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

**ITEM 2: ROLL CALL:** Council attendance was as follows: Ms. Campbell, present; Mr. Denning, present; Mr. Fullenkamp, present; Mrs. Reynolds, present; Mr. Schock, present; Deputy Mayor Smith, absent; and Mayor Flaute, present.

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

Mayor Flaute said Deputy Mayor Smith called him this afternoon and he is very ill, so he won’t be able to attend the meeting.

**ITEM 3: EXCUSE ABSENT MEMBERS:** A motion was made by Mr. Denning to excuse absent member Deputy Mayor Smith. Ms. Campbell seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 4: ADDITIONS OR CORRECTIONS TO AGENDA:**  The agenda was revised prior to the start of the meeting to include item 19, Executive Session, for the purpose of discussion that is Attorney/Client Privilege.

**ITEM 5: APPROVAL OF AGENDA:** A motion was made by Mr. Denning to approve the agenda as revised. Ms. Campbell seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 6: WORK SESSION ITEMS:**

1. Proposed Zoning Ordinance – Article IX

 Part 4 – Supplemental Standards

Mr. Chodkowski said this is the last section of Article IX which deals with supplemental standards for whole zoning districts such as accessory structure standards, fences, signs, potential natural elements, etc. He said some items are consistent with our current code and other items are not.

Mr. Fullenkamp said we had a discussion some time ago about plat restrictions; he asked if there was any place in the code that would at least mention the existence of those types of restrictions. Mr. Chodkowski said the code does refer to subdivision restrictions or plat restrictions; there have been subsequent discussions among staff about whether or not it should become the city’s responsibility to enforce covenants between neighbors. He said as a result of those discussions and consult with the Law Director, staff has made the determination that the city needs to have a uniform and consistent law and that it does not begin to become the enforcing agency of unique civil covenants. He said however, we do want to make it a policy of the city to advise residents whether or not any subdivision restrictions exist. He said any reference to enforcing those types of civil items that are in the code currently will be removed and we will make a policy to inform residents of any covenants that exist.

Mr. Fullenkamp said he has a question on page 9-142, regarding home businesses; if a person has for example a consulting business in his home and he met all the requirements; does the city need to know that business is in existence other than for reporting of R.I.T.A. taxable income. Mr. Chodkowski said we would need to know it exists for that purpose and is tied into the code that way. He said if that is your full-time way of earning an income, it would be classified as a business. Mr. Fullenkamp asked if that would be true for part-time. Mr. Chodkowski said yes but our primary concentration would be those folks who utilize their home occupation as a principal.

Mr. Fullenkamp said in the home craft section; why is there a regulation on the size of a kiln. Mr. Chodkowski said probably it’s a public safety concern related to noxious odors, heat, and the combustion component that goes with a kiln. He said not necessarily that there is any great threat other than larger units may begin to impose on concerned neighbors.

Mayor Flaute said on Mr. Fullenkamp’s question regarding home businesses; when you take out an LLC or register one with the state, does the city find out about that. Mr. Chodkowski said no; we should but that’s not how the state’s process works and they are not required to notify us. He said we would typically identify people through our income tax subpoena program; we would compare the R.I.T.A. database to the IRS database and from that information we would identify a person who hasn’t filed a tax return in 3 years. He said we would subpoena them to find out why they weren’t making any money and quit paying taxes. He said there isn’t a direct communication as far as filings go with the state and the city to determine whether or not there are home-based businesses because not every person would incorporate to perform their home based business. Mayor Flaute said his business went from part-time to full-time this year and he certainly didn’t think about telling the city; he has been paying taxes on the part-time income. Mr. Chodkowski said that does typically happen. Mayor Flaute said he never even thought about telling you guys.

Mr. Fullenkamp said on page 9-148, item K, regarding Violations; Remedies; Penalties – he looked at the section that is referenced and he didn’t see anything. Mr. Chodkowski said when the code was originally composed in late 2010, there was discussion about establishing a civil penalty system rather than having a criminal system; we advised early this year that wasn’t an ability for us to incorporate so the section to which it references will be amended to include misdemeanor crime and misdemeanor citations.

Mr. Fullenkamp said in reference to sexually oriented business standards, what is the definition of semi-nude. Mr. Chodkowski said he would have to reference Article XI which is going to be discussed next time.

Mrs. Reynolds said on page 9-141, home occupation standards; how do we gauge this for the number of employees. Mr. Chodkowski said as far as how many folks are relative to the business that are not members of the immediate family. Mrs. Reynolds read a portion of B-1: *At any one time there may be present on the premises no more than one nonresident of the premises who is an employee, partner or contract worker of the home occupation*. Mr. Chodkowski said that would be an element we would have to evaluate based on the information provided to us; whether or not that is voluntarily provided at the time the person begins their home occupation or it is brought to our attention through enforcement or the information comes to us through some type of tax identification; at that point in time is when we would make the assessment. He said we would thoroughly vet that process through the application. Mrs. Reynolds said it would not at any time be based on the level of sales or income from that business. Mr. Chodkowski said based on how the code is written; no, it would not. Mrs. Reynolds said she had several questions on the remainder of the section.

Mayor Flaute said he would prefer her to keep going unless she would like someone else to ask questions for a while.

Mrs. Reynolds said she is very uncomfortable with the sexually oriented business standard for our city and her main question is: what is the line between art and pornography and where do we see it. She said on some of the approved classifications we are looking at, there is a very, very thin line and she’s concerned about that. Mr. Chodkowski said we have done our best to clearly delineate based on what case law has previously established as to what is art and entertainment and what is pornography. He said questions more specific beyond that would be more appropriately fielded by the Law Director or the Deputy Law Director, who is the author of a good portion of this section. Mrs. Reynolds said we are looking at words such as adult cabaret or adult motels or adult motion picture theaters or adult theaters and back to Mr. Fullenkamp’s question, what is semi-nude. She said under the classification list is item C, regarding Inspection, it states: *for purposes of ensuring compliance with this chapter, an applicant, operator or licensee shall, from time to time, but no more than four times a year in total, permit city law enforcement and official personnel of any other city department or agency with responsibility for enforcement of this chapter, to inspect, during a licensee’s regular business hours, that portion of the premises of a sexually oriented business that is open to the public*; do we have a check list on how this is to be done. She said in other portions of the code we look at limits in the space and how we draw a line from wall to wall to gauge the 1,000 feet; we look at item D-1 states *no person shall operate or cause to be operated a sexually oriented business in any other zoning district than B-PD, Business Planned Development*; she’s thinking a strip mall could be done and just move down the strip mall every 1,001 feet because that’s what this says. Mr. Chodkowski said the zoning classification should not be B-PD, it should be Industrial. He said as part of our check to verify we have allowed by law properties by right to accommodate this type business, we’ve identified 4 locations within the city; 3 of the locations are located just west of Troy Pike on the north side of Needmore and the other area is the very first lot within the city as you come from the northeast on Brandt. Mrs. Reynolds asked if there was anything they could do as a city legislative body to prevent this. Mr. Chodkowski said you have the ability to prohibit their use by your actions but in so doing you have now eliminated a use/buyer right which you are required to allot for within the city. He said in prohibiting adult businesses it would significantly increase a possibility of litigation for the city. Mrs. Reynolds said this is a troubling part of the code for her and she was sure the B-PD was incorrect but she wanted to make sure. Mr. Chodkowski said he understood; and this language is more extensive than the existing language and is more limiting to the parcels which are subject to these uses by right. He said to the extent of the law, we have done our best to minimize the impact.

Mrs. Reynolds said on page 9-145, item E, will this be addressed in the original design of the building because this is saying you must be able to see every place within this business at any given moment; so when someone applies, will the building design cover this. Mr. Chodkowski said yes; from the way the code is constructed, they will be required to submit a plan to scale for review by staff prior to receiving their Zoning Compliance Certificate. He said in the event there is new construction specific to this purpose it will go before the Planning Commission for their review. Mrs. Reynolds said so the 4 parcels you talked about would be limited in being able to do a multi building plan. Mr. Chodkowski said correct; an owner or landlord could construct a multi-use facility however; only one adult entertainment enterprise could occupy any one of those units based on the measurements. Mrs. Reynolds said that is what’s confusing; you read this then back on page 9-144, items 1 through 4, there’s leeway there which is confusing and concerns her because in item 1 it says no and in item 4 it says yes. Mr. Chodkowski said mathematically, he would say it’s plausible, but it is highly unlikely you would be able to construct such a facility that wouldn’t violate a measurement rule. Mrs. Reynolds said she tried to work that out and according to item 4 at 1,001 feet you can construct another building. Mr. Chodkowski said that might be possible however each business also has to be so many feet from a church or so many feet from a school; so while it might be possible to construct a building with 2 businesses, 1 would be within the measurement violation of something else. Mrs. Reynolds said she just sees items 1 through 4 as limited rights that probably end up with the courts deciding. Mrs. Chodkowski said it might because these issues tend to be litigious; it’s not a guarantee but it is our attempt to recognize both their rights and the city’s desire to limit.

Mr. Denning said on page 9-130, item C-5, states *no accessory building or structure shall exceed 15 feet in height or the height of the principal building whichever is less*; so that says if he wants to put a 25 foot pole barn in his back yard, he can’t. Mr. Chodkowski said correct, unless it is an agricultural use. Mr. Denning said we’ve been talking about the gentleman or hobby farmer, are we going to adjust this for that. He said if a person would like to be able to put a lift in or something, 15 feet isn’t tall enough. He said he wouldn’t necessarily want to see that in a plat but there are places in this city that might need that or possibly want that and he didn’t necessarily think we should limit that capability. Mr. Chodkowski said that will be an item discussed as part of the hobby farming discussion but we need to be conscientious that at this point we are talking about accessory uses and structures. He said in the instance of hobby or gentleman’s farming, that would be a permitted principal use by right. He said on an agricultural parcel that is the primary use so the structures become primary structures. He said in this instance of the code, the home is the principal structure and the property’s primary use is a residence, therefore, the residence should be the tallest building with the most mass. Mr. Denning said if he was on a farm his barn would be a lot bigger than his house but as a hobbyist, his home will still be the major part of the property and agriculture isn’t the only thing he does. He said he wanted to make sure we weren’t painting people into corners and giving their neighbors bricks to hit them with. Mr. Chodkowski said that’s why we will look at hobby farming as a principal use specific to the limitations where hobby farming would be allowed. He said since it would be a principal use, a person would get leeway on accessory structures. Mr. Denning said let’s just go with the assurance that we will revisit this when we talk about hobby farming.

Mr. Schock suggested on page 9-130, item C-6, doing away with the maximum square footage for accessory structures and just going with the maximum 20 percent rear yard coverage; larger lots would be allowed larger buildings. Mr. Denning said he agreed with that and it is also on his list; 864 square feet maximum is a small building. Mr. Schock said we should mark that out of there and go back to the percentage of the lot size. Mr. Denning said he just didn’t want us to paint ourselves in a corner and not allow people that have a certain amount of property be able to do it. He said he understood this in some of the plats that have smaller lots but he didn’t think we should limit everybody to 2 buildings.

Mr. Fullenkamp asked how many people the larger format would apply to. Mr. Denning said he didn’t know but he knew of a few places on Schwinn and a few places on Union Schoolhouse. Mayor Flaute said there are some in his area too. Mr. Denning said there are a few around and he didn’t think we should limit everybody. Mr. Fullenkamp said he was just wondering how many people there really are that this would impact. Mr. Denning said probably not a lot. Mr. Schock suggested staff crank out some specific numbers such as a ¼ acre lot with 20 percent coverage could have this size of building. Mr. Denning said it would depend on what size house you have. Mr. Schock said that’s true. Mr. Chodkowski said it needs to be reiterated that this is related to accessory structures; a house that’s 1,200 square feet can’t have a detached garage that is 3,000 square feet because you’ve changed the concept of what the principal structure is. He said provided that you can tie a larger structure under certain conditions to a specific use which is what Deputy Mayor Smith and Mr. Denning are trying to accomplish in entertaining hobby farming legislation is one thing but you can’t simply say there is a sliding scale for everyone in the city. Mr. Denning said he just didn’t want to limit everybody.

Mr. Denning said on page 9-131, item 7-a, states requirements of *a finished pitched roof surface of standing seam metal, seal-tab asphalt shingles, clay tile, slate or wood shingles*; what about rolled roofing for accessory buildings. He said rolled roofing is asphalt but it’s not seal-tab; it’s very useful, less expensive, and does the job just fine. Mr. Chodkowski said there is the practicality of use and there’s the aesthetic nature of a product; he doesn’t offer an opinion one way or the other as far as its durability and purpose of use but it depends on how it may or may not transition into its surroundings. Mr. Denning said asphalt roofing would be enough and in his opinion the words “seal-tab” could be removed. Mayor Flaute asked if it was important to change that. Mr. Denning said just a suggestion. Mrs. Reynolds said she didn’t know enough about roofing materials to decide. Mr. Fullenkamp said he thought appearance is the issue. Mr. Denning said it doesn’t look different from tab roofing; it gets the job done and we are talking about accessory buildings. Mr. Chodkowski asked Mrs. Brane to put that on the review sheet; we will provide photos for those who aren’t familiar with the product.

Mr. Denning said on the same page, item 7-b the required finish surfaces mention vinyl screen but not vinyl or aluminum siding; as new products come forward, there is more vinyl going up that anything else. Mr. Chodkowski said we can clarify that language.

Mr. Denning said then there is the “no more than one detached garage per dwelling” which will be discussed when we do hobby farming. He said there is also the “no more than one accessory building use for incidental storage by the property owner”. He said for probably 90% of our residents, that’s fine; he was just concerned there are places where you might want to have a pool house plus an additional building for storage and this doesn’t let you do that. Ms. Campbell said that could be done with one building. Mr. Denning said that would probably be discussed when we go back to larger lots. Mr. Chodkowski said in that situation you would be looking at exceeding coverage requirements because with your principal structure, a pool house, an accessory structure, and a detached garage – your non-porous footprint is growing at a significant rate. Mr. Denning said there are probably only 50 to 80 lots in the city where that would be possible and still have plenty of space.

Mr. Denning said there is a restriction on the size of a gazebo of 200 square feet; that’s only a 16 foot diameter which isn’t very large. Mr. Chodkowski said at the 200 square foot level it requires a permit from the county.

Mr. Denning said on page 9-134, item 3-b which prohibits chain link fence in their front yard. He asked why that was prohibited. Mr. Chodkowski said that is in there for aesthetic purposes. Mr. Denning said there are a lot of folks out there where their front yard is all they have and they want to protect their children and their pets; he didn’t think this was good for us and there may be sections of the city where they want to have a covenant that prohibits front yard fences but he doesn’t like this at all. He said he understood not having a solid board privacy fence in the front yard but to not allow open wire chain link he thought is wrong. He said if he had not been allowed to have open mesh fence in his front yard, he probably would have had to get rid of his dogs because he doesn’t want his dogs to go into the neighbor’s yard. He said he understood the aesthetic value but he thinks it’s wrong. Ms. Campbell said she has a chain link fence in her front yard. Mr. Denning said right and people who have it now will be grandfathered in; so it’s difficult to tell people who move in that they are not allowed to have it now when their neighbors have it. Ms. Campbell said the way people are breaking in and stealing stuff; it is a safety feature for her and makes you feel protected.

Mr. Schock said he concurs with Mr. Denning on this; it helps with children on busy streets allowing them to play in the front yard and keeping balls from going out in the street. He said as far as aesthetics, he didn’t think chain link was ugly if it is properly maintained. He suggested limiting the height to the standard 4 feet. Mr. Denning said standard is 40 inches; he agreed with limiting the height but didn’t think eliminating it completely was a positive. Mr. Schock said he would agree with Mr. Denning on removing that language. Ms. Campbell said unless you live on a corner; isn’t it true you can have as high a fence as you want up to the end of your line. Mr. Chodkowski said no; the height limit is 6 feet until you cross into the front yard and then it is 36 inches. Ms. Campbell said it’s to the front line of the house. Mr. Chodkowski said yes. Mr. Denning said actually the current code is 8 feet. Mayor Flaute said so you are agreeing that we shouldn’t have a solid board wood fence in the front but chain link is okay. Mr. Denning said he didn’t think that should be in there at all. Mayor Flaute said he didn’t like the looks of them but if that’s what the majority wants, we can put it on the list. Ms. Campbell said it depends on where you live. Mr. Chodkowski said unfortunately, we don’t have to ability to regulate based on where you live. Mayor Flaute said he could see in an area where there are a lot of them there could be problems to say a person is not allowed to do it; he would prefer not to have them in his area and he guessed we needed to leave that in there because as the City Manager stated you can’t regulate. Mr. Chodkowski said to keep in mind the code language states if you have one of these fences you are allowed to maintain it; the issue isn’t that we are going to make people take them out. Mr. Denning said he is more concerned about someone who just bought a house and wants to put it up because his neighbors have it and he can’t. Mr. Chodkowski said that’s always going to happen and you will never be able to avoid that; every time you amend the code, certain pre-existing non-conformities will be established and other pre-existing non-conformities will be eliminated. He said we face the argument everyday from folks who say my neighbor can and I can’t; it’s not always about fencing but there are always issues that will exist.

Mrs. Reynolds said she didn’t think she wanted fencing in the front yard. She said she loves decorative fencing but this wasn’t anything she had spent a lot of time on. She said when a fence goes bad; for example, say Ms. Campbell’s fence gets deplorable looking, we can make a person repair it or take it down, correct? Mr. Chodkowski said yes. Mrs. Reynolds said we would still have that even if we had fences in the front yard. Ms. Campbell asked if there was anything wrong with her fence. Mrs. Reynolds said no, she was just using it as an example. Mr. Denning said there are good reasons people have fences in their front yard; a lot of them don’t have any backyard or their house is very deep in their yard. Mr. Chodkowski said those people would have a reasonable condition to apply for a variance; every situation is different, hence the need for a variance. Mr. Denning said if you don’t put the rule in there in the first place, then you don’t need the variance. Mr. Chodkowski said in all honesty, the subject Mr. Fullenkamp brought up earlier regarding covenants and restrictions was brought on by a chain link fence installation in a front yard. He said that was all this office fielded for 2 ½ days was complaints from his neighbor, calls from the county, and calls back and forth to the property owner; all related to the placement of that fence in the front yard.

Mrs. Reynolds said if the community has a covenant that prohibits fences in the front yard, then there are no fences in the front yard. Mr. Chodkowski said that is incorrect; the covenant is a civil promise amongst property owners and not the law of requirement. He said in this instance, the property owner met all of the provisions of the code necessary to construct the fence so by law he was permitted to build the fence. He said his civil covenant is between him and his neighbors and he broke that promise. He said we don’t enforce civil covenants because we are not subject to that promise but any one of his neighbors can sue him and the judge in most instances would order him to remove the fence because he is in violation of his civil promise to his neighbors. Mr. Denning said that’s why he doesn’t think this should be in the code. Mr. Chodkowski said we are not putting that in our code; all we are saying is that fences in the front yard shall not be made of these materials. He said the majority of the comments we heard from the neighbors weren’t that he shouldn’t have a fence; it was the fence doesn’t look right and why isn’t our covenant being enforced. Mayor Flaute asked what kind of fence it was. Mr. Chodkowski said chain link; what was important to the neighbors was that it looked out of place in relation to the other elements of that community. Mr. Denning said he understood that he just didn’t think that the chain link and the open wire mesh should be part of the stuff that’s prohibited in the front yard. He asked for this subject to be put on the list for further discussion.

Mr. Denning said then there were the ornamental features in your front yard; a person can only have something that’s 3 feet high. He said a person wouldn’t be able to put a nice fountain in their front yard or an ornamental feature higher than 36 inches in his flower bed; the height is too limiting. Mayor Flaute asked if that included Halloween and Christmas decorations. Mr. Chodkowski said when we assembled the language; we never intended that to be holiday decorations. Mr. Denning said he understood that but some neighbors would use this as a brick to hit them in the head with. Mr. Chodkowski said we can add some clarity to that if we can have language to clearly delineate what we mean; if not, we’ll remove it.

Mr. Denning said on page 9-135, item 6-a, states *all decks shall be attached or continuous to the principal structure or principal building*; what does that mean. Mr. Chodkowski said it means you can’t go 50 feet out in your yard and construct a deck 3 feet off the ground. Council members asked why not. Mr. Denning said he constructed a deck 15 feet off his house to put his hot tub onto and according to this he can’t do that without attaching it to his house. Mr. Chodkowski said in the future that would be correct. Mr. Denning said if it is physically attached to the house a person would have to get a building permit from the county; where if it’s not attached a building permit is not required unless it’s over a certain height. He said he didn’t like government getting in his business. Ms. Campbell said she knew what he meant. Mr. Denning said he didn’t like that it has to be attached. Mr. Chodkowski said it doesn’t have to be attached; it can also be adjacent. Mr. Denning said he is okay with adjacent but continuous to him means part of the existing building. Mr. Chodkowski said if we need to add clarity, you can construct a floating deck right next to your house but again this gets down to lot coverage issues and what is or isn’t an accessory structure; the fact that it’s connected or continuous or whatever you want to call it, while we look at that as lot coverage, we do not consider that to be an accessory structure because it is adjacent to the house. He said if you build a floating deck 30 feet out in your yard, that’s a structure that is not continuous and counts against how many accessory structures you can have. Mr. Denning said okay, but he does remember reading that if he wanted to put a pool up and have a deck around it, the deck would be considered part of the pool. Mr. Chodkowski said right and the pool counts as an accessory structure. Ms. Campbell suggested digging a hole and putting the pool down in; there is a way around everything if you stop and think about it.

Mayor Flaute said on page 9-136, item F-3 regarding frequency and duration of home sales; *only one such sale may be conducted by permit on any parcel of property once per quarter of a calendar year*; he thinks that is a little odd because you aren’t going to have a garage sale the first quarter normally, you might have one the second quarter, you might have one the third quarter, and you definitely not going to have one in the fourth quarter. He suggested changing it to 2 garage sales per year; that’s what the current code is and why wouldn’t we just keep that. Mr. Chodkowski said a home sale is more inclusive than just a garage sale so since we’ve lumped several types of sales as a home sale it is possible for that to occur. He said also keep in mind it doesn’t start at January 1st; if a person doesn’t make application for a home sale until March 1st, that’s when the 12 month clock and the quarterly divisions begin. Mr. Denning said so if I have a sale in March, I can’t have another one until July. Mr. Chodkowski said correct.

Ms. Campbell asked how many yard sales one person has had the most of in a year and how far apart. Mr. Chodkowski said if they follow current rules of the city, a person would be able to have 2 sales per year. Mr. Denning said that is per person, so if they have 5 people at the same address, they could actually have 10. Mayor Flaute said that’s not true. Mr. Denning said the way existing code is written, they can – the husband can get 2 permits, the wife can get 2 permits, etc. and he knows of a house that has a garage sale every month in the summer so he is okay with limiting it to one per quarter as long as it is monitored by the address and not by the person applying. Mayor Flaute asked the manager to make sure that is in there somehow.

Mayor Flaute said right now you are only allowed 2 signs for a garage sale and he asked if that was also in the proposed code. He said he thought we should do away with that because it is very unfair to folks who live back in a plat compared to people who live right on a busy road. He said he is hoping that is out of the new code otherwise he would like it added to the list. Reference page 9-157 (d) (2).

Mr. Denning asked if there was a reason we limited antennas to 10 feet? (Page 9-138, C-2-b) Mr. Chodkowski said there are two separate antennas; those that are incidental to home use and those that are related to commercial use; the language states if it is a commercial purpose then it becomes a conditional use application. Mr. Denning said when he bought his house it had an antenna that was 20 feet in the air before the antenna was mounted; what is the purpose for this language and what are we trying to limit. Mr. Chodkowski said this would be to limit someone from taking their Direct TV antenna and putting it on a pole 30 feet in the air so they can get the best reception. He said the purpose is to keep incidental antennas for basically TV reception at a reasonable height and the antenna tower at your home would be a pre-existing condition. Mr. Denning said he has since taken it down, but what if he decides he doesn’t like cable and some technology comes along and he would like to put up a regular antenna again; 10 feet would not be high enough to get any reception at all so he would be stuck with cable. Mr. Chodkowski said in the event that technology were to be created, we would need to make the necessary arrangements to amend the code. Mr. Denning said he didn’t think 10 feet would be a correct number. Mr. Murray said the language states *exclusive of structural supports.* Mr. Denning said so he could put his tower up then attach an antenna as long as the antenna wasn’t taller than 10 feet. Ms. Campbell said in item d on page 9-139 it states *shall not exceed 10 feet above a roof line.* Mr. Denning said that he is okay with.

Mr. Fullenkamp said on page 9-151, item 10; what is meant by installation of flagpole in sidewalk? Mr. Chodkowski said it actually means the tree lawn or the grassy space between the curb and the sidewalk; it is permitted by the Ohio Revised Code.

Mr. Fullenkamp said he is kind of confused when you talk about signage; there seem to be two different measures – one is sign area that should not exceed 50 feet and the face area should not exceed half that amount; he asked for an example. Mr. Chodkowski said that would be for a two-sided sign.

Mayor Flaute said on page 9-159, item d (f) at the top for political signs states *shall be prohibited within the public right-of-way*, then on page 9-162 item 6 – b states the same thing again; is there any reason why we have it in there twice. Mr. Chodkowski said no. Mr. Denning asked if there was any reason we had it in there at all; to him, the political gardens that pop up right outside of the city limits look worse than if we would just limit the time the signs could be up in the right-of-way. Mayor Flaute said the issue becomes that if our guys are cutting grass, they have to take all the signs down to mow or if people just take the signs and leave the wires, it ruins our equipment. He said as far as aesthetics go, our city looks a lot cleaner without all those signs on Woodman Drive or sitting out by stop signs where they can be dangerous. He said he tried to put some signs out of the road right-of-way and where people have front fences, you can’t put a sign in the yard unless you put it behind the fence then nobody can see it. Mr. Denning said when you get rid of front yard fences you won’t have to worry about it. Mayor Flaute said there’s a good reason why, mostly because it’s a pain to our service folks. Mr. Denning said most mowing is done by the time November comes around. Mayor Flaute said that’s why he’s delayed putting his signs out because he wanted everyone to get their lawns mowed. Mr. Schock said he agreed with Mayor Flaute; yard signs are what they are, yard signs; not highway signs, not street signs; they are for the yard and meant to show support of your candidate by being placed in your yard and not on city property or in the right-of-way.

Ms. Campbell said on page 9-148, Sign Standards, item A-1 states *protect each person’s Constitutional right to freedom of speech*; that should include political speech. Mr. Chodkowski said it does. Ms. Campbell said last time she put signs out when she was running for re-election her signs were taken down. Mr. Schock asked if the signs were in somebody else’s city. Ms. Campbell said no, she put them on her boss’s property in front of the Riverside sign. Mayor Flaute said that’s not right. Ms. Campbell said someone went on his property and took them down; they weren’t in the right-of-way.

Mr. Schock said we need to break for our fire prevention presentation. Mayor Flaute said they would take a few questions from the audience.

Mrs. Lori Luckner said on the fences and following Mrs. Reynolds comments regarding upkeep; if someone has to replace a whole fence, would it have to be a different material or could it be the same thing. Mr. Chodkowski said based on how we would apply the zoning code; if it had to be completely replaced then it would have to be made compliant to whatever the existing code is. He said in the case of a chain link fence and it’s a repair of the chain link by peeling off the old and putting on the new; we would consider that maintenance. He said if the poles and the entire substructure had to be removed then we would consider that the fence was removed and a new fence would have to be constructed. Mr. Schock said replace every other pole one year and go back the next year and replace the other poles.

Mr. David Brown said on the ornamental features; he has a portable ornamental light fixture that falls in that category and it is definitely more than 36 inches. He said there are good reasons to have something greater than 36 inches that’s ornamental. Mr. Murray said we really thought that one out, such as corner fences like a center post with rails on 2 sides; ornamental fences aren’t really meant to enclose. Mr. Browne said there are exceptions and Mr. Murray agreed.

An audience member asked if the new ordinance was going to attract people to the City of Riverside or drive them away. Mayor Flaute said we are hoping to attract people; that is why we are working so hard on it.

There was a brief discussion and it was decided to put the remainder of the discussion for Article IX – Part 4 on a future agenda.

1. Fire Prevention Presentation

Ms. Paula Balcom, Firefighter/Paramedic for the City of Riverside, said this year for Fire Prevention week they decided to have a poster contest for the fourth graders in our community. She said we asked the kids to draw a poster with certain criteria to show us what this year’s slogan “Protecting Your Family From Fire” meant to them. She said we will be displaying the posters we received in businesses around the community so as you go in and out of these businesses; you will be able to see the artwork done by the fourth grade students. She said we selected the top three students and they have been gracious enough to join us tonight to be recognized by us, by the citizens, and by the Mayor and Council for their tremendous work in helping us get the word out for Fire Prevention Week. She asked the Mayor to join her and assist with giving out the awards.

Ms. Balcom said we stopped by these kid’s homes with our fire engine to advise them they were the finalists. She said starting with third place; Abby Severs was presented with a certificate of recognition from the City of Riverside and on behalf of the Riverside Professional Firefighters Local 2938, Abby was also presented a gift card to Toys-R-Us.

Ms. Balcom said second place goes to Adi Blevins, who was presented a certificate of recognition from the City of Riverside and a gift card to Toys-R-Us from the Riverside Professional Firefighters Local 2938.

Mr. Balcom said first place is awarded to Zachary Feltner, who was also presented a certificate of recognition from the City of Riverside and a gift card to Toys-R-Us from the Riverside Professional Firefighters Local 2938.

The Mayor, Council, Firefighters and audience members all congratulated Zachary, Adi, and Abby.

Ms. Balcom said she also wanted to mention Lisa Otto, a Counselor from Virginia Stevenson School, who helped with the project but could not be here this evening. She said Green Leaf Printing also donated all the paper which was provided to the schools to participate and Kroger donated cake and ice cream for us all to enjoy tonight.

Chief Turner thanked Ms. Balcom for taking the reigns on this and really getting the word out about Fire Prevention Week which is next week. He said we also thank the students for participating so we can get the word out about fire safety. He thanked everyone for being here tonight.

Mayor Flaute said he wanted to add his thanks to the Fire Department; we are so proud of all our firefighters and all the work they do. He said they get into some very dangerous situations and by doing programs like this, we are hoping that some of those occasions might not happen. He said it’s you folks who have put this on paper to remind people how to stay protected. He said that’s very important for our community and we are very pleased you took the time to do this. He thanked all the Firefighters and said we appreciate all the work you do for us.

Ms. Balcom said the posters will be on the city website under the fire prevention tab if anyone would like to take a closer look at them.

**ITEM 7: RECESS:** The Council took a recess 7:15 p.m.

**ITEM 8: RECONVENE:** The meeting was reconvened at 7:32 p.m.

**ITEM 9: PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE IN REMEMBRANCE OF MR. JERRY LOMMATZSCH:**  Councilman Steve Fullenkamp led all those in attendance in the pledge of allegiance. Mayor Flaute asked for a moment of silence in remembrance of Mr. Jerry Lommatzsch husband of former council member Sara Lommatzsch. He said Mr. Lommatzsch passed away suddenly and there will be a memorial service for him, Friday at 6:00 p.m. at the Community United Methodist Church.

**ITEM 10: MINUTES: Consider approval of the minutes for the September 15, 2011 Council meeting and the September 20, 2011 Special Council meeting.** A motion was made by Mr. Denning to approve the minutes as written. Mrs. Reynolds seconded the motion. All were in favor; none were opposed. **Motion passed.**

**ITEM 11: PRESENTATIONS:**

 a. Going Places, Phase II – Tom Harner, MVRPC

Mr. Chodkowski said as you all know Miami Valley Regional Planning Commission has been working on their Going Places project for quite some time and Mr. Tom Harner from MVRPC is here tonight to update council and the audience on where they are in the process.

Mr. Harner thanked Mr. Chodkowski for the introduction and said council all has hand outs to follow along with the presentation or take notes or to ask questions. He gave a PowerPoint presentation outlining Phase II of the initiative. He said MVRPC is a large, regional organization involving Montgomery County, Greene County, Miami County, Preble County, Darke County, and a few cities in northern Warren County. He said their main functions are regional transportation planning, distributing Federal transportation funding, and regional land use planning.

Mr. Harner said we are at the end of Phase II in our Going Places initiative and a couple of the slides are not surprising: communities are struggling; vacancies are a real issue in the region, nothing unique to Riverside but in every community we deal with across the area – residential, business, and commercial; and there are budget cuts all over the place as well, when there are vacancies, people aren’t paying taxes.

Mr. Harner said it’s not just bad news; there is good news to report as well. He said we surveyed people across the region to find what they wanted to do with land use in the region and what struck them as qualities in the region. He said there were a number of assets mentioned; positive news that focused on things like our parks; our bike trails; and WPAFB – not many cities can point to having a huge military installation, not unique but certainly something pretty special as a regional asset. He said Going Places is about how we can all work together to build a better region for everyone, focusing on the positives and trying to remove the negatives.

Mr. Harner said we have worked with the public and have had a number of workshops to sit in with the folks and get their opinions. He said we have also analyzed recent trends, past trends, and reports on housing and industrial usage to find where the region can and cannot build. He said we looked at a number of different factors like that across the region. He said we conducted 33 workshops where over 600 people attended to help us create 7 potential land use scenarios: asset-based development; business-as-usual development; infill/conservation development; radial corridor development; unrestricted development; mixed-themes development; and jobs and destinations development. He said over 1,200 people voted on the scenario they liked best and there was a clear cut consensus on 3 of the scenarios: mixed-themes development; infill/conservation development; and asset-based development. Mr. Harner said we took the principles of those ideas and combined them into a Concentrated Development Vision. He reviewed a map and said they look at it as sort of a culmination of the input from the workshops.

Mr. Harner said the map represents four principles: assets; infrastructure; preservation; and most importantly, more regional cooperation - something we at MVRPC are very familiar with. He said we work with many jurisdictions and between jurisdictions; sometimes jurisdictions get along famously and share information; and sometimes they don’t. He said in the spring a phone survey was conducted through Wright State University and that really backed up what we found; same information about assets and the same ideas.

Mr. Harner said we took this new land scenario or concentrated development vision and compared it to a baseline of 2007 for the way things are right now as well as what might happen all the way out to the year 2040. He said we have information databases on all the jurisdiction’s comprehensive plans all stitched together so we can forecast what things might look like if those bear out.

Mr. Harner said one of the ideas is that many people will choose to live closer together and he thought we were already seeing that in some residential patterns. He said a lot of the newer development in the past few years has not been large lot development out on the fringe but it’s been back in the city in closer neighborhoods. He said there has been more of an emphasis on that kind of development. He said related to that, people are living closer to amenities such as the stores and the schools. He said also land uses are likely to be mixed together with more scenarios where there is a building with first floor commercial use and then housing above that. He said you do see that in some new developments already. He said because of that, there are more opportunities to ride public transit. He said we see all of those weighing more heavily towards this concentrated development vision comparing 2040 to existing.

Mr. Harner said as with everything, there are challenges. He said this is happening all over; because of the vacancies there is a shrinking tax base. He said there is a real call to reuse properties but not all properties are the same; many have environmental issues and there can be problems with that kind of reuse. He said we would like to think MVRPC and the different jurisdictions can work together towards the common vision which can help to reduce vacancies; reduce costs; and hopefully create a more vibrant region.

Mr. Harner said he wouldn’t be here if he didn’t need Riverside’s help too and the investment does not have to be huge. He said we would ask you incorporate the vision’s principles into your existing planning process and consider them when making development decisions: do our plans take advantage of our community’s assets; do they make use of existing infrastructure; does the plan preserve farmland and open space; and have we cooperated with other communities in the region in developing our plan. He said Riverside is kind of in the middle of things.

Mr. Harner said MVRPC has started developing some tools to help local communities: we consider ourselves as a partner and a resource; we have been developing a draft growth framework; and we have been developing a list of potential policies with funding and grant opportunities. He said in the next few months we are going to be sharing this information and we would appreciate your endorsement. He said there is further information available at our website [www.mvrpc.org/rlu](http://www.mvrpc.org/rlu) or you can contact us at goingplaces@mvrpc.org. He said he is here on behalf of Martin Kim who you may have met before and he is the go-to source if you have any questions.

Mayor Flaute said we do have something on the agenda for later tonight so you might be hearing from us soon. Mr. Harner said that’s fantastic; we are looking at having the vision endorsed. Mayor Flaute said many times you have to look at the region but we also have to look at Riverside and everything he heard Mr. Harner say is what we should be doing in our city. He said the assets we do have seem to fit into what Going Places is all about. He said if anyone in the audience has any questions for Mr. Harner, be sure you speak with him before he leaves. Mr. Harner said he was glad there was a full house for the update.

**ITEM 12: 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 13: CITY MANAGER’S REPORT:**

1. FYI Items
2. Council Request Sheet.
3. Code Rewrite Request Sheet.
4. Council Agenda Calendar.
5. Weekly City Manager’s Report.
6. Minutes of the September 21, 2011 Parks & Recreation Commission meeting.
7. Minutes of the August 9, 2011 Board of Zoning Appeals meeting.

Mr. Chodkowski said you have my report and he would be happy to answer any questions. He said unfortunately the age of our fleet is beginning to demonstrate itself; both of our Planning and Zoning vehicles are at a state of disrepair where it is no longer feasible. He said we will be bringing forward a supplemental appropriation at the next meeting to address that issue.

Mr. Denning asked if we had heard anything from ODNR on the Glendean item. Mr. Chodkowski said we have not heard.

Mrs. Reynolds said she didn’t know if the manager wanted to take her questions now or when we talk about the illicit water discharge; she has some questions and they probably all go together. She asked if that is part of the Clean Water Act? Mr. Chodkowski said yes. Mrs. Reynolds asked if he wanted to do questions now or when the legislation comes up. Mr. Chodkowski said whatever her pleasure is. Mrs. Reynolds said she had an opportunity to talk to the Ohio EPA office this week; there were a series of minimum controls we had to put in place and we did public involvement using the newsletter. She asked if we had done anything else and if the newsletter articles were sufficient to meet the unfunded mandate of the Ohio EPA. Mr. Chodkowski said he would have to pull the last correspondence on the evaluation from the EPA. He said if he recalled the communication correctly which is from 2010, they did indicate that was sufficient and made recommendations on some things they would like to see more frequently. He said he believed there were specific references made to the use of the website but our use of the newsletter for purposes of storm water education appear to be sufficient. Mrs. Reynolds asked if we had any documented interaction between the public other than the newsletter; she didn’t think that was interactive – it’s delivered and we have no idea if they read it or not. She asked if there was any other documentation. Mr. Chodkowski said to the best of his knowledge, no. Mrs. Reynolds asked if he thought we needed to have some. Mr. Chodkowski said he if it were a requirement necessary to meet the full desires of the Ohio EPA, we would find a way to accommodate that but to the extent of what it is they are trying to accomplish, previous experience working with this type of legislative issue, those who do – do; and those who don’t – don’t and that’s all there is to it.

Mrs. Reynolds said if you go back and look at the U.S. EPA’s requirement for the Clean Water Act it was very specific filtered down to the States to handle through all their local offices. She said it talked about meetings; not necessarily committees but she would like the manager to look at that a little closer to make sure we are okay for the MCM 1 and 2. She said the MCM 3 is addressing the illicit discharge which is the legislation before us tonight. She said MCM 4 and 5 address construction sites and we haven’t done anything on that as best as she can find on what we have done before. Mr. Chodkowski said that is correct and in our response letter to the Ohio EPA office in addressing their concerns, we included the proposed code that will address erosion control as well as another component they wanted. Mrs. Reynolds asked if this would be able to work into any of the storm water issues and what research we’ve been doing regarding storm water utilities. Mr. Chodkowski said it could, depending on how involved council wanted to get. Mrs. Reynolds said it could be funded through a storm water utility. Mr. Chodkowski said yes. Mrs. Reynolds said MCM 6 requires regulated municipalities make good housekeeping practices; what are we doing in that respect. Mr. Chodkowski said he believed that is how we manage our materials. Mrs. Reynolds said such as road salt. Mr. Chodkowski said right; and because we are in the monitored well field overlay there are specific provisions we have to follow that in most instances are more restrictive than the OEPA requirements. He said the one issue where overlay requirements are less stringent is in regards to salt storage; we’ve done our best to establish as many compliant points as possible with the addition of the dome, the tarping of that, as well as the storm drains and the kinds that are there currently. He said we have done all we can based on our limitations to comply with those requests. Mrs. Reynolds said if the Ohio EPA walks in the door tomorrow and they ask to see the documentation on what we’ve done for the salt storage and the run off; what piece of paper would you give them. Mr. Chodkowski said there are several pieces of paper and they were actually a funding partner for that project so they are aware that projects exists and one of the arguments when we made application for this fund was specific to storm water conditions. Mrs. Reynolds said she would like to have a copy of that information.

Mrs. Reynolds said when you look at that piece of the law, when we wash our vehicles we have to account for the run off from that vehicle washing. She said with a fleet the size we have, does that create a situation? Mr. Chodkowski said our fire apparatus are washed here; when there is contamination of road salt, it is done within the bays and into the controlled drain system. Mrs. Reynolds said so we do control it. Mr. Chodkowski said yes; and the majority of the police vehicles are washed off site. He said as far as the service vehicles, he believed there is an oil/water separator. Mr. Miller said there is on Wake Avenue and he had a proposal for one at this site but it was not carried forward.

Mr. Fullenkamp said while we are on this topic, there are 2 items in the legislation itself, Floatable Material and Hazardous Material; is there a reason why they are identical. Mr. Chodkowski said he would have an answer before the second reading.

Mayor Flaute said we did receive a petition tonight from some of the folks over by Fairfax and Fair Park, petitioning for the bridge. He said he did get a call from Mr. Clark from that area and he was very adamant about repairing the bridge which we talked at length about last time. He said he knew we were sending letters out and asked where we were in that procedure. Mr. Chodkowski said the letters were mailed on Tuesday and included a self-addressed, stamped envelope with a response sheet and it was mailed to all 362 property owners within the Floral Park subdivision. He said it provided a summary of the 3 topics council had discussed in regards to the future of the Fairfax/Fair Park Bridge which was either the replacement of the bridge, a substitution pedestrian bridge, or the removal of the bridge all together. He said he would expect to begin seeing responses next week; we’ll give that some time and see what responses we can accumulate from the community before we come back to council. He said we are working against a January timeline. Mayor Flaute said this is so council knows this is just part of what’s coming back to us and then we will have to make a decision regarding the bridge as we move forward before January 1st, as the manager indicated. He said Mrs. Reynolds picked up the petition from Mr. Clark because he is ill and he asked if she wanted to add anything.

Mrs. Reynolds said she received a call from Mr. Clark which many of you know as a long time resident of the Byesville area and she went over and met with him. She said we had a good conversation with some of the neighbors and we looked at the area and there is a concern, mainly with the school buses. She said Mr. Clark and some of his neighbors are concerned that children from the upper part of the Floral Park plat now had to walk down and cross over the bridge to catch the bus because the bus can no longer turn and come back across. She said the main concern is the safety of the children which she can understand. She said she didn’t know how many children are affected but Mr. Clark estimated 30 to 40 and the City Manager was going to work on getting us additional information on that. She said the safety of the children is the utmost concern and Mr. Clark was very diligent about the petitions as well as being able to talk about his community. She said it is a special community. Mayor Flaute said Mr. Clark is a go-getter and at age 92, he’s still out getting petitions signed and caring about this city. He said it says a lot about Mr. Clark’s character.

Mr. Schock said there was a gentleman in the audience from the school board shaking his head and he wondered if they would like to put a summary on paper on how that bridge affects their school buses. The gentleman in the audience said he wasn’t familiar with the particulars on that bridge but if Mr. Chodkowski would contact Mr. DeCerbo in the Transportation Department, he would have the information regarding the number of kids in that area. He said it is certainly something that warrants looking in to. Mr. Schock said he would appreciate that and it would help a lot on making a decision. Mayor Flaute said maybe there is a grant that would help, like the Safe Routes to School.

Mayor Flaute said we did stop our discussion on Article IX of the proposed zoning code and that needs to be put back on the next agenda to complete the discussion. Mr. Chodkowski said for the next meeting, the work session is scheduled as an executive session for the disclosure of marketing materials and development information for the Center of Flight. He said the next most appropriate agenda to discuss the proposed zoning code would be November 3rd which will be at council’s discretion because there are still a few budgetary items that need to be addressed – updated forecasts on revenues and expenditures; a few small additions to the expenditure side; and there will be recommendations from department heads of funding for capital equipment as well as the Harshman Road mill-and-fill and the Harshman/Valley intersection.

Mrs. Reynolds said there is another item since we are discussing upcoming meetings; we were approached by DATV last week and some of their producers would like to talk to us about taping our meetings and live streaming them. She said if there is any interest in that, we need to get them on the agenda by the end of the year. Mr. Schock said this council has talked about that a lot. Mayor Flaute agreed and said this council talked about it at length and decided not to do it. He said he would recommend we wait until the new council get on to see; if there are any new folks, he thought that would be a more appropriate time to discuss it. He said it sounds like some things have changed because when we discussed it last time, he was going to have to run down and pick up a camera to set up before each meeting. Mrs. Reynolds said their producers wanted to do the meeting but she will call them and tell them no for right now. Mayor Flaute said he thought we needed to bring it up after the new council is on, if there are any new council members. He said it sounds like some things have happened since the last time and he would be very much in favor of that. Mr. Schock said he has always wanted that; how much more transparent can you be than to be on television. He said the only draw back is sometimes the citizens want to come up and showboat just so they can be on TV; that’s where the Chair has to be real strict with giving people 3 minutes. Mayor Flaute said it can be tricky but he’s very much in favor of it.

**ITEM 14: PUBLIC COMMENT ON AGENDA ITEMS:** Mayor Flaute said he had 2 people that wanted to talk about the resolution that is in support of the Mad River Local School District.

Mr. Jim Wellman of Beatrice Drive thanked council and the guests here tonight and said he is not here to speak for or against the school levy; he just wants council to take some things into consideration when they start talking about it. He said when he was on council and became active in his community; one of the things he learned, that was a shock to him, was the difference between the city dollars and the school dollars. He said people would say to him; we just passed a levy, why do you want another one. He said well it was a school levy that was passed the year before the city asked for a levy and people don’t realize that. He said when he was on council 4 cents of every dollar went to the city; 17 cents of every dollar went to the school system; and the rest went to the county.

Mr. Wellman said if the city is thinking about a levy in another year or so, you might be shooting yourself in the foot by verbally or in any fashion coming forward to support this. He said you will be adding to the misconception that the schools and municipalities are one in the same with the same funding sources. He said when the city goes for a levy, the people will say you just got one last year. He said since the Law Director is here, is this something council can endorse; because when he was on the CDC they could not endorse candidates but they could endorse issues. He said he didn’t know if the city could give their support to another entity’s levy. He said in all of his years of being involved, he didn’t know that the school system ever put their neck out on the line or put anything in writing supporting city levies.

Mr. Schock said it sounds like you are against it. Mr. Wellman said he’s not saying that; it’s a personal choice and you know whether or not you can afford to support it. He said schools do make our community and he’s supported them for years with his tax dollars; he just wants council to look at if this is something they should do in a public forum, trying to convince people to do something on your say so and your word that might bite you in the backside in a year or so when the city might have to go for a levy because they need money too.

Mayor Flaute thanked Mr. Wellman for his comments and said his only comment would be that all our resolutions have been reviewed by the Law Director. He said if we don’t get the resolution back from the Law Director, then it didn’t pass the test.

Mr. Schock said he couldn’t see a voter not understanding the difference between a school levy and a fire or police levy. He said he couldn’t see that a citizen wouldn’t distinguish between the two. Mayor Flaute said we all have our opinions and he thanked Mr. Schock for his comments.

Mrs. Lynn Domescik of Orinoco Street said as you know she wears a few different hats in the community, one being Domescik and Associates Realty and being in this business for 35 years, she knows first hand how important our schools are to the community. She said she and her husband own quite a few pieces of property in Riverside and she can tell everyone for a fact that each one is filled with families whose children go to our schools. She said that is the main reason they came to us to rent. She said we need to support this levy; it’s not a large levy - $10 to $15 per month isn’t going to kill anybody, you can do that just giving up some fast food and it won’t harm your health.

Mrs. Domescik said the second hat she wears is the Chamber of Commerce; we’ve worked very hard trying to bring cities, schools, businesses, and service organizations together as one. She said she’s tired of seeing not only the communities being divided in sections but the organizations themselves. She said this is not about you voting yes or no on this levy; it’s about your support for our schools and it’s about coming together as a community. She said the citizens need to know that the city is backing the schools; that the schools are backing the chamber; and that the chamber is backing the schools and the community. She said we need to come together and she doesn’t want this, being an election year, to make the difference of the decision you are going to make. She said she feels like if it wasn’t an election year, maybe you would go ahead and support this resolution; funny things happen in election years – no new taxes or other sayings. She said she hoped they will come together and start working with everybody involved.

**ITEM 15: OLD BUSINESS:**

**a. Ordinance No. 11-O-475 to make supplemental appropriations for current expenses and other expenditures of the City of Riverside, State of Ohio, for the period January 1 through December 31, 2011. (SECOND READING AND CONSIDERATION OF ADOPTION)**

Mr. Chodkowski said pursuant to the request of the Finance Director this ordinance is to make supplemental appropriations to the 2011 budget.

A motion was made by Mrs. Reynolds to read Ordinance No. 11-O-475 for the second time by title only and approve its final adoption. Mr. Denning seconded the motion.

The clerk read Ordinance No. 11-O-475 for the second time by title only and Mayor Flaute asked if there was any discussion from the council.

Being none, all were in favor; none were opposed. **Motion passed.**

**ITEM 16: NEW BUSINESS:**

1. **ORDINANCES**

**a. Ordinance No. 11-O-476 to create Chapter 935, “Illicit Discharges to Storm Water Systems”, within the Codified Ordinances of the City of Riverside, Ohio. (FIRST READING)**

Mr. Chodkowski said pursuant to the request of the Ohio Environmental Protection Agency, this ordinance is brought forth to establish illicit discharge parameters.

A motion was made by Mrs. Reynolds to read Ordinance No. 11-O-476 for the first time in its entirety and approve its first reading. Mr. Denning seconded the motion.

The Clerk of Council read Ordinance No. 11-O-476 for the first time in its entirety and Mayor Flaute asked if there was any discussion.

Mrs. Reynolds said the only thing would be that the City Manager re-assemble the page references in the legislation. Mr. Chodkowski said he would.

Mayor Flaute asked what would be the consequences of not passing this legislation. Mr. Chodkowski said the OEPA will find us in violation and they will fine us.

Mr. Schock said we are sitting on one of the largest aquifers; this is a must. Mayor Flaute said he just wanted to make sure.

Mr. Fullenkamp said there’s going to be some processes needed to ensure compliance with this discharge legislation; does the City Manager have any idea what this process will be and the costs associated with enforcement? Mr. Chodkowski said based on previous experience with illicit discharge, most of the time they tend to be labor intensive expenses; we will go out and inspect known outlets and verify they are discharging storm water or that they are dry in the dry season and wet in the wet season. He said most of the time costs associated with an illicit discharge once it is identified could be anywhere from a few hundred dollars to a few thousand dollars; in most instances when you do identify an illicit discharge, the point source is readily identifiable and they cover all those costs as part of their rectification with the EPA. He said there may be some incurred expenses every now and then but those will typically be reimbursed.

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

Ordinance No. 11-O-476 will be read for the second time on October 20, 2011 and Council will consider its adoption.

**b.** **Ordinance No. 11-O-477 declaring city property located at 5705 Huberville Avenue to no longer be needed for municipal purposes and to be surplus and authorizing the City Manager to execute documents necessary to sell said property to Protobox, Inc., and declaring an emergency. (FIRST AND SECOND READINGS AND CONSIDERATION OF ADOPTION)**

Mr. Chodkowski said this ordinance is brought forth for the sale of city-owned property located at 5705 Huberville Avenue to Protobox, Inc. and is brought forth pursuant to council’s discussion year end last.

A motion was made by Mrs. Reynolds to read Ordinance No. 11-O-477 for the first time in its entirety and approve its first reading. Mr. Fullenkamp seconded the motion.

Mr. Denning said he would have to abstain from this because he works for Protobox.

The Clerk of Council read Ordinance No. 11-O-477 for the first time in its entirety and Mayor Flaute asked if there was any discussion.

Ms. Campbell said isn’t this a bid process. Mr. Chodkowski said so you get the best possible answer, he will defer that to the Law Director as there are several stipulations about how property can be sold and how property should be sold. He said typically, this council in the past has utilized a bid process or open market forum for the sale of property however, there are cases that allow for direct sale by council.

Ms. Grandjean said what the ordinance contemplates is that the property be declared surplus and that council can authorize that it be sold to this willing buyer at the negotiated price. She said council does have the authority to do that. Ms. Campbell said to skip the bid process. Ms. Grandjean said right; by virtue of the declaration of it being surplus property. She said by declaring it surplus property, council could just give it away. She said if council doesn’t determine it is surplus property, that’s a different issue.

Mr. Schock said that is why he lobbies to have the Law Director here at least once a month, for questions just like that.

Mrs. Reynolds said we want to point out that this ordinance does declare the property surplus and gives us the right that counsel has told us we have.

Mr. Chodkowski said it should be pointed out that the total transaction is neutral to the city; Protobox is purchasing the property from the city for exactly what we paid for it. He said we are not responsible for the transaction costs associated with the sale either. He said this was a grant positive project for us; we acquired the property, received a grant to remove the structure that was there, and now we are selling the property for economic development purposes. He said there are no costs to the city.

With no further discussion, five were in favor; Mr. Denning abstained. **Motion passed.**

A motion was made by Mrs. Reynolds to suspend the rule that dictates the number of days between the first and second readings. Mr. Schock seconded the motion. Five were in favor; Mr. Denning abstained. **Motion passed.**

A motion was made by Mrs. Reynolds to read Ordinance No. 11-O-477 for the second time by title only and approve its final adoption. Mr. Fullenkamp seconded the motion.

The clerk read Ordinance No. 11-O-477 for the second time by title only and Mayor Flaute asked if there was any discussion from the council.

Being none, five were in favor; Mr. Denning abstained. **Motion passed.**

# RESOLUTIONS

* 1. **Resolution No. 11-R-1591 accepting the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor.**

Mr. Chodkowski said this is legislation is to accept the amount and rates determined by the county Budget Commission for tax collections in the upcoming fiscal year.

A motion was made by Mr. Denning to approve Resolution No. 11-R-1591. Mr. Schock seconded the motion. All were in favor; none were opposed. **Motion passed.**

**b. Resolution No. 11-R-1592 authorizing the East Dayton Baptist Church to place temporary promotional signs in the public right of way under certain terms and conditions.**

Mr. Chodkowski said this resolution is brought forth to authorize placement of temporary signs in the public right of way on behalf of the East Dayton Baptist Church.

A motion was made by Mrs. Reynolds to approve Resolution No. 11-R-1592. Mr. Denning seconded the motion.

Mayor Flaute asked if we knew where the signs would be going up. Mr. Chodkowski said at the intersections of Woodman/Linden, Woodman/Woodbine, Woodman/Burkhardt, Spinning/Burkhardt, and Valley/Harshman.

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

**c. Resolution No. 11-R-1593 endorsing the Preferred Future Land Use Scenario of Going Places – an Integrated Land Use Vision for the Miami Valley Region.**

Mr. Chodkowski said pursuant to the request of council, this resolution is brought forth for the Miami Valley Regional Planning Commission’s Going Places, Phase II.

A motion was made by Mrs. Reynolds to approve Resolution No. 11-R-1593. Mr. Denning seconded the motion.

Mr. Fullenkamp asked if this obligated us to anything other than a cooperative attitude toward MVRPC’s Going Places initiative. Mr. Chodkowski said no. Mr. Denning said we are saying this is a good idea. Mr. Chodkowski said we agree to the concept of regional cooperation.

Ms. Campbell asked if there were any costs to the city. Mr. Chodkowski said no.

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

Mrs. Reynolds said we do have to remember that our representative to MVRPC, Deputy Mayor Mike Smith brought this forward to us.

**d. Resolution No. 11-R-1594 opposing the State of Ohio from seeking to take control of Municipal Tax Collection.**

Mr. Chodkowski said pursuant to the request of every single City Manager and Finance Director in the State of Ohio, this resolution is to oppose the State’s desire to centralize tax collections.

A motion was made by Mr. Denning to approve Resolution No. 11-R-1594. Mr. Schock seconded the motion.

Mayor Flaute said for the audience’s sake, there has been a proposal that the State of Ohio collect all our income taxes and charge us a rate of 5% for them to do that for us. He said this resolution is saying we don’t want them to do that for us because we can do it a whole lot cheaper using R.I.T.A. who are somewhere in the range of 2 ½%. He said he also wondered if the State would go after everybody as good as our Tax Administrator does.

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

**e**. **Resolution No. 11-R-1595 recognizing the Riverside Area Chamber of Commerce’s “Hometown Holiday in Riverside Ohio” as a function that promotes the public health, general welfare, and contentment of the citizens of the City of Riverside.**

Mr. Chodkowski said this resolution is brought forth to recognize the Riverside Chamber of Commerce’s Hometown Holiday event as a function that promotes the public health, safety, and general welfare.

A motion was made by Mr. Schock to approve Resolution No. 11-R-1595. Mr. Denning seconded the motion.

Mayor Flaute said just again for the audience’s sake, this is the third year and it is delightful. He said the event is the Saturday before Thanksgiving and it really is a fun time. He said it really brings the community together almost as good as our festivals. He said it recognizes our folks at the Airway Shopping Center; sometimes we don’t recognize our businesses enough and this is one way we can recognize them. He said this resolution encourages everyone and their neighbors to attend.

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

**f. Resolution No. 11-R-1596 in support of the Mad River Local School District Issue on the November 8, 2011 ballot for the purposes of existing operations.**

Mr. Chodkowski said pursuant to the request of council, this resolution is brought forth to support the Mad River Local Schools tax issue on November 8th.

A motion was made by Mr. Denning to approve Resolution No. 11-R-1596. Mr. Schock seconded the motion.

Mrs. Reynolds said she would not be voting to support this and she wanted the school board to know why. She said she believed the constituents of this community trust this council and she didn’t believe this council had the responsibility or the obligation to tell people to vote for a levy. She said she is concerned with this and there is no one on this council that probably supports the schools more than she does but she cannot ask others to do that. She said it is not a vote because it is an election year; she does not work that way. She said she respects every member of this community and their right to make a decision; she doesn’t have to tell them to make the right decision. She said she will be voting no on this.

Mr. Fullenkamp said he would not be supporting the legislation for the following reasons: he is concerned about the impact on the property tax for our residents especially for those on a fixed income; he is not convinced the school system has done everything possible to cut costs – he’s heard nothing about offers or discussions regarding school employees offering or past offerings for benefit concessions to stabilize the school district’s fiscal imbalance, we’ve heard of other school systems that will be cost cutting regarding wages and benefits but he hasn’t heard those words out of anybody on our school board or any of those discussions; he is still upset about the approach taken during the last election – they informed a very small slice of the community, people who had children in school, and ignored the rest of the community, there were no discussions and no handouts to the community and this is a well known fact because the superintendant stated in the paper that the next time they would go with notifying everyone – it should have been done the first time, it’s gentle voter suppression when you don’t inform residents and that bothers him, no agency should ignore voters in order to achieve a goal, the end doesn’t support the means. He said he does encourage people to inform themselves about this levy and the facts surrounding the property tax increase for schools. He said he encourages the schools, who are after all in the business of educating people, to harness their skills, to honestly, fairly, and thoroughly educate all voters this time around. He said he is with Mrs. Reynolds on this and it is not his place to suggest how anybody should vote on an issue. He said he will talk to them about the issue or he will talk with them about a wide range of things but he is not willing to suggest to somebody about how they should vote. He said he encourages them to educate themselves and to vote.

Mr. Denning said he brought this resolution forward and the main reason was that we need to be one community. He said there is too much separation between their entity and our entity and this or that as Mrs. Domescik stated and he believed we need to come together as a community. He said this is one way to do it; show the citizens we work with the school board and the school board works with us. He said he trusts that they were elected to basically do the same job we do; make sure the funding is done properly and that things go right. He said if it is their opinion and they have the numbers in their hand that they need a little more to keep the schools going and make them a little better, then he thinks it is up to us to trust that and all we are saying is yes we agree that we support our schools. He said that’s what this resolution is saying. He said good schools make a good community and good schools are a positive impact on economic development for us. He said we know that from the gentleman that is going to build houses on Brandt Pike, part of the reason that they are able to do that is because we have the schools people want to come to; people are willing to wait and not move to Fairborn so they can move into our school district and we need to keep it as good and as strong as we possibly can. He said that’s why the resolution came forward and we need to support our schools; we can’t expect them to support us if we don’t support them.

Mayor Flaute said he guesses he’s not telling anyone how to vote; he’s just suggesting they vote in favor of the levy. He said there is a difference to him.

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

**g. Resolution No. 11-R-1597 in support of the continuing operation of the City of Trotwood Post Office Branch and the Paul Laurence Dunbar Post Office Branch.**

Mr. Chodkowski said this resolution is brought forth in support of the continuing operation of the City of Trotwood Post Office and the Paul Laurence Dunbar Post Office.

A motion was made by Mr. Schock to approve Resolution No. 11-R-1597. Mr. Denning seconded the motion.

Mrs. Reynolds said she will be voting no on this because we know the United States Postal Service is going to close several post offices. She said if we vote to support the Trotwood office and they decide there’s going to be a post office closed, they could look at the Riverside Post Office. She said we have to protect our own; we fought the battle 2 ½ years ago to save our post office and Trotwood needs to fight their battle. She said she is not going to put our city and our post office in peril by supporting another community; she just can’t do that and thinks it is totally irresponsible.

Mayor Flaute said talking about that issue, it’s not just Trotwood; it’s also West Town Shopping Center. He said it 2 post offices in the same general area and it’s wrong for them to do that. He said he realized they could say ours will be next but he thought we would have the support of the other cities. He said this is an item that we have to look at as regional; he fights for Riverside all the time and he is the president if First Suburbs, so he fights for first suburbs. He said this is regional and to close both post offices in the same area is simply wrong in his opinion and he will be voting for this.

Mr. Fullenkamp asked if they gave us any support when we fought our battle. Mayor Flaute said we didn’t ask for it.

Ms. Campbell said she believed Mr. Fullenkamp asked, didn’t he email council about that. Mr. Fullenkamp said he was talking about other surrounding communities. Ms. Campbell said she meant the one in Riverside. Mr. Fullenkamp said yes, he did. Ms. Campbell said what happened after that. Mr. Fullenkamp said they activated and started writing letters. Ms. Campbell said who wrote the letter. Mr. Fullenkamp said was it you; he didn’t recall. Ms. Campbell said it was. Mr. Fullenkamp said what he was asking is if other communities supported us during that process. Ms. Campbell said not that she knew of. Mr. Denning said we didn’t ask them.

Mayor Flaute said it not the fight that it should be Trotwood or that it should be West Town Shopping Center; it needs to be one or the other and it’s just not right to close both. Ms. Campbell said who asked for this. Mayor Flaute said he was approached by the Trustees of Jefferson Township and by the Mayor and City Council of Trotwood. Ms. Campbell said when it was City of Riverside’s Post Office, did you write a letter to anybody. Mayor Flaute said he did not. Ms. Campbell said thank you.

Mr. Schock asked why the First Tiers wasn’t handling this. Mayor Flaute said they had to have their paperwork in by September 30th; his name as Mayor is on the opposition to closure but he did that as Mayor and not as Council. He said this is the opportunity for Council to do it.

Mr. Fullenkamp said he is going to support this but he thinks it’s pretty much a futile action; post offices are going to be closing, they are going to go out of business or we’ll be putting more federal money into the system. He said he would support it but he wished we would have worded this better and said one or the other or something along those lines.

Ms. Campbell asked the audience how many would support this.

An audience member asked if we were saying the Post Office is following their guidelines in closing these 2 post offices; they have a set of guidelines they go by and are we saying they aren’t abiding by those guidelines. Mayor Flaute said we are not saying that; we are saying we believe they should reconsider only closing one or the other.

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

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

**ITEM 18: COUNCILMEMBER COMMENTS:** Mrs. Reynolds said she had some things she needed to announce; first, we have the spaghetti supper on Saturday and all council members are expected to be there to serve. She said Mr. Denning was excused to go BOO (at the Jaycees Haunted House). Mayor Flaute said he had tickets for sale; Mrs. Reynolds said she had tickets as well.

Mrs. Reynolds said next Tuesday evening starting at 6:30 is Candidates Night; all the candidates have been invited and we look forward to it. She said it is hosted by the Democratic Club in Riverside and the Republican Club in Riverside. She said the League of Women Voters are the facilitators and will do the question/answer sessions; we have the Treasurer and the Superintendent coming to present to the community.

Mrs. Reynolds said we went to a good meeting on Tuesday and the City Manager stepped right up to the plate. She thanked him and said Mr. Chodkowski brought information to the meeting that was very important to everyone. She said for the council members who couldn’t be there due to prior commitments you missed a good meeting. Mayor Flaute said that was on Lilly Creek and Mrs. Reynolds said yes.

Mayor Flaute said for those who aren’t familiar, Lilly Creek is the creek that runs behind Shellabarger and the creek is eroding away peoples properties – their fences, their garages, their sheds. He said we had to have a meeting with everyone in the water shed which includes folks in Saville Estates and farther down. He said all these folks will have to take part in the solution to solve this problem and Montgomery County Soil Conservation Services are the ones working on Lilly Creek. He said if you hear any of your neighbors talking about this, that’s what it’s all about – we’ve got to save these folks’ properties. He said he heard that in 1950, you could walk across Lilly Creek and today you would not be able to do that in any way, shape, or form because it’s gotten so large.

Mrs. Reynolds thanked staff for all they do; she thanked the clerk and said she knew the clerk had been busy this week which she appreciates.

Mrs. Reynolds said 2 weeks ago we read proclamations for Clifford “Red” Jackson and “Ohio George” Montgomery. She said she was fortunate enough to deliver those proclamations to both those gentlemen and it was pretty neat. She said these gentlemen in our community have done a lot of things and “Ohio George” wanted her to bring this autographed picture of himself and his hotrods to present to the Mayor. Mayor Flaute thanked Mrs. Reynolds and passed the photo around for everyone to see.

Mr. Schock said the Riverside Chamber of Commerce had their annual golf outing; we had great weather and we all had a good time. He said the event was excellent and he was glad the City of Riverside got a chance to participate and show our support to the Chamber.

Mayor Flaute said speaking of the Chamber, on Monday night, many of us are going to the Eintracht Club. Mrs. Domescik said there are 55 of us going. Mayor Flaute said as some of you know, every month our Chamber picks a different restaurant in Riverside for us to go to and almost every month it’s a different country that we’re eating in. Mrs. Domescik said it is open to the public. Mayor Flaute said its $15 and includes a soft drink, your food, and it’s just an excellent evening. He said a lot of the folks that are there are single people and they’ve commented that this is a chance for them to go out to eat with a lot of friends. He said we are just so pleased we can go out and eat with friends rather than eating alone. He said Eintracht Club is on Old Troy Pike just inside Riverside and he’s sure we will hear about the project the city is working on with them. He said we’ve got a great grant where we will be improving that whole area and it will be a very important part of Riverside. He said come on over and hear the discussion.

Mayor Flaute said he attended a fuel cell coalition advancement event and they talked about how fuel cells are changing the world. He said they are big business and he went there to encourage development of the fuel cell technology in Riverside and we are hoping to bring some of that work on fuel cells to Riverside. He said there are some exciting things happening with that and it may be the answer.

Mayor Flaute displayed an award and said he received this from the base for our help with the TATTOO. He said the city gives about $5,000 to support the TATTOO which is something all our citizens benefit from and the base really appreciates what we do. He said it is a great tool to bring the base and Riverside together; it’s right in our backyard and out of the 75,000 who attend, there’s a whole bunch of them from Riverside, people who enjoy the best fireworks and shows. He asked who the band was this year. Mr. Chodkowski said Lonestar. Mayor Flaute said it was a great concert – wonderful. He said anyway they thanked us and gave us this award.

Mayor Flaute said he only had 3 weddings the last two weeks; he’s not sure why that’s down. He said as Mayor, he’s allowed to marry folks and it’s one of the coolest things he does because everybody is happy, everyone’s in love, and nobody is complaining about anything. He said if you know anybody that wants a civil ceremony, he sure would be happy to do it. He said he does them all at the Wedding Connection. He said he’s pleased to be able to do that, especially the military folks. He said he would recommend the church first because of his beliefs in the power of that, but if you don’t have a church, give him a call. He said its $50 for the city; it also shows off our city and it shows off the Wedding Connection. He said if you don’t know about the Wedding Connection, it has about 10 photographers as well as 10 different people that serve meals; everything you want for a wedding is at the Wedding Connection.

**ITEM 19: EXECUTIVE SESSION:** A motion was made by Mrs. Reynolds to enter into executive session for the purpose of discussion that is Attorney/Client Privilege. Ms. Campbell seconded the motion. A roll call vote was as follows: Mrs. Reynolds, yes; Ms. Campbell, yes; Mr. Denning, yes; Mr. Fullenkamp, yes; Mr. Schock, yes; and Mayor Flaute, yes. The council entered into executive session at 9:07 p.m.

**ITEM 20: ADJOURNMENT:**  The council came out of executive session at 10:03 p.m. and a motion was made by Mr. Schock to adjourn. Ms. Campbell seconded the motion. All were in favor; none were opposed. The meeting was adjourned at 10:04 p.m.

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William R. Flaute, Mayor Clerk of Council