**ITEM 1: CALL TO ORDER:** Mayor Flaute called the Riverside, Ohio City Council Meeting to order at 6:00 p.m. at the Riverside Municipal Center located at 1791 Harshman Road, Riverside, Ohio.

**ITEM 2: NATIONAL ANTHEM / MOMENT OF SILENCE:**  StebbinsJunior ROTC Cadets John Sage, Hosanna Loreaux, and Oliver Clawson presented the American Flag and led the council and audience in singing of the National Anthem. Mr. John Shewmaker accompanied the audience playing his trumpet.

Mayor Flaute asked Father David Brinkmoeller to give the invocation.

Mayor Flaute said Marine Corp Corporal Derek Dixon was killed in Iraq on June 26, 2007. He said Corporal Dixon joined the U.S. Marines on July 9, 2004 and was trained as an Information Specialist. He said Corporal Dixon had been serving in Iraq since March 25th and was assigned to the 2nd Assailant Amphibian Battalion, 2nd Marine Division, Marine Expeditionary Forces based at Camp LeJeune in North Carolina. He said Corporal Dixon graduated from the Mound Academy in June 2005 following his transfer from Stebbins High School in February 2004. He said while living in Riverside, Derek was interested in Law Enforcement, was active in the Explorers Post 763 as a teen, and made a point to stay in touch with his advisor, Office Jeff Wightman with the Riverside Police Department. He said Derek was buried in the Forest Hill Memorial Gardens with full Military Honors as a War Hero receiving the Purple Heart and other combat decorations as a result of his ultimate sacrifice for his country.

Mayor Flaute said tonight we are here to honor Corporal Derek Dixon by declaring January 14th as Corporal Derek Dixon Day in the City of Riverside. He said he will be honored each and every year thereafter. He asked for a moment of silence for Corporal Dixon which was followed by Mr. John Shewmaker playing Taps in remembrance of our fallen soldier.

**ITEM 3: SWEARING-IN OF COUNCIL MEMBER ELECTS:** Mayor Flaute welcomed everyone to the meeting. He said he would be sworn in first and then he would swear in Mr. Fullenkamp. He said Council Member Mr. Curp has already been sworn in at a previous engagement but we congratulate him on his election.

1. **Mr. Bill Flaute, Mayor**

Father David Brinkmoeller administered the Oath of Office to William R. Flaute.

Mayor Flaute thanked everyone and asked Father Brinkmoeller to say a few words.

Father Brinkmoeller first shared some “Puns for the Educated Mind”. He said this is a time to honor the people who take on the opportunity of public service - say how much we need people to do a good job in public service and to thank them. He said these days; people have plenty of reasons to be cynical about many leaders, plenty of reasons to be cynical about the Catholic Church and other religions, plenty of reasons to be cynical about politicians, plenty of reasons to be cynical about the police department, etc. He said God forgive us all for the mistakes that have been made.

Father Brinkmoeller said it seemed to him that it is so important for us all to rededicate ourselves to do what we do with kindness, humility, and we do what we do based on principles. He asked what the principles should be; from the Catholic tradition some of the principles at play, so we can be part of the debate, is the understanding that the purpose of government is to serve the common good. He said that seems obvious except, how much of government is run by special interests. He said we have seven principles we hope for and this is just from our point of view.

Father Brinkmoeller said the first principle is the dignity of every human person – it’s easy to say but when you are in public service, you need to remind yourself of that a lot. He said secondly, the call to family, community, and participation – all of us have to work together for the common good and family had to be a core dimension of society. He said thirdly, rights and responsibilities – everybody has basic rights and everybody has a responsibility to serve the common good. He said the fourth; anyone who is Christian here and you’ve read the stories of Jesus, you just know the little people are primary and the principle for us is an option for the poor. He said fifth is dignity of work – so important in today’s economy, dignity of work and right of people to work as co-creators with God to make this a better place. He said work is not just about earning a living. He said sixth is solidarity – we are all in this together. He said seventh is care for God’s creation.

Father Brinkmoeller said he just offered that up as principles; each of us have to choose whatever principles we embrace but he hoped that all who had responsibilities for the public chose strong principles. He shared one final pun with the audience.

Mayor Flaute thanked Father Brinkmoeller.

Mayor Flaute next introduced Representative Michael Henne, Representative Jim Butler, and County Auditor Karl Keith. He thanked them for attending.

Mayor Flaute said he wanted to thank a few people – major thank you to his wife Jane for keeping him in line. He also thanked the City Manager, Mary Ann, and all the Staff for making the last two years very workable and he appreciated all their hard work. He thanked all his fellow council members and said they have been great and he hoped to keep up the good work. He thanked John Lawhorn, his Treasurer; Terry and Rick Young; Edyth Ann Mitchell; Glenn Trimbach; and Jim Wellman. He said that’s all except for his kids; thanks to Amanda, Jason, and Bobby who walked the Forest Ridge area; thanks to Erika, Jason, and Elisha who walked the Overlook area; and thanks to Laura and Kevin who walked the area behind St. Helen’s.

Mayor Flaute said when he was in the Jaycees, one of the things he remembers most was the last line of their creed – service to humanity is the best work of life. He said that’s what this job is about; the only reason to do what we do is to try to change lives, we try to have fun, and we try to stay civil so we can continue the positive things that we’ve done so far in our city and not get to serious about it but make sure that we know that we want to stay positive. He said when we do, people notice.

Mayor Flaute said participation – every decision, this council has to be participating. He said he is just one of council; they are the ones making the final decisions and he hopes that all of them will continue to be a part of that.

Mayor Flaute said take Riverside outside its borders; you see our state delegation here and we’ve got to take Riverside outside our borders, especially to those at the base. He said the base folks are so important to our city, so to all of council and to all of staff, we have to continue to take Riverside outside its borders. He said we also need to concentrate on the Center of Flight, the Brandt Pike housing project, fixing Harshman Road, fixing Burkhardt Road, and keeping the relationships with all those folks at the base. He said service to humanity is the best work of life; we work hard and we will continue to see success when we work together.

Mayor Flaute said the final thank you goes to all of you for your help; thanks to all of the citizens of this great city and to all of the voters. He thanks them all and said we all need to be of service to each other and when we do that, we will have a great city.

1. **Steven C. Fullenkamp, Council Member**

Mayor Flaute administered the Oath of Office to Steven C. Fullenkamp.

Mr. Fullenkamp thanked everyone for coming tonight and thanked everyone for all the support he got in the community. He said he had a lot of help from people to get this done. He said he promised to work really hard in the next four years for the citizens; to the community - he wants them to talk to him and he is always available to speak about problems as well as good things. He thanked everyone again and said let’s work together in the next four years to make some really great things happen for our city.

**c. Kenneth W. Curp, Council Member**

Mr. Curp said as mentioned earlier, my Oath of Office was administered to me at an earlier family function in December so we won’t be doing that this evening. He thanked everyone for coming and said he looked forward to four years of good, hard effort on your behalf.

**ITEM 4: PRESENTATIONS – Service Pins**

Mayor Flaute said Mr. Mike Smith has been with us for 10 years and he presented Mr. Smith with a 10 year service pin. He said we also have some 5 year people; he presented pins to Bob Gillian, Finance Director; Bob Murray, Planning and Economic Development Director; and Mitch Miller, Service Director. He said before we go to the last person, he would like to introduce Dalma Grandjean, our Law Director who always keeps us in line. He said we appreciate her being with us. He said the final person he wants to present a pin to - our City Manager, Bryan Chodkowski, who has been with us for 5 years and he hoped Mr. Chodkowski continues to stay with Riverside. He said we thank Mr. Chodkowski for all his hard work.

**ITEM 5: RECESS FOR COUNCIL MEMBER RECEPTION:** The Council took a recess at 6:25 p.m.

**ITEM 6: RECONVENE:** The meeting was reconvened at 7:32 p.m.

**ITEM 7: ROLL CALL:** Council attendance was as follows: Ms. Campbell, present; Mr. Curp, present; Mr. Denning, present; Mr. Fullenkamp, present; Mr. Smith, present; and Mayor Flaute, present.

Staff present was as follows: Bryan Chodkowski, City Manager; Bob Murray, Planning and Economic Development; Mitch Miller, Service Department; Mark Reiss, Police Department; Bob Turner, Fire Department; and Bob Gillian, Finance Department.

Mayor Flaute said before we go on, when he did introductions of people he forgot his Granddaughter, Jasmine. He said she also walked for him; he apologized for overlooking that and told her this would be part of the minutes.

Mayor Flaute said the second thing is that he would like to have a moment of silence again for one of our dear residents and a former council member of the old village, Alice Weaver who passed away just recently. He said she was a wonderful lady who kept active all the way up to the end.

**ITEM 8: EXCUSE ABSENT MEMBERS:** There were no absent members.

**ITEM 9: ADDITIONS OR CORRECTIONS TO AGENDA:** There were no additions or corrections to the agenda.

**ITEM 10: APPROVAL OF AGENDA:** A motion was made by Mr. Denning to approve the agenda as submitted. Mr. Smith seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 11: ESTABLISH DATE AND TIME FOR MEETINGS:** Mayor Flaute said the pastyear we’ve had our meetings on Thursday evenings with the work session for the first 1 ½ hours and at 7:30 we had our regular meeting. He asked if there were any thoughts on how we would change that or should we keep it the same. Mr. Denning said he liked it the way it is; Mr. Curp said keep it the same; and Mr. Fullenkamp said keep it the same.

A motion was made by Mr. Denning to keep the meetings scheduled for the first and third Thursdays of each month with the work session at 6:00 p.m. and the business meeting at 7:30 p.m. Mr. Fullenkamp seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 12: ELECTION OF DEPUTY MAYOR:** Mayor Flaute opened the floor for nominations for a Council Member to serve as Deputy Mayor for 2012.

Mr. Smith nominated Mr. Denning. Mayor Flaute asked if there were any other nominations. Being none, he closed the floor and called for a voice vote.

All were in favor; none were opposed. Mr. Denning was elected Deputy Mayor.

**ITEM 13: FILLING OF COUNCIL VACANCY:** Mayor Flaute said we did have a hand out as well as an email from when we appointed Mr. Fullenkamp. He said it was very helpful and he thanked Mary Ann for sending that. He asked if there were any thoughts on how council would like to proceed on this.

Deputy Mayor Denning asked if council had 30 days from today to appoint someone or was it from January 1st. Mr. Chodkowski said he believed it was from January 1st when the seat became vacant.

Mr. Curp said the seat wasn’t vacant on January 1st and we may have to have Mr. Fullenkamp resign from that seat so it is open. He said we can’t fill 2 seats at one time but his feeling is that until Mr. Fullenkamp took his oath of office today, he wasn’t in his current position; he was in his previous position.

Deputy Mayor Denning said so we either have 30 days from January 1st or we have 30 day from today. Mr. Curp said he thought it was 30 days from today. Mayor Flaute said he saw what Mr. Curp was saying but on the other hand, Mr. Fullenkamp was voted in to start his term on January 1st. Deputy Mayor Denning said regardless, if we move quickly, it will be done one way or the other. Mayor Flaute asked to get clarification from the Law Director if Mr. Fullenkamp needed to resign from the previous seat.

Deputy Mayor Denning said if we use the procedure we used before then we need to pick the 4 or 5 names we want to interview so we can do that at our next council meeting. Mayor Flaute asked if council wanted to do that tonight. Deputy Mayor Denning said if we do it tonight, we can have the candidates at the next meeting then we would have to swear them in by the 5th of next month. He said if we can’t do that then we would need to have a special meeting to get this done in a timely manner. Ms. Campbell said she would like to have a special meeting so they can talk about it.

Mr. Smith said in all fairness, he thought they should have all the applicants come forward and speak with council and we can make our final list from there; either have those people come back before us or make our decision from there. Deputy Mayor Denning said when we did it before, we went through the resumes, picked 5 names, brought them before council, and then we voted on who from those five. He said just like when you interview for a job, you don’t bring in every applicant, and in his opinion, there isn’t any reason to waste everyone’s time if it’s easier to narrow the list down.

Mr. Fullenkamp said personally, he would like a little time to review the applications; we just received 3 or 4 resumes tonight. Deputy Mayor Denning said he doesn’t disagree but his thought is we need to narrow it down, bring those in for an interview, and then make our decision the night of the interviews. He said that way we can do this in the 30 day time period and if we want to call a special meeting to narrow it down to 5, then we need to do that very quickly. He said we need time to let people know they need to come in for an interview so they can rearrange their schedules. Mr. Fullenkamp said can we do some of this process next week. Deputy Mayor Denning said yes, and then we can do the interviews the following week.

Council set a special meeting for Thursday, January 12, 2012 at 6:00 p.m. to review applications and determine which candidates they wished to interview on Thursday, January 19, 2012.

**ITEM 14: MINUTES: Consider approval of the minutes of the December 15, 2011 council meeting and the December 29, 2011 special council meeting.** A motion was made by Deputy Mayor Denning to approve the minutes of the December 15, 2011 meeting as written. Mr. Smith seconded the motion. Four were in favor; two abstained – Mr. Fullenkamp was not at the December 15th meeting; Mr. Curp’s term on Council had not started yet. **Motion passed.**

A motion was made by Deputy Mayor Denning to approve the minutes of the December 29, 2011 meeting as written. Mr. Fullenkamp seconded the motion. Four were in favor; two abstained – Mayor Flaute was not at the December 29th meeting; Mr. Curp’s term on Council had not started yet. **Motion passed.**

**ITEM 15: ACCEPTANCE OF WRITTEN CITIZENS PETITIONS:** Mayor Flaute advised citizens to fill out a form if they wished to speak about agenda or non-agenda items.

**ITEM 16: CITY MANAGER’S REPORT:**

(1) FYI Items

a. Council Request Sheets.

1. Code Rewrite Request Sheet.
2. Council Agenda Calendar.
3. Minutes of the October 17, 2011 Planning Commission meeting.

1. Minutes of the November 22, 2011 Board of Zoning Appeals meeting.

Mr. Chodkowski said you have my report included in the packet; he would be happy to answer any questions or staff would be happy to address any concerns you might have. He said additionally, you can expect to receive my weekly manager’s report tomorrow via email.

Deputy Mayor Denning asked if there was a reason they get the minutes from the Planning Commission and the BZA sometimes 3 or 4 months after a meeting. He said they just received the Planning Commission minutes from October. Mr. Chodkowski said he thought of it had a lot to do with prior to them being inserted into the council packet, they are approved by the Planning Commission or the Board of Zoning Appeals; so if they don’t have a meeting, they might approve the September minutes in December. Mayor Flaute said he thought there were some missed meetings and he asked the clerk if that was correct. Mary Ann said the Planning Commission didn’t have a meeting in November so the December meeting was when they approved the October minutes. Deputy Mayor Denning said that makes sense.

Deputy Mayor Denning asked if there was any word on what was going on at Laws Trailer Court. Mr. Chodkowski said no; when we were asked to address that issue previously, we contacted the County and the Health Department and both indicated that Mr. McMahan met all of their requirements. He said to the best of his knowledge, the only outstanding item in which County Sanitary is aware of but is not pressing is the cover of the meter head. Deputy Mayor Denning asked if there were long term plans that we have been made aware of. Mr. Chodkowski said he has started to move trailers around into certain locations and he has begun to extend the pads to accommodate larger units because they don’t manufacturer those as small as they used to. He said he is doing work within the park in preparation to bring in new units but he couldn’t answer when that might be. Deputy Mayor Denning said so he is moving forward with the plans we were previously told about. Mr. Chodkowski said right, unfortunately his progress isn’t always in the manner which we would like to see but he is continuing to make progress.

Ms. Campbell asked if the plumbing was fixed because she is getting calls telling her that people have to carry water in to flush the toilets. She said she didn’t know what was going on there. Mr. Chodkowski said that is not a complaint that has been brought to our attention; he was required to fix the leaks within the distribution system and to replace the compound meter and pit it when he acquired the park, which was done. He said as to why residents may or may not have running water; he does not have an answer to that unless he has an opportunity to talk to those citizens. Ms. Campbell said she knew before some of the pipes had broken. Mr. Chodkowski said to the best of his knowledge, all the original leaks that were there when he acquired the park and was required to repair, he did.

**ITEM 17: PUBLIC COMMENT ON AGENDA ITEMS:**  There were no public comments on agenda items.

**ITEM 18: NEW BUSINESS**

# ORDINANCES

* 1. **Ordinance No. 12-O-485 to make supplemental appropriations for current and other expenditures of the City of Riverside, State of Ohio, for the period January 1 through December 31, 2012. (FIRST READING)**

Mr. Chodkowski said this ordinance is to make supplemental appropriations to the current fiscal budget in regards to two items that came in late last year after council had already approved the operating budget for this year but which council determined were appropriate ventures to include for 2012. He said that is why this has been brought forward.

A motion was made by Deputy Mayor Denning to read Ordinance No. 12-O-485 for the first time in its entirety and approve its first reading. Mr. Fullenkamp seconded the motion.

The clerk read Ordinance No. 12-O-485 for the first time in its entirety and Mayor Flaute asked if there were any questions or discussion from members of council.

Mr. Curp said the manager stated this is brought before council addressing two items and he asked if Mr. Chodkowski could enlighten him as to what those two items were. Mr. Chodkowski said council has been working with a development company, Forest City, in relation to the Center of Flight. He said they have prepared a master plan which is complete and as a result of that, they presented a phase II to that plan. He said this appropriation is to accommodate that. He said Mr. Murray was able to put together a tentative purchase agreement for property within the Center of Flight and that was the second item that cropped up late last year.

Mr. Curp asked about the capital for the Public Works Department. Mr. Chodkowski said that was originally part of the Service Department budget and it was determined in discussions with the Finance Director that there was local permissive tax reserves that could be used for that purchase as opposed to the originally general fund dollars transferred into the 202 account to cover the purchase of the property.

Mr. Curp asked where we stood on the possible purchase of the building in the Center of Flight. Mr. Chodkowski said tentative conditions have been reached and it’s our intention, following sub-preliminary inspections of the property, to bring forward legislation on that matter for council at the next meeting.

Mr. Curp said he was not in favor of purchasing that particular piece of property for various reasons. He said he is not in favor of this; at least, not at this time. He said in his mind, that’s a piece of property that’s been available for years and years and its not going to go anywhere. He said we or somebody else could probably purchase that property probably any time they choose to at favorable rates or a favorable price because they can’t sell the property.

Mr. Curp said one of the things he did during the years he’s been gone is follow the council meetings through the minutes and one of the items that was addressed by council members during the budget appropriation process in the latter 3 or 4 months of last year was questions about how the city is going to address its financial situation. He said what council was advised by staff was that after the appropriation was put in place; the council should address the financial situation moving forward; what to do about the city’s revenue stream. He said this would seem to move another goodly chunk of money out of the reserves to the expense side of the house from a capital standpoint. He said his desire would be for us to first start addressing the financial situation in this community before we start making large expenditures. He said he can’t vote for this one.

With no further discussion, a roll call vote was as follows: Deputy Mayor Denning, yes; Mr. Fullenkamp, yes; Ms. Campbell, no; Mr. Curp, no; Mr. Smith, yes; and Mayor Flaute, yes. **Motion passed.**

# RESOLUTIONS

* + 1. **Resolution No. 12-R-1613 appointing the City of Riverside’s 2012 Representatives to the Miami Valley Regional Planning Commission (MVRPC).**

A motion was made by Mr. Fullenkamp to approve Resolution No. 12-R-1613, inserting Mike Smith as the voting member and Mike Denning as the alternate to the MVRPC Board and MVRPC Transportation Committee and inserting Mitch Miller as the representative and Bryan Chodkowski as the alternate to the MVRPC Transportation Technical Advisory Committee. Deputy Mayor Denning seconded the motion. All were in favor; none were opposed. **Motion passed.**

 **b. Resolution No. 12-R-1614 appointing the City of Riverside’s 2012 Representatives to the First Suburbs Consortium of Dayton Ohio Council of Governments.**

Mayor Flaute said he has just finished his second year as Chiarman of the First Suburbs; in the past it was State Senator Peggy Lehner who did two years and the Mayor of Oakwood did two years. He said he kept that up and decided to also do only two years, so he will not be Chairman this year but he would like to still be the representative if its council’s pleasure. Mr. Smith said he too would like to be a representative. Mr. Fullenkamp agreed to be the alternate.

A motion was made by Deputy Mayor Denning to approve Resolution No. 12-R-1614, inserting Bill Flaute and Mike Smith as the representatives and Steve Fullenkamp as the alternate. Mr. Fullenkamp seconded the motion. All were in favor; none were opposed. **Motion passed.**

**c. Resolution No. 12-R-1615 setting forth appointment of \_\_\_\_\_\_\_\_\_\_\_\_ as Ex-Officio Member to the Multimodal Transportation Commission of the City of Riverside, Ohio for the term beginning January 1, 2012 and ending December 31, 2012.**

A motion was made by Mr. Smith to approve Resolution No. 12-R-1615, inserting Mike Denning as the Ex-Officio Member of the Multimodal Transportation Commission. Mr. Fullenkamp seconded the motion. All were in favor; none were opposed. **Motion passed.**

**d. Resolution No. 12-R-1616 setting forth appointment of \_\_\_\_\_\_\_\_\_\_\_\_ to the Investment Review Committee of the City of Riverside, Ohio for the term beginning January 1, 2012 and ending December 31, 2013.**

Deputy Mayor Denning asked what exactly that committee does. Mr. Gillian said it would be to change our investments from one broker to another; if we decided to do that it would take committee approval.

A motion was made by Deputy Mayor Denning to approve Resolution No. 12-R-1616, inserting Mike Smith as Council Representative to the Investment Review Committee. Mr. Fullenkamp seconded the motion. All were in favor; none were opposed. **Motion passed.**

**e. Resolution No. 12-R-1617 directing the Riverside Multimodal Transportation Commission to update the City of Riverside’s Official Thoroughfare Plan and to recommend a Transportation Improvement Plan to City Council.**

Mr. Chodkowski said this resolution is brought forward pursuant to the request of Economic Development Director Mr. Murray as well as the members of the Multimodal Transportation Commission to authorize an update of the city’s Official Thoroughfare Plan and to create a Transportation Improvement Plan.

A motion was made by Deputy Mayor Denning to approve Resolution No. 12-R-1617. Mr. Smith seconded the motion. All were in favor; none were opposed. **Motion passed.**

**f. Resolution No. 12-R-1618 authorizing the City Manager to execute an agreement for funding under the Miami Valley Regional Transit Authority RTA Community Grant Program.**

Mr. Chodkowski said this resolution is to authorize the application to the Miami Valley RTA for a Community Grant.

A motion was made by Deputy Mayor Denning to approve Resolution No. 12-R-1618. Mr. Fullenkamp seconded the motion.

Mayor Flaute asked if this is for the grants for the bus stops we’ve been trying to get funded through private individuals and how this resolution is connected to that. Mr. Chodkowski said the process is, the city picked out an intersection last year, Burkhardt/Spinning; we put together a preliminary budget for the bus shelter and we submit that to RTA; they approve it and agree to reimburse the city 80% of the total budget. He said Mr. Murray had suggested last year and it was the endeavor of the Multimodal Transportation Commission to find private sponsorship to be recognized through the newsletter, the website, and some type of placard within the shelter – private enterprises in combination to cover the 20% so that the total project would have a zero net affect on the city. He said it was his understanding that the Burkhardt project is still in process; some contributions have come in, the VFW most significant. He said while he hasn’t had an in depth conversation with Mr. Murray, he believes it would be a similar application.

Mr. Murray said exactly; we have two stops and we would be improving upon grants that are already in place, they will be putting some slabs in. He said one is on Woodman at the crest of the hill and the other is across from the Pizza Hut on Linden. He said they are going to improve the stops then we will come in and put the shelters in place. He said we try to work under the same assumptions every year, looking for contributions for the remainder of the dollars. He said it’s worked out very well; we got behind on Burkhardt/Spinning but we are getting caught up. Mayor Flaute asked if they expected to get private funding again. Mr. Murray said absolutely for the remaining 20%. Mayor Flaute said the committee is doing a great job and he thanked them. He said he was hearing it out in the community, even outside the community.

Mr. Smith said weren’t we going to put a bus shelter on Harshman Road around Morris Furniture. Mr. Murray said we had talked about that and the committee decided it would be a lot easier to start with Burkhardt/Spinning. He said because of our endeavors RTA has spent money in Riverside that we didn’t really ask them to, so they have come forward with funds and what we want to do is augment which we’ve started to do, that was at Overlook and also on Spinning. Mrs. Luckner said that is still in process. Deputy Mayor Denning added that Harshman Road is being redone this year and we didn’t want everything going on in the same year, so hopefully next year or the year after we’ll get Harshman Road. Mr. Smith said with the cut out for RTA that would be an ideal spot for it.

With no further discussion, all were in favor; none were opposed. **Motion passed.**

 **III. OTHER**

**a. Elect Council Members to the VFFDF (Volunteer Fire Fighters Dependent Fund) Board.**

Mr. Chodkowski said this is reoccurring action before council and the clerk has who was appointed last year. Mary Ann said Mike Smith and Edward Schock were appointed last year.

Ms. Campbell asked what this is for and referred to the amount of the current assessed valuation. Mr. Chodkowski said as he recalls, the board is responsible for administering disbursements from the fund in the event a Volunteer Fire Fighter is killed in the line of duty. Mr. Smith said that is correct. Mr. Chodkowski said the board meets very infrequently. Ms. Campbell referred again to the assessed valuation of the political subdivision. Mr. Chodkowski said that is basically what the county says is the taxable value of all the property located within the city is valued at. Ms. Campbell asked if this was a tax to the people. Mr. Chodkowski said no, there is no additional tax related to this fund that he is aware of. Mr. Gillian said no; he believes they use this as some sort of a way to appropriate shares among the various communities. Ms. Campbell said it’s not a raise in the taxes. Mr. Gillian said no; we don’t pay anything at least we haven’t seen anything.

A motion was made by Deputy Mayor Denning to approve the appointments of Mike Smith and Steve Fullenkamp to serve on the VFFDF Board for the year 2012. Ms. Campbell seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 19: PUBLIC COMMENT ON NON-AGENDA ITEMS:**  Mr. Eddie Holt of Bayside Drive said he was here because of the Lilly Creek Project which he thought was handled very poorly. He said he is a creek owner and lives along the creek bank. He said 1 ½ years ago the Lilly Creek Project was brought to us by Mr. Chodkowski, that the City of Riverside was going to partner up with Montgomery County Water and Soil and they had a plan put in place to fix the erosion problems that some of the homeowners were having along the creek bank. He said James Dillon who is the Administrator for Montgomery County Water and Soil gave us an outline showing that phase I would put in a retention pond in Shellabarger Park and phase II was to clean out and solidify the creek banks. He said Mr. Chodkowski stated phase I and phase II would cost no more than $1.5 Million. He said this was 1 ½ years ago.

Mr. Holt said a lot of people suggested putting in some aqueducts but that was shot down. He said others suggested drain tiles and that wasn’t going to work either; Mr. Chodkowski stated this would be the best way possible for those in the City of Riverside. He said Mr. Chodkowski gave us two options; option one was the folks in the Lilly Creek watershed including those in Greene County and we would have to get 50.1% of the landowners within the water shed to approve of this project with a signed petition. He said we were told the drawback to that is it would probably take forever and it probably wouldn’t work. He said option two was just to get the landowners within the Lilly Creek watershed within Riverside which came to about 1,600 + landowners and again, we would need 50.1% of the landowners or 50.1% of the total land mass in order for the project to move forward.

Mr. Holt said when he heard it was going to cost $1.5 Million, he was leery and sure enough they got a letter on September 14, 2011 from Montgomery County Water and Soil about a meeting in October and that phase I was going to cost $1.8 Million and they couldn’t tell us what phase II would cost. He said some of the owners are losing their land and are willing to do whatever it took, but for others; he doesn’t know about anyone else but if he is going to do something, he wants to know what it is going to cost. He said he doesn’t want to be left in the dark.

Mr. Holt said since they couldn’t tell us, they had two other meetings; one on December 1st and a hearing on December 15th. He said when he heard about the hearing he wondered how they got 50.1% of the landowners because he didn’t think it would pass. He said come to find out, they never did; they got the amount of signatures they needed of the people along the creek bank and for some reason this thing was going to proceed.

Mr. Holt said he is a fair man but he felt like an injustice was made. He said he with a group of others went out and got over 800 signatures of those who were against this in order for this project to be overturned. He said he felt that was unfair; a lot of the folks weren’t even aware of the project, some didn’t know where Lilly Creek was, and some didn’t get any information on it. He said in his opinion, everyone should have the right to sign a petition on whether they want a project to go forth or not. He said he can’t buy a car without a signature, he can’t get a house without a signature, he can’t get married without a signature, and folks should have the right to sign a petition.

Mr. Holt said he had a couple questions; one, he couldn’t understand why they were putting in a retention pond at Shellabarger Park when they should be cleaning out the creek first to see if that would alleviate some of the problem. He said come to find out in the original deed, Shellabarger sold the park to Montgomery County for $100,000 in the 1970’s and when the village merged with the township to become the City of Riverside in 1995, Shellabarger Park was sold to the city by the county for $1. He said for phase I, if the county had put one shovel in the ground to start digging that retention pond the deed basically states that the parcel would revert back to the previous owner, the county, and would have given them the right to assess our property to pay for phase II. He said he didn’t know that and no offense but he thinks the city manager should have looked into that kind of stuff and made us aware of that.

Mr. Chodkowski said he would be more than happy to address all of the questions; he will stay after the meeting and answer questions for everyone that is here on this topic. He said he knew there were a lot of folks who were very dissatisfied and very disappointed with how that process worked. Mayor Flaute said that included many council members.

Mr. Holt said there is a lady across the creek who is a very dear friend and he wants to help her but because this was handled so poorly, she won’t even speak to him. He said it’s really not his fault; to him, he was looking out for everybody, he wasn’t just looking out for her. He said the night before the hearing Mr. Dillon stated to Mr. Katz of the Dayton Daily News that phase II could cost as much as $12 Million. He said he spent two weeks talking to the folks in his area and some are on fixed incomes, some are just trying to hold their own to save their homes, and when they hear that kind of stuff - $12 Million, who’s going to pay for that – we are and it just boggles his mind. He asked why a project would be done when there is no idea how much it will cost. He said this needs to be fixed but we’re more worried about buying some land that could maybe be bought five years up the road. He said this is an issue that needs to be addressed now.

Mayor Flaute asked Mr. Holt to please stay after the meeting; there are a bunch of other folks that want to hear the same answers as you do and the manager and council members will get with you after the meeting.

Mr. William Henry of Robinwood gave his time to Jan Pitzer; Mr. Dana Bush of Wake Forest gave his time to Jan Pitzer; and Mr. Timothy Hume of Powder Horn gave his time to Jan Pitzer. Mayor Flaute asked if it was okay for Ms. Pitzer to be last and Ms. Pitzer said yes.

Ms. Thelma Howell of Harlou Dr. said she would stay after the meeting to hear about Lilly Creek and she thought we all agreed it wasn’t handled in the best of ways. She said she had a couple questions from what she has heard tonight; one was about the building that Mr. Holt brought up. She asked if we really needed that building at Center of Flight. Mayor Flaute said the council does believe that we need that building in the future. He said as Mr. Curp stated, do we need that right now; it will be a discussion we will be having when the legislation is brought forward.

Ms. Howell asked if there was any way to put the minutes from the meeting in digital form. Deputy Mayor Denning said it is on the website. Ms. Howell asked if that was in digital form. An audience member said he asked that question and was told you can search on it but he hasn’t been able to. Mayor Flaute asked the clerk. Mary Ann said she’s not familiar if you can search on that; it is posted as a PDF file. She said she doesn’t put the minutes up on the website and referred to Mr. Chodkowski. Ms. Campbell suggested they do a copy all with control “c”, open a word document, and paste with control “b” – then you can search the document. Ms. Howell said we were able to read the minutes. Mr. Fullenkamp added that the packet we get as council is available online a week before the meeting. Ms. Howell said she would try again. Mr. McKinney from DP&L said if it’s a PDF file you might need acrobat reader to search.

Ms. Howell said there was also something earlier about Mr. Fullenkamp getting something then having to resign. Mr. Fullenkamp said it has to do with when Mayor Doan passed away; I assumed the remainder of the term of Mayor Flaute’s council seat. Mayor Flaute said there is two years left. Mr. Fullenkamp said I ran for office and I won; so it is actually Mayor Flaute’s council seat that is vacant and Mr. Curp suggested I may need to resign from that council seat but it may have happened by default when I was sworn in tonight.

Ms. Howell said we have someone we want to recommend for the vacant council seat but we were reading something that states you have to wait one year between serving terms. She asked if there was something like that and if Shirley Reynolds or Ed Schock would not be eligible. Mayor Flaute said we had been told that in the past but we asked the Law Director to research that for us and she found no reason for that to exist; her comment was that you are not allowed to become an employee of the city but you are allowed to serve on council and any of the commissions. Ms. Howell said we didn’t want to endorse someone if they weren’t able to serve.

Ms. Jan Pitzer of Wake Forest thanked everyone that has shown up for the Lilly Creek Project this evening and said she has quite a few questions that she would really like answers to. She said as most of you know, she has been involved with the stoppage of the Lilly Creek Project, going door to door to get signatures against this project. She said she wanted to understand how the City of Riverside can have a double standard regarding the rules, regulations, covenants, and ordinances as far as enforcing those on property owners who do not maintain their own property. She said Lilly Creek is privately owned; she understands there are 109 homes and she understands that there are some property owners that have maintained the creek. She asked how the city can enforce a code and fine people $100 per day to get a car off the grass or for two wheels that are touching the grass when they have no off street parking. She said her mother was told that she had to repair the outside of her home or she would be fined. She asked why the people that own the creek have not been assessed any type of fine for not maintaining the creek. She said she didn’t understand how Riverside could have a double standard; pick and choose who they are going to assess and who they are not.

Mayor Flaute said we can let the city manager address that but just let him say this; many of those folks have tried and when they do that, all of a sudden the water is redirected and the water goes to the other side and washes out there. He said we need something uniform there which we are working on. He said the city manager will address that question after the meeting.

Ms. Pitzer said she feels for the people that have maintained their property because if this project had gone through they not only would have paid to repair their property but would have been double paying when this tax assessment went through along with the tax assessment for Seville School and Shellabarger Park. She said its more than just one property owner having to pay an assessment. She said to force a targeted number, which she is in that targeted area; we are the same area that was targeted for the concrete repair. She said that program fizzled out and when she asked a city council person why we were targeted, she was told “we want to keep the nice neighborhoods nice”. She said Riverside is a complete city, not targeted areas.

Ms. Pitzer said presenting this truly crazy proposal on Lilly Creek is wrong on so many levels; this would have affected the schools and thousands of people. She said it would have affected the small businesses because they would have had their rents raised. She said this could have affected people losing their jobs within the schools or small businesses which would in turn caused a homeowner to lose their house all because 109 people have not maintained their property – private property. She said when she asked the city council person how they felt about the Lilly Creek Project, they stated “I am for anything that stops the deterioration of a neighborhood”. She said enforce your codes, ordinances, rules, and regulations – don’t force taxation on private property owners to pay for someone else’s negligence.

Ms. Pitzer said she read through the minutes for the December 15th meeting and Mr. Bragg was here to advise everyone that the plan did not go through. She said the comments regarding the meeting dates she found hard to accept; the meeting dates were made before September and she is sure that within a five day work week there were other dates open besides the 1st and the 15th of December when city council meets. She said needless to say the people were irate at the hearing that no city council person was there. She said Mr. Chodkowski attended the first meeting and we were told this is neighbors helping neighbors but what you failed to see is that neighbor helping neighbor is a volunteer situation not a forced situation.

Ms. Pitzer said also in the December 15th minutes it says a venue was wanted in the watershed area and Spinning Hills is not in the watershed area. She said the map has changed three times and there has been no professional survey done; people have been taken off and people have been added. She said Riverside went into a partnership in November of 2009 with Montgomery Soil and Water Conservation District; paid $1,500 of taxpayer money for administrative cost to have Montgomery Soil and Water letterhead and do mailings. She said keep in mind that 50% did not sign a petition for this so she doesn’t see how this even got started. She said this was not only going to affect Riverside Schools but there are people in Riverside that are in the Beavercreek School District. She said she could guarantee that no school levy would pass during this 15 year period because we would have been forced to pay this tax. She said that affects thousands of people, not just the 1,633 of us.

Ms. Pitzer said when she was out collecting signatures, most of the people she spoke to were elderly; their homes are already paid off but out of the 61 signatures she got, 15 to 20 stated they would sell and get out of Riverside if this went through.

Ms. Pitzer said she attended the Meet the Candidates meeting on October 11th and everyone professed how we should get more business in Riverside; only Mr. Curp presented the fact that we need to find out why people and businesses are leaving Riverside. She said she has engineers in her family and she has tried to get them to come and give a professional opinion but they can’t jeopardize their jobs, however they stated that a retention pond would be the last thing needed if ever at all. She said she spoke to Mr. Dillon at Montgomery Soil and Water and asked why they were going with the retention pond first. She said there was a long silence on the phone and he stated they were doing it that way in order to get the funding to clean out the creek. She said she is just appalled.

Ms. Pitzer said the deed she has for the park states that the land must be used for a public park and green space open to the public. She said the park is 19.948 acres and the retention pond was to be 10 acres – more than half of Shellabarger Park. Mayor Flaute said it was only going to be 2 acres. Ms. Howell said she has the newspaper article where Mr. Dillon stated it would be 10 acres. Ms. Pitzer said she has that article too and Mr. Dillon even said it at the hearing. She said this would remove the basketball and tennis courts, the soccer field, as well as half the walking track and this park is heavily used. She said the deed from Montgomery County Commissioners to the Village of Riverside states that if it is not used for that purpose, it reverts back to the county. She said she didn’t know if the city has a plan or the Law Director was not aware of this, and according to Ms. Grandjean’s biography, she is versed in land usage. She said she didn’t know if the Law Director didn’t look this up but it is really scary that a private citizen can know more about the City of Riverside than the people that are elected or hired to run the city.

Ms. Pitzer said she didn’t know what the intention was; was it to lose the only park in the southeast area of Riverside and let it go back to Montgomery County. She said it is hard to understand why the city is so concerned about 109 property owners when to put it bluntly, they have ticked off 1,633 that are furious over this. She said no matter how you sugar coat this whole situation, the bottom line is the property owners on the creek own the creek and the City of Riverside has failed to enforce their own codes. She said what people need to remember as far as city council and you, Mr. Mayor, is that you are voted in by the people for the people in the best interest for all residents in the city. She said in reading through these minutes it states that between the Mayor and Mr. Fullenkamp as well as other council members, “we are not going to let this die”. She said Mr. Smith stated “bear in mind that an invitation was not extended to us”. She said she thinks being city council, mayor, and city manager it is your due responsibility to attend something this important that affects so many citizens. She said if this isn’t going to die, what are your plans now to go forward with this.

Ms. Pitzer said she didn’t want to hear they will speak with her after the meeting; she thinks this needs to be public, this involves the citizens that deserve a public not a private conversation. She would like to know their thoughts and the answers to her questions.

Mayor Flaute said what we stated we would do is address this after the meeting, is that council’s pleasure. Mr. Smith said that’s fine. Ms. Campbell said they have questions. Mayor Flaute said all those questions will be addressed after the meeting. Ms. Pitzer asked why this couldn’t be on the record. An audience member asked if it would be off the record because if it is, have the meeting right now.

Mayor Flaute asked council what they wanted to do. Mr. Curp said he was in favor of going on with the discussion. Ms. Campbell agreed. Mr. Curp said if there are questions we have answers to tonight, he thought we should answer those and if there are questions we can’t answer, we will have staff research those and come back at another public meeting. He said the questions were asked in a public meeting and he thinks we should answer them in a public meeting. Mayor Flaute said there are two that want to go forward; anyone else. Mr. Smith said that was fine. Mayor Flaute said then we will move forward; he would like to start with the city manager since he has more of the answers and if any of council wants to rebuttal or comment, they will be free to do so. Mr. Chodkowski said he believed he could answer most of the questions that came up.

Ms. Howell said we fought this really hard because we did not like the way it was presented to us; forcing people to pay a tax didn’t seem like the right way. She said going forward she believed personally that we should try to help our neighbors take care of their problems. She said if some don’t want to help, she doesn’t blame them because it was forced down their throat but there are some people who do want to go forward, clean up the creek and find a solution for this. She said on December 16th after we won at the hearing, we found funding from the Miami Conservancy District who at the time we thought they had custody of a sub-district that had been created. She said she spoke to them on December 16th and they stated they had funding for Greene County and they knew that Greene County’s water was most of the problem which was the general consensus she came to. She said there is funding available for Greene County to take care of their water flow issues at Miami Conservancy District.

Ms. Howell said we met with Mayor Flaute and Mr. Fullenkamp to discuss how to move forward and help with the Lilly Creek erosion issues. She said they sent a representative to Miami Conservancy District and they are seeking funding for Montgomery County to take care of their issues. She said she spoke with someone at Mike Turner’s office today and there are certain things that have to be in place before we can move forward in trying for other funds with the Army Corp of Engineers. She said we’ve got some funding and we have a clean up crew assembled; a construction company that is willing to donate man hours and resources. She said these guys have everything that she knows and that we’ve worked for, they’ve got it all and they are proceeding forward to try to get a grant from Montgomery County and they know that Greene County has funds available to stop their water flow into the creek. She said right now we are not supposed to move forward with our clean up crew but she can assemble them if need be. An audience member asked if they asked for volunteers for this. Ms. Howell said yes; she has quite a few but we will ask for more if we need them.

Ms. Pitzer said we do not have a water flow problem; we have a creek that has failed to be maintained which has caused a water redirection and erosion of the banks. She said it is not a water flow problem.

Ms. Campbell asked Ms. Howell if they needed the city to just stop and let them handle this. Ms. Howell said Wednesday after Sarah Hippensteel from the Miami Conservancy District spoke with Mr. Murray about getting funding from Montgomery County; Sarah Hippensteel and Ken Middleton, from Greene County, told her that it would be best if the city took care of this; why , she doesn’t know but she is willing to go with that. She said that’s where we stand and she quit trying to find funding as of today but there is a lot of funding she’s been able to find. She said she guessed the city would be applying for grants or something. Mr. Smith said you stated you have this project paid for; how much money were you able to raise? Ms. Howell said we don’t have an organization if that’s what you are asking; her husband tried to form a foundation but we were told it would be best to form a charity. She said we just have volunteers – neighbors helping neighbors. Mr. Smith said you mentioned having funding. Ms. Howell said Sarah Hippensteel from the Miami Conservancy District had told her there was funding available for Greene County to build a retention/detention pond if that’s what the need was. She said she relayed that information to Mr. Fullenkamp and Mayor Flaute on Tuesday and they were able to talk to Sarah about getting funding from Montgomery County which she stated was not available, only Greene County. Mr. Smith said so it hasn’t been confirmed that there will be funding for “*X*” amount of dollars. Ms. Howell said to clean up the creek. Mr. Smith said yes. Ms. Howell said she doesn’t have the amount of funding the Miami Conservancy District will provide, she has been taken out of that loop because Sarah and Ken stated Mr. Murray and the city were going to take over because they know how to do it properly. She said she is fine with that and if the city wants she can assemble the crew to install rock on the bank. Mr. Smith asked how much money they have assembled already. Ms. Howell said we have a few promises for money from people; money really hasn’t been a problem at our meetings, everybody is very generous. Mr. Smith said he heard a $1.3 Million estimate. Ms. Howell said we didn’t think the pond should cost that much in the first place and we weren’t even sure the problem required a pond. She said we thought maybe we could fix the erosion because there’s only five houses out of 109 with issues.

Mr. Holt said his problem is the first phase was going to cost $1.8 Million and the second phase is going to cost as much as $12 Million. He said as a creek owner, to clean out the creek, surely we can get better rates than that; maybe 3 or 4 quotes from private contractors to find out what it might cost. Ms. Howell said and it may even be free since we have volunteers. Mr. Holt said he would volunteer; he is willing to help so it might not cost everyone a lot of money. An audience member said it shouldn’t cost anyone any money. Mr. Holt said he would just like more options.

Ms. Campbell asked if any of the property was on the well field. Mr. Chodkowski said no. Mayor Flaute asked the city manager to address the questions.

Mr. Chodkowski said he would do his best to try to address points discussed tonight related to this project from start to finish and council can decide where they would like the conversation to go from there. He said the city received a petition from several owners along the creek in 2009; they came and said they were having some issues, “existing drainage system and storm run off were causing severe erosion and uprooting of trees which are falling on our properties, homes, garages, and carports”. He said at that time he sent the public service staff out to evaluate the conditions and Mr. Miller and his staff confirmed that there were some more significant erosion issues there than ordinarily would have led us to believe.

Mr. Chodkowski said we called our engineer, LJB, and asked them what they thought it would cost to fix this problem and what they would do to perform this task. He said the quote came back June 17, 2009 with a total cost of $12 Million which was for gabion installation. He said we told them that was an outrageously ridiculous number, so at that point in time we started talking with some other folks, a couple council members got involved, and we were introduced to the Soil and Water Conservancy District that had previously addressed similar inquiries in the 1980s, 1990s, and early 2000s. He said they were familiar with this and they came here for discussions. He said through the course of those discussions, they told us we didn’t need to do the $12 Million gabion repair and now it is all about using more natural drainage methods in urban settings which can be done more effectively, more efficiently, and at a more reasonable cost with grant opportunities. He said they suggested partnering with the city on this project and offered to call their consultant at Malcom/Peirney.

Mr. Chodkowski said Soil and Water brought in their people from Malcom/Peirney on November 17, 2009 and reviewed a letter from them that showed several grant possibilities. He said they also told us what they would recommend which is this natural run off, collection, and flow system. He said the system includes retaining and detaining the water to control velocity in an attempt to limit erosion. He said because the park was publicly owned property and all of the creek owners are all private owners, the Conservancy district would need to acquire the appropriate easements to create a public open storm drain. He said it was the opinion of Soil and Water and their consultant that this two phase approach would be best. He said they prepared a presentation that has been modified in a couple of different ways related to the retention/detention pond. He said he had a copy of the original presentation that was given to city staff in March of 2010 which starts with a proposed Shellabarger Park retention/detention pond and this was shown at the first public meeting. Mr. Holt said that was in October 2010.

Mr. Chodkowski said we saw this and thought it sounded good as well as more reasonable, manageable and would work out well for everyone since this had been an ongoing problem with the creek over several decades. He said there were a couple items we, as the city, asked to have incorporated as part of the plan. He said one of those was how they constructed the retention/detention pond; we wanted the park to remain usable and accommodate the majority of uses that were still there and their original design did not accomplish that. He said we had additional discussions and it was decided to keep it to the northern one-third of the park and we told them to go down instead of out if that was necessary. He said at that point it went from a detention system, which is dry most of the time to being a combination retention/detention system.

Mr. Chodkowski said at that time we also looked at the topographical map of the Lilly Creek Watershed which is actually quite large and extends into Greene County as well as into Dayton and different sections of the watershed flow into different sections of the creek. He said based on our conversations with Soil and Water, they felt it was appropriate and we concurred, that those people whose water flowed through Shellabarger and the Beverly Gardens neighborhood and eventually making it to the creek should be contributing to the project. He said the Floral Park project back in the 1980s were privy to an improvement project that included State dollars and Federal dollars but there were also some assessments on that portion of the creek. He said the determination was that they had paid to fix their part decades ago and we felt it would be inappropriate to ask them to pay twice.

Mr. Chodkowski said the reason the assessment district for folks within the watershed seemed appropriate is that they were either impacted by or contributing to the erosion and run off issue. He said that was the determination by Soil and Water and the city at that time. He said we also counseled with Greene County early on and Greene County Soil and Water agreed that they had residents with property contributing to the flow but because they are on the uphill side, they were concerned that getting the signatures would delay the project causing more severe issues at the end of the day. Mr. Holt asked if he was saying they would have to get the proper amount of signatures from Greene County residents to go forth; why couldn’t they do what Montgomery County did to us – they sent us a letter stating if you don’t show up to the meeting or you do not respond, it is basically consenting to the project. Mr. Chodkowski said he can’t speak to how Greene County would handle this; Montgomery County doesn’t have any jurisdiction in Greene County. He said Greene County didn’t say they weren’t willing to work on the issue; they said it may create a detrimental delay in the long term and at that point in time, it was prior to any decision having been made as to what was the most appropriate way to proceed with the project.

Mr. Chodkowski said at that point in time, we took the information Malcom/Peirney had given us as well as the information we received at our meeting with Montgomery County Soil and Water and Greene County Soil and Water and notified all the property owners on the creek about the possibility to address this problem. He said that was when a meeting was held at St. Helen’s late 2010. He said the first presentation was made and we had the discussion with those owners that were in a position to have property damage in the future whether or not they felt they should take the risk or not take the risk to include Greene County. He said from the outcome of that meeting and from the discussion/comments made at that point in time, the general consensus was to move forward within Montgomery County to be able to provide an outcome where Greene County’s impact could be documented and used to compel their participation at a later date. He said through the entire course of the discussion there was always an encompassing approach that everyone who contributed to the issue would at some point in time be asked to come to the table and contribute to the solution. He said rather than try to solve the whole problem at one time, the consensus was to try to break it down into smaller components and solve little sections of the problem at a time, so at the end of the day the final solution would be complete and everyone would have participated appropriately but to address the present property damage was more eminent.

Mr. Chodkowski said following that discussion, it was also discussed at the St. Helen’s meeting what is a valid petition; how many people had to sign and who would be affected by it. He said the information was provided by Montgomery County Soil and Water. Ms. Howell said the $1.8 Million and the $12 Million was that for phase I and phase II. Mr. Chodkowski said no; $12 Million was the initial quote we got from our engineer. Ms. Howell said Mr. Dillon said phase II was going to cost $12 Million. Mr. Chodkowski said Mr. Dillon is incorrect; we started with $12 Million which we thought was ridiculous. He said that’s when we called Soil and Water who stated they could do the pond and the creek for $1.5 Million. He said he didn’t know why Mr. Dillon was telling people $12 Million and it wasn’t a very good day for him because he called Mr. Dillon about that comment; Mr. Dillon knew that number was inaccurate because that was the number that prompted the city to call them for an efficient way to address this issue.

An audience member asked how many people signed the initial petition. Mr. Chodkowski said 27. The audience member said 27 people can start a million dollar project. Another audience member said no; they just started the city to look at it.

Mr. Chodkowski said following the discussion about who or who not should sign a petition and how many signatures were required; city staff and Soil and Water met with several residents – Ms. McCarthy, Ms. Delaney, Ms. King, and a few other folks about how to get a petition filed at Soil and Water. He said after having that discussion and thumbing through the Ohio Revised Code relevant sections; the ORC only provides that “a valid petition” be filed but it doesn’t define what a valid petition is. He said he called Mr. Dillon about what the ORC required: project name, project description, pay the fee, and sign the document; but it didn’t say you had to have 50% plus 1. He said Mr. Dillon’s response was it was the opinion they got from the prosecutor. He said he argued the other side which would be, if I don’t have this many signatures then that means the majority of the folks are in favor of the project; Mr. Dillon stated he hadn’t thought of it that way and was going to call me back. He said a couple weeks went by and Mr. Dillon called back and stated the prosecutor was willing to agree with the flip side of the coin if there were enough signatures from folks who lived along the creek. He said he asked how many was enough signatures and was told 15 to 20. He said he called Ms. McCarthy, Ms. Delaney, and Ms. King and they went out, got the signatures that we were told they needed, and came before council to say they were ready to go.

Mr. Chodkowski said there is the issue of the filing fee; it was the determination of council that since it was a refundable fee that in order to assist these citizens, they were willing to put forward the money knowing it would be returned to them in the future.

Mr. Holt said to him, and he lives on the creek, when he hears that, he expects his city manager to say no, you need to get 50.1%. He said you could have gone back to Ms. King and said you wanted to help but this is the way it has to be done, these other people have a voice too since they are going to be affected and they are going to be paying for this project. He said the people should have had the right to either sign the petition or not sign the petition. He said as city manager, if they didn’t get enough signatures, you could have found another way to help them with their problem and told them that you had to do what was right for all the citizens, not just a small portion.

Mr. Holt said he was at the meeting when phase I came in at $1.8 Million and Mr. Dillon stated he couldn’t say what phase II would cost us. He said they need to go back to the drawing board and he told people if Soil and Water can’t say what its going to cost then its going to cost more than the people think they can afford.

Mr. Chodkowski said as it relates to the project, his role was to ensure that the process that was entitled to those folks who are involved and requested help was initialized. He said how many signatures to him, for or against, was irrelevant; what was relevant to him was that the county was establishing hurdles for our citizens, whether or not they were in the majority or minority in attempting to address the project, hurdles which they were not legally required to jump over. He said that was his opinion and his thinking when he spoke to Mr. Dillon about the opinion that was provided by the prosecutor. Mr. Holt said for the majority that didn’t have an opportunity to speak, there were no hurdles – it was you have to have 800+ signatures in order to stop this thing. Mr. Chodkowski said he couldn’t argue for or against the rationale in Soil and Water’s construction of the letter. Mr. Holt asked why the city manager didn’t speak up at the meeting when Soil and Water stated they couldn’t say what phase II would cost.

An audience member said Soil and Water closed the project for two reasons; one was the signatures and the second reason was they could only validate less than $280,000 which was way out of their percentage mark for the $1.8 Million that was requested. He asked how that particular problem is addressed; it didn’t qualify financially for them to make an assessment.

Mr. Chodkowski said that is what led to the letter that Soil and Water sent out that was constructed and indicated that if you did not show up and voice opposition or write a letter against the project, then that meant you agreed to the project. He said he didn’t have a hand in crafting that language and we did not advise in the construction of that language; that is what they extrapolated from our conversation. He said he couldn’t be held accountable for how they did that. He said as we were having conversations through that process and as we were progressing to the hearing in October, he was unaware that their cost model for this project was limited only to the retention/detention pond. He said he was not made aware of the disparities in costs until 3 or 4 days prior to the December meeting; it was relatively late in the process. Ms. Pitzer said that was the October 4th meeting. Mr. Chodkowski said the October meeting was the determination of the project – that a need existed and what the process was. He said it was a few days before the first meeting in December that Mr. Dillon called here needing some additional information relating to the project and indicated concerns about the engineer’s estimate on phase I. He said that was when he was given the $1.8 Million related specifically to the pond and his comment to Mr. Dillon was that was not what was discussed back in March of 2010 about the creek and detention pond; it was a two for one special and both were supposed to be addressed for the approximate $1.5 Million and the one contingency we addressed at that point in time is whether or not any of the property owners along the creek were unwilling to provide an easement for $1 which would have an affect on the price. He said he commented to Mr. Dillon that wasn’t what you told these people and what did he think phase II was going to be because the people are going to be pretty mad. He said Mr. Dillon told him he couldn’t ball park an estimate; they were in this and going for it. He said he told Mr. Dillon it was his meeting and to do what he wanted but the people are not going to be happy. He said we didn’t find out until late in the game that the estimate was only for the pond.

Mr. Chodkowski said additionally when he asked why it was so high, he was told that initially the material removed to form the pond would stay in the park to shore up the curved slope, provide for more usable space, and limit the loss of field space as a result of the increase of the pond. He said also in March of 2010 we located several sites within the city where this fill material could be dumped because the whole premise was that the following year the material would be used to come back and re-slope the banks along the creek once it was cleared. He said their engineer included the material to go to the landfill – trucking costs and tipping fees. He said they also included, in his opinion, a higher than necessary contingency fund. He said again, that was all information that came to us late in the game.

Mr. Chodkowski said in June or July of 2011 they began talking about getting the cost of the project down and they asked the city to apply for an Ohio Public Works Commission Issue II grant for this $280,000. He said we argued that there were several other pots of money available and they needed to look at those. He said they were told we would be more than happy to be the applying agent on their behalf but Issue II has a variable number of uses and we typically use it to address road construction. He said there are other grant sources available through OEPA, ODNR, etc. which they could pursue. He said they talked to their engineer and we got a call back in August or September that Issue II was the way to go. He said he told them the city was not going to make an Issue II application for this project because there were other pots of money available; they said it would take too long to get the money. He said he faxed them information and emailed them information regarding several grant sources that was given to them by their own engineer back on November 17, 2009.

Mr. Chodkowski said prior to the December 15th meeting, Soil and Water had made the determination that Issue II was the only grant source they wanted to pursue as the primary project leader. He said the fact that the city was cognizant of the need to reduce the cost of the project and provided several alternative places to look for funding other than Issue II, Soil and Water chose not to explore those options.

Mr. Chodkowski said there is the issue of the meetings; Soil and water called in August to schedule the hearings and stated they would prefer to do those within the watershed. He said St. Helen’s was not available; Seville Elementary was an alternative and Soil and Water provided us a list of dates. He said on Soil and Water’s behalf, we called Seville which did not have any space available on the list of dates due to holiday programs and student events. He said we called Soil and Water to see if they wanted to change their dates which they did not. He said the next closest place we could find was Spinning Hills, understanding it is not in the watershed but it was in close proximity; on Soil and Water’s behalf, we called Spinning Hills and based on the dates Spinning Hills had available and the dates Soil and Water had available, the October meeting was booked. He said shortly after the October meeting was booked, Mr. Dillon called back and said we need to have two other meetings late November or early December, can we get those in. He said we called the school with the dates Soil and Water chose to see if the school was available. An audience member said that was false because in the letter that came out September 14th it listed all the dates – first meeting October 4th, second meeting December 1st, and the hearing on December 15th. Mr. Chodkowski said we called a booked the first date and within a day or two Soil and Water called to book the other two dates. He said the first contract he signed was for the October 4th and December 1st dates and a week or week and a half later they sent over a contract for the December 15th date. He said we, as a city, did not pick those dates and did not intentionally schedule any meeting to conflict with a council meeting; those were dates provided to us that were convenient for Soil and Water on which the school had room available.

Mr. Holt asked why they couldn’t send a council member over. Mr. Chodkowski said originally, Mr. Fullenkamp was going to go and was excused from the meeting but unfortunately, the day of the hearing, Mr. Fullenkamp’s Mother became ill and had to go to the hospital. He said we became aware of that right before the council meeting started; when the work session adjoined, your meeting was already under way and it was too late for us to send a representative.

Ms. Campbell said she was going to go but by the time she knew about it people were back here and the meeting was over before she could get out the door. She said she had planned to go but was told Mr. Fullenkamp was attending.

Mr. Chodkowski said long story short; the city did start the project, the city did turn it over to Soil and Water as the lead agency, and we did provide support to them in a couple different avenues. He said the city did not in any way provide conflicting schedule dates or any misinformation related to this project. He said ultimately, in his opinion and his opinion only, the reason this project and this process became such an issue is because the folks at Soil and Water by their own admission early on acknowledged that the majority of projects they had worked on have been in rural areas and the demand for projects in urban areas had been increasing and this was one of the very first projects in an urban area they had taken on. He said he thought they were totally unprepared to deal with a room full of 1,000 upset residents or weren’t necessarily as cognizant of the issue as a rural property owner who is a farmer might be. He said that is his opinion about why the process became the way that it was and ultimately at the end, regardless of which side you were on, the process worked. He said the majority that didn’t want this prevailed and the project did not happen.

Mr. Holt said it just wasn’t done right. Mr. Chodkowski said we agree.

An audience member asked if there was a partnership between Soil and Water and the City of Riverside now. Mr. Chodkowski said while council as a whole has yet to discuss this issue to decide the most appropriate course of action, based on council’s previous discussions and previous experience, storm water and surface water run off in this community are of a general concern. He said council through the course of the Lilly Creek Project, while it was the catalyst, his take on discussions with council members has clearly highlighted that storm water issues and storm water management for the entire city needs to be looked at. He said unless directed by council, staff will not partner with Soil and Water as a result of this situation for quite some time.

An audience member asked what if 30 or 40 people who live along the creek petition to say they don’t want any more Lilly Creek projects to go on, period. Mr. Chodkowski said he will be recommending to council at some point in time in the near future that the city explore a way to address storm water issues city wide, so it would not be specific to just Lilly Creek; it would include the Beverly Gardens area, the Byesville area, the Marianne/Ingleside area, the Brandt/Schwinn area, and all properties within the city so there is a long term comprehensive plan to address all storm water issues we know to exist today and to prevent the creation of new situations in the future. An audience member asked if it would include Greene County since that is where the water is coming from into Lilly Creek. Mr. Chodkowski said a long term comprehensive plan is encompassing of all properties within the city but would not include property in Greene County; that does not mean when we address issues on the east and southeast side of the city we wouldn’t work more closely with Greene County to ensure their participation in a future solution.

Mr. Chodkowski said he actually received a phone call on December 15th from a resident in Beavercreek who lived along the creek who stated they couldn’t attend the meeting but they and several of their neighbors that have been affected by development upstream from them wanted to attend the meeting, see the project go forward, and participate in this. He said it was the first time we had heard from folks in Greene County who were supportive of the project. He said in dealing with his peers, they were not as welcoming of participating in a solution because they are at the top of the hill, not the bottom of the hill. Mayor Flaute said politically, there are some political things that have to be done too which he and Steve will be working on.

Mr. Chodkowski said he knows the process was tumultuous for everyone involved and for that it is unfortunate but he thought everyone involved has learned some valuable lessons in ways that we can work to address the problem that are much less tumultuous.

An audience member asked if there would be better communication in the future because some folks didn’t get the first letter. Mr. Chodkowski said to the extent that we are able to control communication, he would like to believe this city will do a much better job than Montgomery County Soil and Water at conveying what it intends to do. He said however, he will also say that several people he spoke to prior to the meeting of December 15th stated when they got the letter back in October, they didn’t think it pertained to them so they just threw it in the trash but now that they got a letter saying they had to pay something, then they were interested.

An audience member asked if anyone had an idea of why Montgomery County Water and Soil stated they felt like they had been thrown under the bus by the city of Riverside. Mr. Chodkowski said he could tell them that at several points along the way he offered his advice to Mr. Dillon and Mr. Breidenbaugh about dealing with a large group of folks that have detailed questions about a project. He said to him, they did not take that advice, not saying that the meeting would have gone a different way. The audience member asked if Mr. Chodkowski had seen the legal document she put in front of the committee members where they took the authority and put it in the authority of Miami Conservancy District. Mr. Chodkowski said he had not seen that but he was aware that through this process Miami Conservancy has contacted Mr. Murray and have come to the table and submitted information about a grant which may provide funding for a comprehensive plan to address the problem. He said he is in the process of reviewing that information and they will be receiving that information shortly. The audience member said she believed that’s why they thought they were thrown under the bus. Mr. Chodkowski said they assured us based on their experience with this project previously, they were aware of the concerns and the situation, and as the county’s authoritative agency on the subject, were capable of dealing with it. He said to the extent that other agencies are willing to participate and are giving us other options to follow, we are going to explore following those options.

Mr. Howell asked how the Soil and Water can tax the people through assessments via Montgomery County Commissioners and they aren’t even a government agency; they are operated by the NACD. Mr. Chodkowski said the best response he can give is they are entitled to provide for the assessment of properties within the watershed district under the provisions of the Ohio Revised Code. An audience member said 1515. Mr. Chodkowski said there are 2 or 3 different sections and he doesn’t have the specific language in front of him.

Ms. Pitzer asked if he could address the deed for Shellabarger Park. Mr. Chodkowski said yes; he is aware of the restrictions to which you speak and it is his opinion that providing a water feature, while it does serve a functional purpose, still has recreational value and is still considered a recreational facility. Ms. Pitzer said wetlands? Mayor Flaute said it was supposed to be a pond. Mr. Denning said a fishing pond. Mayor Flaute said two acres like you see in Delco Park where people can go and fish; that’s what we were told it was until the very end when it became marshlands. Ms. Pitzer said so if this project had gone through, you all would not have been aware of what was going to happen. Mayor Flaute said we were finding out. Mr. Chodkowski said regarding the size of the retention/detention facility, we told them it could be the northern 1/3 of the park because part of the issue we had in our discussion was that the initial design would be dry with the exception of the rainy season. He said we told them to go down to keep the majority of the park usable and their comment was if we go down, we will draw water and it will have to be designed as a retention/detention facility. He said he didn’t remember it being as small as two acres but 10 acres was incorrect; it was part of the issue we had because we were aware between the December 1st and the December 15th meetings that clearly what we had discussions about with Mr. Breidenbaugh and Mr. Dillon here about the project was different than the information they had provided at the December 1st meeting and responding to comments/questions that were phoned into them between the meetings of the 1st and the 15th. Ms. Pitzer said so basically by not attending any of the meetings, whoever’s fault it was for scheduling the date, you were not aware of what was going to transpire. Mr. Chodkowski said as far as what happened on the 15th? Ms. Pitzer said yes. Mr. Chodkowski said his understanding was that the Soil and Water Board would hold an official meeting which contained a public hearing and then they would vote on whether or not they would proceed with the project. He said he couldn’t remember the name of the gentleman who came to the meeting but he stated the very first thing they did was put up a slide which was open meeting, vote on project, public hearing. He said we had no idea and that was not what we were told on how the process would be handled.

Mr. Holt said there were red flags from the beginning and the thing should have been nipped in the bud and it wasn’t. He said to him it is absolutely ridiculous that they get to the end and no one was aware this was going to happen, when he was seeing red flags from the beginning a year and a half ago. He said as a citizen of Riverside, there is no reason why the ones he voted for and put in public office shouldn’t do the same thing. He said no offense but he finds it just ridiculous and he hopes council does better in the future.

An audience member thanked the Mayor, Council, and Mr. Chodkowski for giving this time to answer these questions.

Mr. Dana Bush said he had several questions regarding the Lilly Creek drainage; right now as the council and city manager stands, what do they see as the problem in that area of Riverside. He asked if it was because of the water flow or because of property that is no longer usable to those homes. Mr. Chodkowski said in his opinion it is both. Mr. Bush said if we get in there and clean that drainage bed out it can only improve a very small portion of water flow. He said if you want to salvage the property and the tree line through the creek; he would suggest they eliminate the thought of a retention pond in the park and put in large tiles, cover it over, and plant grass. He said it will give those people back their yards as well as drainage they won’t have any problems with. Mr. Chodkowski said that was an option that was considered relatively early on and it was discarded for two reasons; cost and velocity. Mr. Bush said velocity is not going to increase other than coming from Greene County. Mr. Chodkowski said the volume would not increase but you would have an increase in velocity; and while that would not impact the people that are immediately abutting Lilly Creek prior to it’s entrance onto the Prairies, what it does do is when it comes out into the Prairies, it will significantly impact that outfall area which is not protected or designed to handle volume at that velocity.

Mr. Holt said we never even knew what the cost was for that. Mr. Chodkowski said it was a discussion that was early on – first it was the gabions, then we discussed tiling it and filling it in; yes we could – it’s cheaper than the gabions, it’s not as cheap as this alternative, but the problem is that now you have increased the velocity, what problem are you going to create when that water leaves the controlled, closed system and enters an open, uncontrolled system. He said since we don’t have control of that, it would happen on federal property, we didn’t think that was the appropriate measure. He said in consideration of all the facts we knew at that time, it was Soil and Water’s opinion that the presentation that was made – the open system with a retention/detention pond with volume control through a weir system was the most effective at water management and cost, to rectify the problem.

Mr. Holt asked if we ever found out what it would cost to put in aqueducts down through Shellabarger Park – concrete slabs. Mr. Chodkowski said the channel is currently lined as it comes out from Greene County and enters Shellabarger Park. Mr. Holt asked if we could find out what it would cost to line the creek banks behind our house. Mr. Chodkowski said we could do that but he thought it would be premature based on taking a comprehensive and totalitarian approach to addressing storm water in the city to simply focus on that solution to that project at this time. He said in order to begin the process of establishing a solution, you have to use certain assumptions based on experience or science or whatever issue you are examining because to engineer something like this could cost tens of thousands of dollars. He said you don’t want to spend that in advance to engineer something that you then know in its complete technical form is too expensive to build; but at the same time you want to make sure that with the base information and the assumptions you are using that you are reasonably close in knowing what a potential solution could be as far as construction method and construction cost. He said there was a comment earlier that this could be engineered differently or why was it not engineered in its completeness, that’s why. He said why would the city or Montgomery County spend $45,000 or $50,000 or $70,000 to engineer something only to discover it’s too expensive to build and we have to go back to the drawing board. He said you have to take your lumps along the way and sometimes the assumptions turn – Mrs. Howell is one of those folks, one minute she was in the plan and the next minute she was out, etc. He said that happens and we don’t do it because we are lazy or because we are incompetent; it’s because we have to work in an effective and efficient manner based on certain assumptions, knowing that some of those assumptions won’t always be 100% accurate.

Mr. Holt said so we aren’t going to pay $45,000 to engineer aqueducts to find out what its actually going to cost once we put them in; we are just going to go ahead and put in a retention pond at $1.8 Million and the second phase is going to cost as much as $12 Million. Mr. Chodkowski said that’s not a true statement; what is a true statement is based on the information at that time that was the best estimate they could put forward for this project. He said understand even if they had approved the project as proposed, several things could have happened along the way; they could have received grant funding, detailed preliminary engineering could have come back and said the project couldn’t be done; preliminary engineering could have come back and said too cost prohibitive; or preliminary engineering could have come back and said the $1.8 Million should have actually been $1.4 Million. He said that happens to us all the time; when we prepare a bid package for road reconstruction – Harshman Road for instance; we call our engineer, tell them Harshman Road needs to be repaved, and ask what they think it will cost. He said they get on their GIS, measure it out, and they look at quantities from projects from last year or the year before that involved similar projects of size, scope, and materials and they will say they think it is going to be $2.5 Million and we think it will cost us $80,000 to engineer. He said they will ask us if we think we can afford $2.5 Million; we say yes, so we’ll pay you the $80,000 to engineer the project. He said as they move through the project and do the actual complete detailed engineering, their engineer’s estimate comes out based on known quantities of previous projects of similar size and scope at $2.9 Million. He said we bid the project assuming it will come in at $2.9 Million and the contractor bids it at $2.7 Million or $2.5 Million. He said you start off with a very wide target spending minimal dollars and as you move through the process spending more dollars, you dial in on the target number. An audience member said so the number can be bigger than what you thought and you don’t know ever what the estimate is. Mr. Chodkowski said in most instances the number is smaller.

An audience member said it’s just water. Mr. Bush said when you are dealing with water it is based on 10 year rains, 25 year rains, 50 year rains, 100 year rains; what are the design parameters based in this particular project. Mr. Chodkowski said the retention/detention pond was designed to control a 2 year storm event; corrections and improvements to Lilly Creek storm banks would have created volume to hold a 5 year storm event. He said while we would like to design for larger storm events, those sizes were determined for two reasons: one, in order to build a retention/detention pond for larger than a 2 year storm event would have required the acquisition of property which was cost prohibitive; the other issue is that there are two bridge segments along Lilly Creek between Shellabarger Park and the federal property, one bridge being at a 5 year storm capacity flow and the other bridge is at a 2 ½ year capacity flow. He said restrictions already existed along the creek as far as flow, so our intention was to create additional storage volume to mitigate velocity issues.

An audience member commented they would tighten the screws on Greene County to get the retention pond on their side and let them pay for it.

Mayor Flaute said we will do what we can do. He asked if any of the council members had any comments or questions.

There were no further comments by council or the audience.

**ITEM 20: COUNCILMEMBER COMMENTS:** Deputy Mayor Denning said he wanted to thank staff for everything they do and he complimented Mr. Chodkowski for the great job he did tonight. He said he also wanted to thank council for their confidence in him for electing him Deputy Mayor.

Mr. Fullenkamp thanked everyone for attending the meeting tonight and for speaking out. He said we are willing to learn and do better job.

Mr. Smith also thanked Mr. Chodkowski and said he did a good job explaining the project. He said it enlightened him on some of the things he didn’t know as well. He thanked staff for staying late.

Mayor Flaute thanked everyone for coming to the meeting; he thanked Mary Ann and said he knew she did a whole lot of work which he appreciated. He said he appreciated everyone being here for our festivities tonight, it was very humbling. He said thanks for everything the people of Riverside have done.

**ITEM 21: EXECUTIVE SESSION:** There was no executive session.

**ITEM 22: ADJOURNMENT:**  A motion was made by Ms. Campbell to adjourn. Deputy Mayor Denning seconded the motion. All were in favor; none were opposed. The meeting was adjourned at 9:57 p.m.

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William R. Flaute, Mayor Clerk of Council