**Special Beavercreek Trustee's Meeting**

**Thursday, March 1, 2012**

Mr. Glaser brought the meeting to order at 7:30 p.m.

Present: Ms. Graff; Mr. Paxson; Mr. Glaser.

Others: George Oberer; Robert Lickliter; Lisa Donigian; Ann Stalter, Woodrow Willis, Rebecca Caudill, Jerry Flexman, Bob Gustin, Allan Gunderson and Chuck Brackenhoff from the Zoning Commission; Alex Zaharieff, Township Administrator; Robert Surdyk, Legal Counsel; Victoria Long, Zoning Inspector/Administrator; Laurie Brown, Clerk III/Zoning.

Mr. Glaser opened the public hearing for the Township Comprehensive Land Use Plan by suggesting a page by page review of the plan. He encouraged those with questions to speak up during the process.

Mr. Paxson questioned why there was a need to update the plan when it was just done in 2002 and was intended to cover a 20-year period.

Mr. Brackenhoff explained there were really two reasons for updating the plan. First, there had been changes to zoning practices since the original plan was done. Second, some of the language in the land use plan needed to be revised to best meet the needs of the Township. The Zoning Commission had a lull in their caseload and decided to use that time to update the land use; that was three years ago. Mr. Brackenhoff then briefly summarized the process to date.

Mr. Willis elaborated that there was some language that seemed to be contradictory with statutes. This was an attempt to clean that up and provide consistency.

Mr. Paxson thanked everyone for the explanation and asked that major changes from the original plan be pointed out and explained, since he is not familiar with the plan.

Ms. Graff noted that even though land use plans are for 20-30 years, they should be updated every five (5) years to reflect any changes in the law.

The Trustees and the Zoning Commission then conducted a page by page review of the comprehensive land use plan.

Mr. Willis did point out that the word "policy" had been removed and replaced with the word "guideline" throughout the document. Mr. Surdyk stated this had been his recommendation to overcome some of the concerns regarding who was taking authorship of the document.

On p. 9, Mr. Willis noted that the last sentence in the 1st paragraph had been added stating that all (zoning) board members must reside in the unincorporated portion of the Township. Mr. Glaser noted that is required per Ohio Revised Code, but that it was nice to see it addressed in this document.

Mr. Brackenhoff noted that most of the changes made (since the last revision) were minor grammatical corrections. Mr. Stone had asked that the language be less restrictive and the Zoning Commission had made some word changes to accommodate that request.

On p. 10, Mr. Glaser asked if the last sentence in the 2nd to last paragraph was restrictive with regard to sanitary sewer and public water infrastructure being

provided by Greene County. There was some discussion. It was determined that the language was not restrictive.

On p. 11, Ms. Graff noted that the 4th line down in the first paragraph mentioned "policy." Mr. Willis clarified that particular use of the word "policy" did not refer to this document, but to outside influences that have policy-making abilities.

Mr. Willis informed Mr. Paxson that a sentence had been removed from the first paragraph on p. 11 because it could be interpreted as policy rather than a guideline.

Mr. Brackenhoff noted that the Population table on p. 11 had been updated to include 2010 numbers.

At this time, George Oberer addressed the board.

Mr. Oberer feels that one of the things that will most influence the population in the Township is that the cities of Beavercreek and Fairborn are virtually out of developable ground within their corporate limits. The people looking to move to Beavercreek or Fairborn will be forced to look elsewhere. Additionally, density tends to be higher in proximity to cities. This will put more pressure on Beavercreek Township to consider residential developments with higher densities to meet the demand.

Mr. Brackenhoff disagreed with this assessment, noting that the Township currently has 2,000 lots approved for development. There has been no activity on these lots in the past four (4) years. During that time, not one developer has come back to the Zoning Commission or the Trustees asking to increase or decrease lot sizes. In addition to that, the director of the Dayton Homebuilders Assn., who attended a commission meeting four months ago, told the board that the current (building) backlog for the Township was 8-10 years.

Mr. Brackenhoff further stated that certain language was put in the revised land use plan as a result of former lawsuits against the Township. The language was put in to clarify the Township's intent. If this language had not been put in the plan, it could leave the Township open to future lawsuits. What the commission did was close some legal loopholes while not being too restrictive on development. This document is a guideline; it does not preclude developers from coming in and asking to do something outside what is suggested.

On p. 11, in the 2nd paragraph line, 2nd line, Ms. Graff noted that Beavercreek Wetlands should be Beaver Creek Wetlands.

At this time, Mr. Glaser asked that everyone stay on topic and discuss only what is on a given page in the interest of getting done in a timely manner.

Ms. Graff noted that the last sentence on p. 11 addressed what Mr. Oberer was saying with regard to population. It recognizes that Beavercreek Township "continues to capture an ever increasing portion of the total county growth."

Mr. Willis commented that this is a policy; it is not the be all and end all. We are trying to have a crystal ball, but it's not going to be perfect.

Mr. Oberer asked to address Mr. Brackenhoff's comment that developers have not come back and asked for changes. So far developers have been able to fulfill

the need for desired housing. The pressure on the Township won't happen until those resources are exhausted.

On p. 13, Mr. Willis noted the last sentence in the 2nd paragraph was where the commission pulled out the crystal ball and did a rewrite.

> "Based on existing average residential density, this results in a likely projected demand for 260.6 acres for residential development or 417 dwelling units."

On p. 14, Mr. Willis noted that the last paragraph was new.

> "Future development should complement existing land uses. It is important that new development does not negatively affect existing adjacent land uses and that the character of the community be carried throughout the new development."

At this time, Mr. Paxson referred back to an earlier statement Mr. Oberer had made implying that people are looking for smaller, more maintenance-free lots. Given the transient nature of the population, he questioned whether there was a study showing that people with larger lots are more "anchored" in a community than those with smaller lots.

Mr. Willis responded that the board did not have any empirical data regarding that and had not reviewed any studies addressing that.

Mr. Brackenhoff noted that there were existing smaller lots in the Township, as a result of a federal lawsuit. The developer has since come back and asked to have those lots enlarged. So, you can't say this is definitely how things will be.

Mr. Brackenhoff emphasized that this document is a guideline for the Trustees. There is enough room in this document to grant lower density or higher density. It is an attempt to balance the needs of the citizens of the Township with that of future development.

Mr. Glaser commented that Mr. Brackenhoff had a good point; trying to create a document that is one size fits all doesn't work. In these changing economic times, the norm is no longer the norm.

On p. 15, 4th paragraph, 1st sentence, Mr. Willis pointed out that "unincorporated" had been added for clarification purposes.

On p. 17, Mr. Glaser questioned whether the 2nd bullet under the first Guiding Principles section was in contradiction to the 4th bullet under the second Guiding Principles section. After some discussion, it was determined that there was no contradiction.

From the audience, Lisa Donigian asked what was meant by sustainable development, as discussed under the 3rd bullet point at the top of p. 17.

Mr. Willis explained that there are many things involved in sustainability. It is essentially meeting the needs of the citizens, while being able to promote responsible growth. The board encourages new ideas, but cannot make it policy that developers have to bring in something unique. The board is saying that, within these guidelines, bring something that will enhance the community.

Ms. Donigian asked if this meant that the community would maintain control over it, rather than the government.

Mr. Brackenhoff stated there are certain areas in the Township that are not controlled by the Township. Ms. Donigian asked what he meant. Mr. Brackenhoff stated the river and the floodplain are not under the Township's control.

Ms. Donigian asked what a mixed use would be. Ms. Graff used Stonehill Village as an example. Stonehill Village is zoned residential with some business, the intent being that the businesses would provide services to the residents of Stonehill Village and others in the community.

On p. 19, Mr. Brackenhoff noted that a sentence had been removed from the third paragraph and some of the language reworded because it came across more like a demand rather than a guideline.

On p. 20, under Scenic River, Mr. Willis noted that a paragraph had been removed and the remaining language reworded to make it less "preachy."

Mr. Glaser then gave a brief update on the efforts to mitigate flooding issues on Factory Road.

On p. 21, with regard to the Wetlands, Ms. Long noted that Dr. Amon had stopped in the zoning office that day and said that the Beaver Creek Wetlands Assn. was very pleased with this plan. They are happy that the Wetlands are mentioned in this plan and that good provisions were made for their protection.

Also on p. 21, Mr. Willis noted that the first sentence under Wetlands had been removed because it was unnecessary.

On p. 23 under Topography, Mr. Glaser asked what the first paragraph was trying to say. This was language written by Mr. Anderson of the Greene County Regional Planning and Coordinating Commission. Ms. Long said she believed it was trying to convey that variations in topography can make development difficult without going in and leveling the land, which is an impact to the environment.

Mr. Glaser questioned whether it was necessary to this document. After some discussion it was decided to leave the language in.

On p. 24, Mr. Willis noted that there had been some significant rewording under Vegetation for clarification purposes.

Mr. Glaser asked that the last sentence (under Vegetation) be removed:

> "Slopes that are too steep for development can be used to add character to open space through strategic placement of trails and overlooks."

Mr. Glaser stated that when he was mayor of the city of Beavercreek, he had to deal with ravines being used as open space. He did not want that happening in the Township and especially did not want any language permitting that in this plan.

Mr. Brackenhoff stated the intent had been to encourage developers to put connecting trails in their developments.

Mr. Glaser said the city of Beavercreek had an issue with developers donating land that was not useable. They are labeled as parks, but nothing can be done with them. This had caused a lot of problems for the city.

There was some discussion among the Trustees and the Zoning Commission. Dr. Flexman questioned whether the Township wanted to count these areas as open space. Mr. Glaser stated that was what he was concerned about. Ms. Graff suggested addressing this situation in the zoning resolution.

Mr. Oberer commented the Township could be in danger of being too restrictive unless they are going to define a ravine as a certain slope. On the one hand, as a developer he is being encouraged to preserve natural features and, on the other hand, being told that unless the ravine is made useable it won't count for open space.

Mr. Paxson commented that green space is not only for physical use, it also serves an aesthetic purpose.

It was decided to leave the language regarding slopes in the document.

On p. 25, under Farmland, Mr. Willis noted that some language about farming no longer being a full-time endeavor in the Township had been removed and other language inserted with regard to garden plots and community gardens.

On p. 26, under Urban Service Boundary, Mr. Oberer had some concerns that urban service boundaries could be amended. If sustainable development is proposed in the county, and the methods for providing utilities to that area are deemed appropriate, the county will establish an urban service boundary.

Mr. Willis noted that the land use plan acknowledges that the urban service boundary exists and that the Township has not control over it.

Ms. Long elaborated that if they (the county) have the capacity to serve a facility area and enough customers to warrant the investment, they can make that decision as they choose.

On p. 27, under Urban Services, Mr. Glaser asked for an explanation of *Perspectives 2020*. Ms. Long responded that was the county's land use plan. Mr. Glaser was concerned about the reference to it in this document. Mr. Brackenhoff said he believed the purpose was to indicate that the Township is not responsible.

There was some discussion of Greene County's land use plan and how it might impact the Township's plan. Mr. It was decided to strike the following sentence:

> "The Township encourages the Department of Sanitary Engineering to utilize *Perspective 2020: A Future Land Use Plan for Greene County* to accomplish the task of monitoring and directing the planning of public water and sanitary sewer projects inside the urban service boundary, while discouraging utility extension to rural portions of the Township."

The last sentence in the paragraph was kept, but the reference to "Chapter Two" was deleted.

On p. 28, under Transportation Networks, Mr. Oberer asked what the purpose was of the last sentence in the 2nd paragraph:

> "In some cases the carrying capacity of the roadway is the limiting factor to potential development."

Mr. Oberer expressed concern that this would limit development.

Mr. Willis explained that the intent was to address improvements that could better facilitate the use of a roadway.

Mr. Brackenhoff elaborated it was intended to be generic enough to address all kinds of zoning, not just residential.

Mr. Surdyk clarified that development could not be held up because an entity refused to make necessary road improvements.

After some discussion it was decided to revise the sentence to read as follows:

> "In some cases the carrying capacity of the roadway ~~is the~~ **may be a** limiting factor to potential development."

Also on p. 28, Mr. Willis noted that the 2nd paragraph under Private Sewage, etc. had been removed because it was unnecessary.

On p. 29, Mr. Willis noted that at the end of the 1st paragraph under Access, the last sentence had been deleted as unnecessary.

On p. 29, at the end of the 1st paragraph (under Transportation Networks), a line had been added stating that ODOT was responsible for maintaining U.S. 35 and I-675.

On p. 31, Mr. Willis noted that a sentence had been deleted from the 1st paragraph under Existing Land Uses because it sounded presumptuous.

Mr. Oberer asked what was meant by the 2nd sentence in the 2nd paragraph under Existing Land Uses.

There was some discussion. For consistency, it was decided to use the same wording as on p. 13. The revised sentence now reads:

> "It is important that new development ~~does not negatively affect~~ **should complement** existing adjacent uses and that the character of the community be carried throughout the new development."

There was some discussion on how best to incorporate maps as part of the plan. It was suggested to take the full-size maps and have them laminated. Ms. Graff said there should be dates on the maps. It was determined that the full-size maps should be laminated and that a statement would be inserted in the land use plan directing individuals to the full-size maps for clarification purposes, since the maps in the land use plan are not very clear.

On p. 34, in the 3rd paragraph in parentheses, Dr. Stalter noted that it should be PUDs not PDUs.

During a review of p. 36, Ms. Long was directed to contact the Auditor's Office for a specific breakout of the types of lots included under "Other" on the Existing Land Uses table.

Also on p. 36, Ms. Graff noted that the mileage shown for the Township was short by two miles. Ms. Long was asked to reconcile the numbers to show that the Township has a total of 52 square miles.

On p. 37, under Open Space, Mr. Willis noted that a sentence had been added to the end of the 1st paragraph after the bullets:

> "However, easements for overhead power lines are not considered open space for the purpose of calculating density."

Mr. Brackenhoff clarified that the need to redefine open space was what started the land use plan review process. Developers seem to have different interpretations of open space, most of which is unable to be utilized by the public, such as parking islands, detention/retention ponds, etc.

Mr. Oberer commented that the current language was a vast improvement over the previous language defining open space and asked for further clarification of what would be acceptable as open space. If a retention pond was not fenced in and had a fountain and fish, would that qualify as open space?

Ms. Long and Mr. Surdyk noted that in the description of open space on p. 37 it addresses community assets and gathering spaces. That would fall under that description.

Mr. Brackenhoff stated that the board was trying to get away from classifying unusable areas as open space for the purposes of density.

Ms. Domigian asked for an explanation of density. It was explained that density referred to the number of units per acre. Mr. Brackenhoff then clarified how open space ties into density.

On p. 39, Mr. Willis noted that a sentence had been removed from the 3rd paragraph that discusses the Little Miami River. The same point had been made earlier in the plan and did not need repeated.

On p. 39, under Rural Residential Development, Mr. Willis noted that the last sentence in the 1st paragraph had been added to differentiate it from residential development:

> "The average density of this type of development should follow guidelines for rural residential development."

On p. 41, Mr. Willis stated that the board had spent a lot of time reviewing and discussing the issue of density. The language had been revised many times in order to simplify it for developers who might be new to the Township.

On p. 40, Mr. Glaser referenced the average of 2.6 units per acre and noted that it sounded like the board was trying to move in a more conservative direction with the proposed 1.8 units per acre.

Mr. Brackenhoff stated that the 1.8 was the average of what has already been built in the Township. What the zoning board is afraid will happen is that if a specific number is not provided, developers will have recourse to justify higher density, as has happened in the recent past. If the Township wants a specific density, it needs to be stated in the land use plan.

Mr. Brackenhoff reminded the Trustees that they had expressed concern that the language regarding density was too restrictive. The Township's legal counsel reviewed the language and made some text changes, but did not find the 1.8 units per acre to be too restrictive.

Mr. Willis clarified that the 2.6 number was referencing acres per unit, whereas the 1.8 number referred to units per acre.

At this time, Mr. Oberer stated that housing trends are changing. The market demand for larger lots is dropping off. The trend is toward smaller lots. Mr. Oberer feels that the Township is trying to take what happened in the past and project it into the future. With other surrounding municipalities allowing higher density, the Township is inviting annexation by putting in the 1.8. This sets a dangerous precedent.

Mr. Willis stated this is the number the zoning board heard from the citizens who came and talked to them. He's not sure what number Mr. Oberer would find acceptable. He understands what Mr. Oberer is saying about things changing, but he also listened to the citizens when they told the board what it is that makes Beavercreek Township a special place to live.

Mr. Oberer said he understood what the board was saying, but to put the 1.8 in the document, even if it is proposed as a guideline, he believes it will be interpreted as a policy. The Trustees elected to make these decisions have to have the flexibility to do what's best for the Township based on each individual zoning case. This document tries to "handcuff or restrict" the Trustees' ability to negotiate with the developer and, as such, promotes annexation.

Mr. Surdyk asked Mr. Oberer if the following change to the 1st paragraph under Residential Development on p. 41 would be acceptable:

> "Residential development will occur at a variety of densities. Generally, density of 1.8 dwelling units per acre within the Urban Service Boundary where both water and wastewater collection are available has been acceptable in the past."

Mr. Oberer commented that he had a problem with that wording as well. Mr. Surdyk joked that Mr. Oberer "just wanted to get rid of the number." Mr. Oberer said, "Yes."

Mr. Oberer said that in the future that there will be products brought before the board by himself or others that will exceed 1.8 units to the acre. This document will preclude or cause issues resulting from the zoning board wanting to stick close to this 1.8 units to the acre. "Just frankly speaking, life is too short and we are going to annex."

Mr. Brackenhoff said that he had discussed the density issue back in August with Ms. Long and legal counsel. Mr. Stone had initially had some concerns that the language was too restrictive. The language in the document was looked at by legal counsel and was not found to be too restrictive.

Mr. Brackenhoff stated that it's a historical number. There is always the possibility that new developers will be coming in who haven't sat down and done the math. The purpose is to let all developers know that this is where we're at; this is a starting point. By not putting it in there, the Township leaves itself open to litigation. Developers could say if the Township wanted 1.8 why isn't it in the land use plan?

Regarding annexation, Mr. Brackenhoff emphasized that developers can only annex property adjacent to another jurisdiction, and land owners can do whatever they want to do with developers. The Township can't stop them. What the zoning board is trying to do is protect the 44% of the Township that is farmland. The voters in the unincorporated area of the Township came to the board and told them that they want the characteristics and the charm of the Township to be protected.

Ms. Graff stated there is language in the land use plan that says you can have a variety of lot sizes and different types of houses. With the 1.8 density, if you have 100 acres of land you can build 180 houses. You can spread them out or you can clump them together, as was done with Nathaniel's Grove. This keeps the overall density at a level that the people in the Township want to see and allows the flexibility to modify the kinds of growth that might take place where there is water and sewer. If there is a push to do something else in the future, the land use plan can be revisited.

As far as worrying about annexation, Ms. Graff noted that she has dealt with annexation before. At this point in time, she feels this text will address annexation concerns. She is more concerned with maintaining the character of the unincorporated area of the Township for the people who are living there now.

Mr. Oberer said he wasn't talking about the 100 acres that's in the middle of Beavercreek Township; he is talking about the 30 acres that is next to the city of Beavercreek or Fairborn. If he were to come in and say that "there is a significant market for an empty-nester product or a one-story attached unit with garage, and I need to get four to six units an acre to make this work, and that's what the design calls for, and you refer back to this document and say, 'That's fine, as long as your average is not more than 1.8 units to the acre.' And on that 35 acre project, that 30 acre project, that is just simply not going to work and I am going to annex it to Beavercreek or Fairborn. That's what's going to happen. I'm just being blunt."

Ms. Graff said she was looking at the boundaries of the Township and "with what we have, I don't find that a problem."

Out of curiosity, Mr. Glaser asked Mr. Oberer what number he would want.

Mr. Oberer responded that "a more reasonable number, since you include multi-family unit in your definition, might be something closer to six units to the acre for multi-unit. Six units to the acre is not very dense for multi-family. Most, I mean, your, your typical multi-family project today is 14 or more units to the acre."

Mr. Glaser then asked Mr. Oberer if it might be wiser to take multi-family out and create a separate category.

Mr. Brackenhoff responded that the reason multi-family was put in there was just that purpose, not to exclude it. The zoning board is not here to

dictate. This is about land that has not yet been rezoned. Historically, density has been 1.8 units per acre or close to it. The board is not saying that developers can't come in with plans for higher density, but they will have to convince the board. What if you get a developer who comes in and wants to build townhouses like you see behind Lowe's? Mr. Brackenhoff summed up that the intention is to satisfy what might happen in the future, but also to address the issue of density in general.

Mr. Glaser asked Mr. Surdyk if the language was flexible enough to offer options.

Mr. Surdyk stated that modifications had been made to make the language more flexible in interpretation and application overall. He can see Mr. Oberer's point that everyone is going to focus on the 1.8 and that will set the standard for consideration of any future developments. Mr. Surdyk felt the same purpose could be accomplished by stating that *historically* it has been 1.8. That would offer the opportunity to determine whether or not there is justification for a variance to the historical number.

Mr. Brackenhoff stated that in the three years the board has been working on this plan, no one besides one developer has said anything about the density. The head of the Dayton homebuilders' association was here and didn't have a problem with it.

Mr. Oberer stated the executive director of the homebuilders' association is a former DP&L executive who doesn't know anything about building. He emphasized his purpose in being here was to offer input from the "other" side. He feels the Township is putting itself in a corner with the 1.8 and that it will be used against them.

Mr. Surdyk said it could put the Trustees in a difficult spot if they see a development that is suitable for the Township, but there is a small segment of the citizenry opposed to it that relies on this provision to restrict the Trustees' decision making capabilities. That is why he suggested turning it around it make it more of a historical statement.

At this time, Ms. Graff reminded Mr. Oberer that one of his properties on New Germany Trebein Road was approved for multi-family lots. So, the Township has already allowed that type of housing and density. She does not understand why things need to be done differently when the Township has already been able to accommodate variations within existing circumstances.

Mr. Oberer noted that the only reason that happened was because he had come in with several hundred acres at one time. He reiterated that developers are not optioning hundreds of acres because the market is changing. The market is not there to support that type of aggressive development in addition to an aging population that doesn't want the larger properties.

Mr. Willis said the board has discussed this many times. This is their concession based on all the input they received. They believe it is worded in such a way that it precludes nothing. It gives a guideline.

On p. 42, under Commercial, Mr. Willis noted that the last paragraph was new; the language had been drafted for the board by legal counsel.

There was some discussion of what is currently approved for commercial business.

On p. 42, under Planning Area: U.S. Route 35 Corridor, Mr. Glaser asked what the intent of this section was and how it might affect a possible TIF.

Mr. Brackenhoff explained that this was driven by a need to update the zoning resolution to provide zoning for Sexually Oriented Businesses.

On p. 49, under Use of the Plan, Ms. Graff asked that language be inserted stating that the land use plan is required per Ohio Revised Code. Mr. Surdyk noted it was §519.02. Ms. Long was directed to draft the language.

On p. 50, under Minor Modifications, Mr. Willis noted a sentence had been removed because it was considered non-additive.

Also on p. 50, under General Process, Mr. Willis stated the first sentence had been expanded to provide further clarification.

Mr. Glaser had concerns with regard to rezoning automatically updating the land use plan maps.

There was some confusion regarding minor and major modifications under the General Amendment Process. After some discussion, it was decided to review the process and clean up the language. Ms. Long will work with Mr. Surdyk on reviewing and revising language.

On p. 51, under Monitoring the Comprehensive Plan, Ms. Graff would like to see language stating that the plan will be reviewed every five years, as well as a similar amendment process in place for both the land use plan and the zoning resolution.

On p. 54, under Low Impact Development, Mr. Willis noted the language in the last sentence in the 1st paragraph had been inserted at the Trustees' request.

On p. 56, Mr. Willis noted in the last sentence under Smart Growth that "best practices" had been removed and replaced with "smart growth."

On p. 58, under Wind Energy, Mr. Willis noted that a paragraph was taken out that explained the physics of how a blade works.

On p. 57, Dr. Stalter stated the bullets under Solar Energy need to be taken out.

Mr. Glaser said there were some changes to work on. Mr. Surdyk provided several different language options for density for the zoning board and Trustees to review. Both the zoning board and the Trustees will meet for a final review following the revisions.

In closing, Mr. Brackenhoff thanked his fellow zoning board members for their hard work and dedication over the past three years.

The Trustees also expressed their appreciation for the time and effort put into this project by the Zoning Commission.

**Special Beavercreek Trustee's Meeting**

**Thursday, March 1, 2012**

**2012-081** Ms. Graff moved to adjourn; Mr. Paxson seconded the motion. The Vote: Ms. Graff, yes; Mr. Paxson; yes; Mr. Glaser, yes. The motion carried.

The hearing adjourned at 10:27 p.m.

Trustee: _____

Fiscal Officer: _____