What are the exterior materials going to be; how much vinyl are you planning on was really our concern. What we got back was something that they called an average veneer ratio, which had a value of 1, 3 or 6. To this day, I do not know what an average veneer ratio is and what a value of 3 might mean or how we might enforce that. We pushed them again; we kept asking them that question and the next time we got back an answer we got a ratio for each façade that they were planning so we have a ratio now of 723 for their Andover Model or 293 for their Hayden Model. What is a ratio of brick to wood that is 723; what does it mean? I don't have a clue; I cannot understand it. They have purposely, in my mind, buried the facts, hidden the information, kept us from understanding what was going on in every single way that they can manage. I have gone on this project from being strongly in favor of Fischer coming to town to being, if you cannot tell by now, adamantly opposed to what I am seeing from them right now. If you go back and look at the November 10 minutes of the Planning Commission, I am quoted correctly as saying I was thrilled they were coming and I was pleased that they were working with existing homeowners. That's a quote that's in the minutes from that particular meeting. You can check on how I voted on the two opportunities I had. I certainly voted "no" on Planning Commission and I voted "no" on City Council and you can make your own guess as to what I will do when we get to this in a minute. We are faced right now as far as I am concerned, in my opinion, with two terrible options. We can say "yes" and

what we are doing by saying "yes" is we are effectively saying these minimal changes they have made since we rejected them last time are sufficient to overcome our objections and that those were the only things that we cared about when we said "no" this is not good enough for Springboro. Or, we can vote "no" in which case we can expect Fischer is going to continue their lawsuit and as Alan said if we lose that the judge can go back to the original plan. The judge can do frankly, as far as I understand it, virtually anything the judge wants to. The high probabilities are they're going to go back to whatever Fischer wanted the most that's just the nature of human opinions and human behavior that we get into. We may, if we lose, get assessed for damages. I understand and appreciate that is out there because we have delayed Fischer by preventing them from proceeding with what it is that we don't want them to proceed with and that is what we're going to end up paying damages for. I think Springboro is very poorly served by this whole mediation process by the courts, and we have very little apparently to say about our own future. There is a concept in Bridge, if any of you play Bridge, which is Morton's Fork. Morton's Fork is a choice between two equally repulsive alternatives. It's sort of like when the courts out in Utah used to offer a condemned convict their choice of being executed by firing squad or hanging. These were the options and that's as far as I am concerned the options that Springboro is facing right now; we're damned if we do and we're damned if we don't and I'm just painfully upset about this whole thing and I appreciate your indulgence."

Mayor Agenbrood asked if there were any other questions or comments of Council. There were no other questions or comments of Council.

At this time, Mayor Agenbrood asked if there was a motion to adopt the Resolution.

Mr. Chmiel motioned to adopt Resolution R-11-37. Mr. Moore seconded the motion.

No discussion.

VOTE: Vomacka, No; Lairson, Yes; LaDu, Yes; Agenbrood, No; Belpulsi, Yes; Chmiel, Yes; Moore, Yes. (5-2)

ITEM 7. REPORTS: Mayor's Report – The 3rd U.S. District Office Hours will be held on Friday, September 23, 1:00-2:00 PM, in the Community Room. The next City Council Work Session will be held on Thursday, October 6, 2011 at 5:00 PM in the Community Room to accommodate the 5-Year CIP presentation and discussion followed by the City Council Regular Meeting at 7:00 PM in Council Chambers, as scheduled.

City Manager's Report – Ms. Thompson reminded the community that on October 8 through the efforts of some of the City's staff including Mr. Pozzuto, the City will be holding a safety program that will be conducted here at the City Building from 4:00-7:00 PM. October 8 is a Saturday and the City encourages everyone to come out.

Committee Reports –

Mr. Moore – No reports.

Mr. Chmiel – Park Board – The Park Board met on Wednesday, September 7 at 7:00 PM in Council Chambers. The Park Board has completed the solar panel project in all of the parks and the City is currently generating between 70-80% of the electricity used in the parks and selling energy credits resulting in income for Springboro. The solar project has proceeded according to their plans and is generating the amount of power that was proposed in the original evaluation. The Board also looked at the updates going on at Clearcreek Park with the new entrance and new parking lot, which are currently under construction and should be finished this fall. The next Park Board meeting will be held on Wednesday, October 5 at 7:00 PM in Council Chambers, as scheduled.

Ms. Belpulsi – Planning Commission – The Planning Commission met in Work Session last night, Wednesday, September 14 at 6:00 PM in Council Chambers to discuss the following items: Site Plan Review – 945 West Central Avenue (SR 73), gasoline service station/convenience store. This is the site of a new business known as Thornton's. The Planning Commission is working closely with them to get their parcel developed because it will be a nice entryway into the City, and they have been very supportive. Town Center Overlay District Review (a sign package) – 75 North Main Street (SR 741). This sign is for Soogood Café, another new business in town. The Architectural Review Board has made a favorable recommendation regarding the sign and the Planning Commission will take formal action on this item at their September 29 meeting. Discussion – Planning & Zoning Code Text Amendment, Section 1271.02, Exterior Lighting. The Commission continued discussions concerning the City's Exterior Lighting regulations. The next Planning Commission Formal Session will be held on Wednesday, September 28 at 6:00 PM in Council Chambers, as scheduled.

Mr. Vomacka – Architectural Review Board – The Architectural Review Board met on Monday, September 12 and made a recommendation regarding the sign package that Ms. Belpulsi mentioned under her report for Soogood Café on N. Main Street. The Board also approved a new door on a home at 515 S. Main Street to allow the tenants to use the stairs more readily than they can now. In addition, the Board approved the replacement of the roof on the United Church of Christ on Main Street. The Church currently has a tin shingled roof, which is leaking and it is time to replace it. They can no longer get tin shingles and it will probably be replaced with asphalt shingles. The Board received a presentation on the rehabilitation of the cemetery a month or two ago, which Council helped support. All of the known headstones have now been restored including one headstone that was a 1.5 ton obelisk that they had to lift into position. The next Architectural Review Board meeting will be held on Monday, October 10 at 6:00 PM in Council Chambers. In addition, Mr. Vomacka commented that the Board has an open position if anyone would like to get involved in these interesting things. Interested residents need to file an application by next, Friday, September 23. All of the information regarding the position is posted on the City's website, and Ms. Martin would be pleased to answer any questions.

Ms. Lairson – Community Service Board – The Community Service Board meets on Monday, September 19 in Council Chambers at 7:00 PM. As the chilly winds move in, it reminds us that winter is on its way and the board would like to remind residents who will need assistance with raking leaves down to the curb to be picked-up by the City or who will need assistance with snow removal and are unable to afford to hire someone or do it themselves to please contact the City to connect them with volunteers to help with these tasks. Also, if you are willing to volunteer to help your neighbors get those chores done, the City can connect you with a resident who needs assistance with seasonal tasks.

Mr. LaDu – Finance Committee – The Finance Committee met this evening at 5:30 PM and reviewed the financial reports for July. Also, the Committee discussed the bond renewal that was adopted previously on tonight's legislative agenda and the topic of inside millage. All things considered, the City's fund balances are in good order.

ITEM 8. OTHER BUSINESS. At this time, Mayor Agenbroad read a Proclamation on behalf of the Members of the House of Representatives of the 129th General Assembly of Ohio under the sponsorship of Representative Peter A. Beck, House District 67, commending the City of Springboro on being ranked 42nd on the list of Best Places to Live by *Money Magazine*. (A copy of the Proclamation is attached for the record and follows.)



Mayor Agenbroad also commented that he and his wife, Patti, attended the 9/11 Memorial Groundbreaking Ceremony at the Warren County Administration Building in Lebanon last Sunday. Springboro Police Chief Jeff Kruithoff was Master of Ceremonies and did a very good job. Mayor Agenbroad stated that he appreciated the opportunity to attend the ceremony.

Ms. Belpulsi commented as follows: "I don't know if everyone is aware, but I hope they have been keeping up with what is going on at the State level, because there is a very serious move on at the State level for the State to start collecting our income tax. Now, that is a very serious move and we know that once the State takes their share of the collection we are going to get our fair share back; I don't think so. Plus, it interferes once again with our home rule authority and they just keep picking away and picking away at it. I would like to request that Council authorize the City Manager or Lori, our Clerk, whoever is more appropriate to draft a letter for our signatures to go to Shannon Jones our Senator and Pete Beck our Representative and whoever else would be appropriate – I don't know if it would be the Governor; I'm not sure who else– for our signature to object to the State interfering in the collection of our local taxes."

Mayor Agenbroad asked if Ms. Belpulsi was making her request in the form of motion.

Ms. Belpulsi answered that she would if that would be appropriate.

Mayor Agenbroad stated that Ms. Belpulsi has made her request a motion. Mr. Vomacka seconded Ms. Belpulsi's motion to write to State Representatives opposing the State's interference in the collection of local income tax.

No discussion.

VOTE: Lairson, Yes; LaDu, Yes; Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes; Moore, Yes; Vomacka, Yes. (7-0)

Mayor Agenbroad stated that the motion carries and Ms. Belpulsi's suggestion is ratified.

ITEM 9. FINAL COUNCIL AND MANAGER COMMENTS. Mr. LaDu commented that he too would like to commend Chief Kruithoff for his work on Sunday as Master of Ceremonies for the 9/11 Memorial Groundbreaking Ceremony considering his less than 100% physical health due to a recent injury. Mr. LaDu further commented that Chief Kruithoff did a great job and so did everyone else who put the event together.

ITEM 10. GUEST COMMENTS. 1) Mary Kaspar, 465 Woodstream Drive, Springboro – Ms. Kaspar is quoted as follows: "My house has been for sale since March 1st, and although I am not happy with this resolution; I'm sure my realtor is. And, I have a couple of questions. The City Attorney didn't speak to when the clubhouse would be razed. I think you said something about it was going to be moved."

Ms. Thompson, "It won't be moved."

Ms. Kaspar, "It's going to stay in the same location."

Ms. Thompson, "No, the clubhouse that's currently there under the proposed mediation would be destroyed, that would be eliminated from the site and then the new clubhouse would go in the new more centralized area."

Ms. Kaspar, "You said that they would probably start building the clubhouse first, possibly the end of the year. When will the old clubhouse be razed because it is an eyesore when you come in the community? Was that mediated?"

Mr. Schaeffer, "That is going to be one of the very first things that the City is going to want to have taken care of."

Ms. Thompson, "May I just mention too, that the mediation did mention that the clubhouse would be functional by next season in 2012. Is that not correct?"

Mr. Schaeffer, "I don't know if it would be done in time to open."

Ms. Thompson, "I was under the impression that the mediation stated that it would. Not necessarily the clubhouse fully functional, but the pool area would be completed."

Ms. Kaspar, "The pool."

Ms. Thompson, "That is what my belief is in listening to the mediation."

Ms. Kaspar, "When will plans be available so that my realtor can have it or who does she need to speak to so that we have a copy in our house because we would like to disclose that to buyers who are probably going to look."

Mr. Schaeffer, "I'm not sure I understand your question."

Ms. Kaspar, "The plans for the community. We have a lot of uncertain buyers out there who keep asking what's going to happen with the neighborhood. Basically, I can't sell my house right now until the plans are made public. I'd like to know who I need to speak with."

Mr. Schaeffer, "Once the court decides."

Ms. Kaspar, "Once the court decides, and then who in the City does my realtor need to contact to get plans?"

Ms. Thompson, "Our Planner, Dan Boron."

Ms. Kaspar, "Dan Boron. Thanks very much."

Mayor Agenbroad asked if there were any other guests that wished to be heard if so please come to the podium and state their name for the record and make their comments accordingly.

2) Ron Woeste, 178 Winding Creek Drive, Springboro – Mr. Woeste is quoted as follows: "Dave, I really appreciate all your comments; everything you said is on target with what has taken place. To me, it's a sad day for the citizens of The Springs, Settlers Walk, Sycamore Springs, The Falls, the citizens of Springboro. I know it was a tough decision to do that. You know, do you take one or do you take the other. Personally, I would take the worst evil myself and have gambled with it. I don't think they're doing the community any service at all. Springboro has always been a community that holds its people and standards high and that's contributed to Springboro being selected as the 42nd best city to live. With the acceptance of a few changes the City's attorney mediated from Fischer Homes, I think all communities feel this has been a grave disservice to our community. Even as it's voted, to have condos built with detached garages that's something they do at apartment complexes. Would you have really allowed Coffman to build condos with detached garages in 2005 or if a developer came here today and said we are going to build all of these condos, but they are going to have detached garages would you really let the developer do that; I don't think you would. I don't think that would happen because Springboro has more pride than that in what goes up and what's constructed. We've all seen Fischer, as a neighborhood group anyway, has lied to us, us as homeowners anyway, and threatened, bullied us and the City. This behavior hasn't changed from the first day we met them and do you really think this is going to change in the years to come. It's how they operate their business; we've witnessed that with other cities and Springboro is going to witness that with them for years to come. I don't think –as Mr. Vomacka had said, the mediation did not add any value, and the only interests it is, is really Fischer's best interest. It does not come close to the City's land use plan, the approved PUD, and I would disagree that it ties in very well with what our

independent planner had to say. They said they would match homes similar to ours in our area. The homes they are going to put in have 6:12 pitch roofs in our area. We've got 12:12 and 14:12 pitch roofs. All of our houses have 12:12 and 14:12 pitch roofs and the house next to it is a 6:12 pitch roof. If anyone thinks that ties in well then I beg you to buy a house next to me, one of the existing homes, and have them build a house with a 6:12 pitch roof next to you because none of that flows at all, not one bit. I've always been a stickler for details; I look at details, Mr. Vomacka, he looks at details. As I look at the details, and I agree with him 100% as to how they work out their details, it is very vague; you've got to really ask all the deep questions to get to the bottom of it. They don't want you to get to the bottom of the details in most instances. We're going to have a lot of unhappy people in Springboro, in our community, and it's going to be for a really long time because of this decision. I think it was a poor decision; I think Fischer, with their threatening and bullying methods, put the City in a corner where you had to do something and said you would have to choose either we're going to give you just a little bit or you risk the rest of it because that is what they do for a living; that's what they do to all cities and we've seen that in other cities. I think it's a sad day for the City; I think it's a sad day, and I realize you have to make the decision and that's what you had to do and there was pending court action, but I don't think it's for the City's benefit; I don't think it's for the community's benefit. It's not for any citizen's benefit in The Springs, Settlers Walk, Sycamore Springs; we've even had people contact us from Brookside that want nothing to do with what Fischer is doing. Just wanted to express that, and I'm sure we'll see you again."

Mayor Agenbroad asked if there were any other guests that wished to be heard if so please come to the podium and state their name for the record and make their comments accordingly.

3) Jim Fenwick, President of Property Management with Miller Valentine Group, 8057 Hetz Drive, Cincinnati – Mr. Fenwick is quoted as follows: "I just wanted to share my disappointment in the decision tonight. Miller Valentine Group and its partners invested more than \$10M in a project in Springboro and we did so in good faith that the community that we invested in was the community we were going to continue to own and manage in. That dramatically changed tonight, and I believe over time it will have a significant financial impact on the people who invested with us in this project. I hope that through some other method there is a way to change tonight's decision because I am really afraid that you're going to end up with a community that we're no longer going to be able to be proud of in Settlers Walk. We were so excited to be a part of Springboro; this has been a project that took almost a year for us to get under contract and almost another year to conclude all of the work that needed to be done, and we did so because we trusted the City of Springboro; we trusted that we had invested in the City of Springboro and that we were going to get what we bought. That all changed tonight, and I just wanted to let you know that as much as we are disappointed; we understand the decision, we understand the position that the City of Springboro was in and we wish you had chosen differently. We look forward to having a great relationship with the City. We've worked with the City on our brokerage unit and our commercial units for many, many years and we have other developments in the Springboro area. We look forward to a continued good relationship with the City. Thank you for your time tonight. I just can't express enough how disappointed we are in tonight's decision because we feel like the neighborhood we purchased in has changed dramatically tonight. Thank you."

Mayor Agenbroad asked if there were any other guests that wished to be heard if so please come to the podium and state their name for the record and make their comments accordingly.

4) Myron Rheame, 148 Winding Creek Drive, Springboro – Mr. Rheame is quoted as follows: "Six years ago, my wife and I made the decision to leave Washington Township, "Warm and Cheerful" Centerville, to come to Springboro and we purchased a home in The Springs. We're not snowbirds; this was to be our eventual retirement home where we want to live and finish off. I had the unfortunate experience a week ago today to lose my job of nearly 20 years and be forcibly retired. One of the upsides to that is I will no longer be paying income tax to the

City who has, in my opinion, not really taken that into consideration. I know you're in a tough spot, but we've got people sitting here that combined we've got over \$7M invested in The Springs, not commercial people, these are residents, and ten million dollars over here. I'm going to have the opportunity also to pay less property taxes because when this \$170,000 house goes next door to my \$480,000 house I'm going to go to the county and get my property devalued; it's already gotten devalued because of the market; you can't control that, but now it's taken another big dip tonight, and that's money that won't be going into the schools. The people that are moving in there; it's going to be marketed to young families. Springboro schools are having a difficult time. You heard the projections; we've been here; I've been in front of Planning Commission. At minimum, 300 new children are going to be introduced; who's going to build the schools and who's going to pay for that. You're not going to get the income tax and the property tax for the value of the homes that are going into this neighborhood. Mr. Vomacka, I appreciate it; you seem like you get it. There's a difference between ignorance and stupidity. Ignorance is not having the right information to make informed decisions. Stupidity is having the inability to make informed decisions through your mental capacity or the unwillingness to get the information that you need to have to make an informed decision and not about the type of people that are being dealt with. I'm extremely disappointed. Life expectancy table, -my insurance agent tells me I'm going to live for another 17 years; I plan on doing it in Springboro, but it's not going to be the kind of lifestyle that I anticipated, nor the community that I came here expecting and respecting. Thank you."

Mayor Agenbroad asked if there were any other guests that wished to be heard if so please come to the podium and state their name for the record and make their comments accordingly.

No other guests came forward.

ITEM 11. EXECUTIVE SESSION. City Council entered Executive Session following the Regular Order of Business to discuss pending litigation with the City Law Director in attendance, as recorded below.

ITEM 12. ADJOURNMENT. Mayor Agenbroad thanked the MVCC for tonight's telecast and scheduled rebroadcasts of this Springboro City Council Meeting.

Mayor Agenbroad asked for a motion under R.C.121.22(G) to enter Executive Session, following the Regular Order of Business, to discuss the purchase of property; whereby, no votes would be taken.

Mr. Vomacka motioned to enter Executive Session under R.C.121.22(G), following the Regular Order of Business, to discuss the purchase of property. Ms. Lairson seconded the motion.

No discussion.

VOTE: LaDu, Yes; Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes; Moore, Yes; Vomacka, Yes; Lairson, Yes. [7-0]

Ms. Belpulsi motioned to adjourn the meeting; whereby, the Thursday, September 15, 2011 Springboro City Council Regular Meeting was adjourned to Executive Session at approximately 8:24 PM. Mr. Chmiel seconded the motion.

VOTE: Moore, Yes; Vomacka, Yes; Lairson, Yes; LaDu, Yes; Agenbroad, Yes; Belpulsi, Yes; Chmiel, Yes. [7-0]

Council immediately entered Executive Session.

With no objections and no further discussion, Council exited Executive Session and Mayor Agenbroad immediately adjourned the Thursday, September 15, 2011 Springboro City Council Regular Meeting at approximately 8:55 PM.

—MEETING ADJOURNED—

John H. Agenbroad

John H. Agenbroad, Mayor

Presiding Officer

Lori A. Martin, Clerk of Council