

**TIPP CITY COUNCIL MEETING
SPECIAL MEETING**

TIPP CITY, MIAMI COUNTY, OHIO

September 8, 2014

Executive Session

President Gibson informed everyone Council will be entering Executive Session to discuss Pending Litigation. To include members of Council, Acting City Manager Brad Vath, Law Director David Caldwell, Attorney Ned Dowd and Attorney Kevin Lantz. Mr. Owen moved to enter Executive Session. Ms. Berbach seconded. Motion carried. Council entered Executive Session at 7:02 pm.

Council returned from Executive Session at 7:48 pm.

Mr. Kessler moved to return from Executive Session. Mr. Owen seconded. Motion carried.

Council Meeting

The following Council Members answered Roll Call; President Joe Gibson, Mayor Pat Hale, Ms. Berbach, Ms. Gillis, Mr. Kessler, Mr. McDermott and Mr. Owen.

City Staff in attendance include: Acting City Manager Brad Vath, Law Director David Caldwell, Police Chief Eric Burriss, Fire Chief Steve Kessler and Clerk of Council Janice Bates.

Guests signing the register include: Thomas Chaney, Ryan Sheiman, Mark Locke, John Tomb, Elden Eidemiller, Joe Bagi, Simon Patry, Eric Eidemiller, Matt DiCicco, Judy Tomb and L. Eidemiller. Reporters Nancy Bowman and Cecilia Fox were also in attendance.

Approval of Agenda

President Gibson asked for an approval of the agenda. Ms. Berbach moved to approve the agenda as presented. Mr. Kessler seconded. Motion carried.

**Ordinances
(2nd Reading)**

Cedar Grove Subdivision

An ordinance approving the final plan/plat for Cedar Grove PR Subdivision, Section 1.

City Manager Comments: This ordinance would approve the +/- 15.731 acre, 44 lot, residential subdivision for Cedar Grove, which is zoned Planned Residential (PR). The Planning Board recommended approval to City Council of this Final Plat on July 25, 2013, on August 13, 2013 the Planning Board approved modifications which included the widening of Kessler-Cowlesville Road to portion only abutting Phase 1 at the request of the Developer and again on April 8, 2014 modifications included revisions to the Covenants & HOA documents regarding façade treatment, & separation of offsite sanitary and water work from onsite work at the request of the Developer. In addition to internal roadway/public improvements, West Kessler-Cowlesville Road will be widened as part of Phase 1. The Construction Agreement for the off-site extensions including added depth of the sanitary sewer and water were approved by a previous motion at the April 21st, 2014 Council meeting. There is also "oversizing" granted in this agreement to provide additional depth to allow for sanitary sewer service to properties south of the +/-71 acre Eidemiller property. The Developers posted the surety (cash) on July 11, 2014, and then City placed this item on

the August 4th, 2014 Agenda for introduction and first reading. At the August 18th meeting this item failed to receive a second.

President Gibson stated, "Mr. Kessler you sponsored this legislation and in doing so introduced it. Do you still wish to introduce it for purposes of our meeting today?" Mr. Kessler said "Yes I do." President Gibson informed everyone the public meeting was open. Mr. Kessler stated any plat that comes into the City will ultimately cost the City money. However, maybe some companies will see the growth in the City and wish to relocate to Tipp City and hire our residents. Short term there would be additional costs with street maintenance and snow plowing, but this is something we should look at for the long term.

President Gibson opened the Public Hearing portion of the meeting for commentary, presentations or to provide evidence on the matter and indicated they would individually have to be sworn in.

Matthew DiCicco Attorney, 1 South Main Street, Suite 1800 in Dayton, Ohio approached the podium. Mr. DiCicco informed Council he is with the Law Firm Freund, Freeze & Arnold and was in attendance on behalf of Eidemiller Land Company LLC as well as Talismanic Properties LLC. President Gibson swore Mr. DiCicco in before he provided testimony. Mr. DiCicco stated both the owner of the property as well as the developer feel this will be a positive impact on Tipp City as a whole. "Support from my clients' conclusion of the positive impact is born out of history of this development and the history of this property. Not only going back to 2007 when it was rezoned residential. Even prior to 2007 and looking at the statements of Council Members in the past and reviewing Council's policies and the City's policies as a whole. First, I would like to point out is Cedar Grove will meet a demonstrated need in the City. It is reported the City has a desire level of population growth of 1 – 2% per year. In looking at the 2013 census estimate, the City has a population of 9,689 people. At 1% population growth, that would be roughly 97 new people per year. In reviewing previous census numbers the City has only grown by 289 people. It is well off track. There are roughly 30 – 50 lots that are site ready for development contained within the City. The MLS listings have 10 residential lots for sale in the City of Tipp City. Some have been for sale for quite some time. Which demonstrates that those lots are in an undesirable location and for whatever reason, somebody doesn't want them. None-the-less, Tipp has still averaged approximately 19 residential units per year. This does recognize the 2007 housing bust, but this does also show an upswing in the development of recent. Other developments are growing in other cities. The City's residential growth rate is not increasing at the same rate as other cities are. We believe primarily that is for a lack of available housing stock in the City. Right now it appears looking at building points the City is on track for 20 new residential homes being built this year. Which is consistent in looking back to the past number of years on average it has been about 18.75 new residential building permits/units per year. Currently the Windmere subdivision has more than 290 houses has less than a handful of houses for sale. This demonstrates two things. 1). This demonstrates there is demand coming back into the market and 2). The current stock of buildable lots will be gone shortly. The lack of housing stock makes it difficult for folks that are in the position to move into a new house. It makes it difficult for them to be able to do so. There is just nowhere for them to go. Growing families are faced with

a difficult question. They want to stay in Tipp City, are they going to stay in a home that doesn't suit their needs any more or are they going to have to leave Tipp when they might otherwise stay. That is a difficult dilemma. The first section of Cedar Grove will solve this problem as it will create just about 40 new site ready units available. In total, Cedar Grove will create 185 housing units and will also increase housing options available within the City. Not only will Cedar Grove solve a demonstrated need, it will also be a job creator for Tipp City. During the development portion, Cedar Grove will result in the equivalent of approximately 250 jobs created in Tipp City during its development and construction. Based upon estimates from the Home Developers Association and from the number and size of the homes. Local contractors and workers will benefit. Construction workers will support local restaurants and businesses. Construction supplies will need to be purchased from local businesses. There will be long term job growth. Resulting from residents hiring local services and buying from local businesses. There will be an increase in businesses, grocery stores, restaurants, home improvement stores, entertainment, landscapers will be hired. Folks that will live in these houses will need services provided. Cedar Grove will be a long term source of tax revenue for Tipp City. Cedar Grove will add over 50 million dollars to the tax base. The real estate taxes will directly benefit local schools and other services to the residents. It is important to note that this development will not result in any tax abatements. Unlike other industrial uses for property in the area. There will be no tax abatements. Resulting from this development. Cedar Grove residents increase sale taxes and employment taxes. I would like to point out that Cedar Grove is not controversial nor has it been opposed by the community. Clearly Council and its decisions to date and approvals of this Cedar Grove subdivision to date and the community at large recognize the positive impact the development of this property will have on the City. In fact, the City and its Council have been trying to successfully develop this property as residential for a number of years. This Cedar Grove development itself has thirteen approvals and recommendations in the past two years from Council and Planning. It has had five recommendations from staff in the past fifteen months. There have been numerous public meetings and work sessions since Talismanic submitted the plans for Cedar Grove and during that time, I am not aware of a single resident at any of the meetings to object to the passage of the current development plan for the development or this phase. Finally, the developer has demonstrated it has experience, the financial means and the expertise and support to complete this project. For more than seven years since the City rezoned this property residential, the City has lost employment taxes, it has lost property taxes as a result of a residential development not being able to get off of the ground. In this Cedar Grove development, the City required the developer Talismanic to deposit cash in the amount of 110% of the proposed cost to complete Section 1 of the development. This money was to be held in surety until those improvements were completed. The developer has demonstrated its ability to complete this project and it is already made that cash deposit with the City. The developer has also obtained all Ohio EPA approvals in place for Section 1 of the development. All engineering is done and approved by the City. All documents requested by the City have been signed and submitted. The developer has partnered with a proven leader in the home building industry, NVR Inc. Ryan Homes. In summary, thank you for taking the time to listen to our position. This plat will create about 185 housing units averaging about \$300,000 each at today's prices. Workers will pay taxes to support the community while the homes are being built. Business will be supported by

the workers and the residents' long term. There will be no tax abatement. The real estate and the school taxes will be paid by residents. Income taxes will be paid by residents and there will be an attraction brought about. NVR with its resources will market this development. It will be attractive to folks looking to come into the area and perhaps introduce Tipp City to a new group of prospective residents. On behalf of Eidemiller Land Company and Talismanic Properties LLC, I am requesting and we are requesting Council approve this ordinance for the development".

Mark Locke 884 Pleasant Valley Drive, Springboro, Ohio 45066 of NVR Inc. doing business as Ryan Homes approached the podium and was sworn by President Gibson prior to providing testimony. Mr. Locke thanked Council for convening the meeting. Mr. Locke continued Mr. DiCicco did a very good job in presenting a lot of the information concerning the development. Mr. Locke continued, "I want to make it very clear that our role in this particular community is to act as the builder. We entered into a contractual agreement with Talismanic Properties approximately one year ago. By which they were required to develop and have available ready buildable single family detached homes. In exchange we agreed to purchase those lots and build homes. Contractually that requirement was for them to have had lots already on the ground. Technically, we would have to already hope to have been in the community and building homes. We are ready, willing and able to perform and we are looking very forward to building homes in your community."

Simon Patry approached the podium and was sworn by President Gibson prior to providing testimony. Mr. Patry stated he was in attendance for himself and his family. Mr. Patry stated he and his wife are currently renting a home and have the intent to build in Tipp City or find a home for purchase. Mr. Patry continued, "I am in favor of the Ryan development and the Cedar Grove subdivision. I know you all have a very tough job and I would like to thank you for convening this meeting. As most of you know, I have an ownership interest in two businesses in Tipp City. The one you are most familiar with is Dysinger and Patry. I have also been involved in a number of community organizations including Tipp City Chamber of Commerce, Tipp City Rotary Club, Downtown Tipp City Partnership, Tipp City Players and have contributed financially to these and other organizations. I have been pretty involved in Tipp City and I am not here in any capacity for those organizations nor are my opinions necessarily their opinions. Although I know some in those organizations who share mine. I think it is important that I should point out those organizations because having been in those organizations I have had the opportunity to work alongside with those people and I know that we have lost some of those people. I know of one attorney who built in Carriage Trails and is no longer involved in these community organizations. These are the types of citizens we are losing. Because this is not available. As I stand before you tonight, I am not sure I will be around if this doesn't go through. I can't tell you that I would want to live in the lots that are currently available or the homes that are currently available on the market. I've heard five general reasons or rumblings, rumors if you will as to why this might not have been seconded. I've done some "loose" research and I would like to address them this evening. 1). We've got housing developments and Tipp City doesn't need another housing development. Having researched Tipp City and the Monroe Township communities since 2009, and because there wasn't a Ryan development in Tipp City we purchased our first home in the Centerville area in 2010 and recently sold it.

We have actively been looking for a place to build and I can tell you Tipp City has a vacuum and is in dire needs of this housing development. The current market, in my opinion is limited. The existing homes in the price point of \$250,000 - \$400,000 market does not have what most people in those price points are what people are looking for. The layouts are cumbersome and need dramatic updates in regard to appliances and cabinetry in the kitchens. People of my generation, especially my wife and I are dual income professionals and do not have the time or desire to put that energy in it. While homes in Deercliff and other similar communities have lovely homes, there simply is not enough of them, there is limited inventory and even if the layout were "quirky" enough to pique our interest, there is not enough of them out there for us to find that. It just would not meet our current needs nor are those homes energy efficient as a Ryan Home would be. The buildsites have been around for a while now and are in undesirable locations for me personally. I can tell you I have no desire to live under power lines nor do I have any desire to live along the highway. The other developments such as Rosewood Creek which I am sure are lovely but they are far beyond my means. When you talk about a \$250,000 - \$400,000 price point, it surely is not a modest budget. Rosewood Creek which I guess is the upper echelon build is simply out of reach for many people such as myself. I am sure you can talk to a builder in Rosewood Creek and get them down on price but you would end up with Formica countertops, linoleum floors, and an unfinished basement for about \$135 square foot. Simply put similarly situated as me in my opinion would move to Centerville, Bellbrook or another competing area with just as good schools for a Ryan Development, or they would bite the bullet and go to Bethel and Carriage Trails and try for open enrollment. Which leads me to my second point. 2). The school district cannot handle the incoming students. Currently the school district is accepting over 100 students in open enrollment. It is also my understanding that no including that, the district has supported the number of students this development would bring. I don't find that argument well taken. 3). Ryan doesn't build a good home. In Ohio, every home must be built in a workman like manner. It is the law. It is a warranty that cannot be waived. I want to compliment the Council and the Planning Board. I think you have done an excellent job on the planning phase of this project. Because you have actually made the requirements for the development more stringent than some other communities. We are going to combine workman like qualities with quality materials and I want to thank you for that. When you combine those two things Ryan's ability to be more cost efficient in building these homes, I think you are going to have a beautiful development to the level that Tipp City has come to expect. 4). This is more of a hypothetical, but if a commercial developer were to develop the land as opposed to residential, we wouldn't have to snow plow, they would generate more tax revenue. Putting aside this concern is significantly inappropriately mistimed. Since this has been going on now for many years. It has been rezoned and approved by Council Members. Nevertheless, it is still inaccurate. Let's say you do have a commercial development go into there with 500 employees. You are going to have a significant amount of less revenue from the minimum wage employee that you would have from the typical dual income households that more than likely would be generated by this development. Also, as Councilman Kessler wisely stated you are not taking into account that these residents are going to generate income to the businesses. While you might need an extra police car to patrol that street I think the collateral benefit is far outweighed by the additional revenue the City could incur. Let's say you do get more tax

revenue. Do we want to be another Moraine and only bring in commercial dollars? How did that work out for them? Finally the last is an intangible and has multiple parts. At what cost, if we say no to them, at what cost is that to Tipp City? You are looking at a development that has been years in the making. The Council and the Planning Board has approved step after step. There has been an investment of time. In an age where we are competing for every business to come to a city. Where it's literally a toss of a coin between two sites as we have experienced with Abbott. What message are we going to be sending to those potential businesses about Tipp City? That you can go that many years and all of a sudden...it disappears. That's scary. That's very scary for me. It's going to be significantly dramatic and a chilling effect on our ability to have economic development that will set us back dramatically. I have a problem with us telling the market what it can bear and what it can do. I think that this is something that I would be interested in. From a personal standpoint, I love Tipp City. I love everybody here. I respect every member of Council, I have had the opportunity to meet with you and I would love for my children to grow up here. I want to answer the call that many of you put on FaceBook. Many of you have posted to "please vote on Dayton Business Journals; where is the best place to raise a family in the Dayton region". I agree it is Tipp City. I just want to make sure that when these families come it doesn't say no vacancy". Mr. Kessler stated the income tax generated would be from people working on the construction. If you live in Tipp but work in Dayton, we will not be getting your income taxes. Income taxes are paid to the community worked not the community lived."

Maureen Patry of 6674 Harshmanville Road, in Huber Heights approached the podium and was sworn by President Gibson prior to providing testimony. Ms. Patry continued she is very emotional about this topic. "My husband works here (in Tipp City) and I work for GE which is located in Cincinnati. I, being a dual income due to his job, will be moving to Tipp. Kicking and screaming, to be perfectly honest with you. Because of the opportunities that happen "down south" as opposed to "up north". But when I was told the Ryan subdivision could be moving in, that was exciting, it was new, it could bring more people in that could possibly bring a Dorothy Lane Market up north that could bring more amenities. That could possibly make me look at working for Abbott Labs as opposed to GE because that would be a shorter commute for me. The possibility of working for companies in the area is appealing to me because I have twins that are a lot of work and that would be an easier commute for me than coming from Cincinnati or West Chester". Mr. Patry returned to the podium and asked one question of Mr. Kessler. "If the income tax goes to the municipality the employees works at, is less than Tipp City, would Tipp City get the difference? Mr. Vath replied yes the City would receive the difference. Mr. Kessler added he is unaware of a City whose less than Tipp City is".

President Gibson called for any other presentations or comments. No one approached the podium. President Gibson closed the meeting to public comment and asked Council members to provide their comment based on the public hearing.

Mr. Owen thanked everyone for their attendance. "As a Chamber Executive, I definitely support economic development. It comes in different ways. Particularly in our community. I was born and raised here and I choose to live here. I have had my home up this past summer and it didn't sell, and it

just didn't work out. So we took it back off. Will we put it back on next year, I don't know. We will have to wait and see. The point was made about the current condition of our school system and what we do with open enrollment over the past several years. That fluctuates year to year. We have aging and stressing school buildings. This has been a concern of mine about the future of our buildings and our school system. We have a brand new high school which is prepared to take care of students to a certain amount in the future. We do have two other campuses with aging school buildings that are "busting at the seams". Each class fluctuates size from year to year. That isn't always the same. Can our school systems hold the amount of kids in the future that a new development would bring? You can say yes, and you can estimate a number. But I am not so sure that it will. They will have to go back to the community and ask for more money to build new schools. That has been my major concern. It has been my major concern since about 1994, when the first discussion that I took part in, in expanding the school buildings that we have and what to do with them in the future. That has been my major concern. We did a great job in accomplishing a new high school. I want to see a future development, and I have been on the fence with this. I have been weighing back and forth for the positives and the negatives and that's where I stood and that's where I stand tonight".

President Gibson said "My only comments are that I would echo the five sentiments that were raised in Council's presentation. There is a question of need that is why I made the inquiries of Mr. Vath last time. The question still remains with me whether this is consistent with the growth we want at the right time and for the right reasons. The questions with regard to the quality workmanship, I have built three houses myself in Tipp City. I am aware that Ohio law requires all houses to be built in a good workman like manner, but there are always issues notwithstanding. In my research of this whole situation I have discovered there are websites dedicated to issues involving this particular builder. Which raises a concern for me. The concern about the schools, the infrastructure and whether or not they can sustain this kind of growth of the influx of the population. The builders initially in the early phases made demands on the City to restructure its entire financial structure and entire ordinance concerning escrow accounts versus the surety bond. The presentation was forceful and we decided not to do that. It also raised a concern whether or not this was a project the City could even go through. Whether or not this property is preferred to be commercial or not, it is butting up against the Meijer facility. Meijer has announced they are expanding and we welcome that prospect. All those new jobs will be in the City of Tipp City and the tax base would be significant for projects such as that. Those are the issues that I had seen and those are the issues that I had heard from folks when we made discussions about this and whether or not this was the right development for Tipp City at this point in time. Those are the questions that I would have. That is the basis for the concerns. Would commercial be better? The answer is yes, because there are no roads to plow or police presence to patrol. The infrastructure is done by the corporation such as Meijer or Abbott or something like that. That is a concern. The concerns about the litigation involved with the developer such as this in Troy, and in Centerville. Those are all concerns that I have raised and looked at. Those are the things that I need to address in my mind. As Mr. Owen has said, I've looked at both sides. I do like the idea of development as well, is it the right development at the right time. That's the question we have to ask tonight".

Mayor Hale said his position is "a little bit different". "I was elected in 2005, sworn in in 2006. Tipp City went through about 100% growth from 5,000 to just under 10,000 people in the late 1980's and 1990's. There was a lot of concern back then about how fast Tipp City was growing. Whether or not we were going to lose our small town atmosphere. I ran for Council back then on the understanding that I wanted to support the concept of keeping Tipp City a small town. I am not in favor of continuing to expand Tipp City. I've run three times and been elected three times and every time I've run, that's been part of the platform that I run on. Not to continue to expand Tipp City. That's pretty much where I am coming from. Mr. Patry, you are the first person that I've had a positive comment from about the development. I haven't had a positive comment about another housing development in Tipp City from anybody else. We don't have to have 5, 50, or 500 people here in this room tonight for us to be able to make a decision on what the best course for Tipp City as a whole. That's what we are elected to do. We are elected to make those decisions and make those policies based on what we feel is the best position and direction for the community".

Ms. Berbach stated she agreed with Pat (Mayor Hale). "Tipp City is a small town and every time this comes up; economic development and picking and choosing companies to come in. That's what it is. It is picking and choosing. I feel that this development is un-necessary for the moment. I understand the concerns and the positives that are brought up and I also understand from my position I like Tipp City the way that it is. I like that we aren't going to continually just build up houses and in a couple of years have a downfall again and have all of these houses open again. These are my long term fears and I think that Tipp City is perfect the way that it is right now".

Mr. McDermott thanked Mr. DiCicco, Mr. Locke and Mr. Patry for their presentations. "I too would echo that your support for this housing development was strong, Simon and I appreciated that. Unfortunately, it came very late in the day. I personally have received no other positive comments regarding this development up until that point. Thank you for expressing that because that was important. I am approaching this somewhat in the same manner; however in a tangent from what Pat (Mayor Hale) had discussed in that as a part of the 10-year CIP (Capital Improvement Plan) Committee, I was charged with helping to identify all of the ways that we can go in and pay for capital improvements. After looking at the numbers of the explosive population growth that Tipp City had in the late 1980's and 1990's and our eventual future and ability to pay for any of those roads, sewer/water improvements, electric improvements. It gives me pause to approve such a large development, that we are considering tonight. The lack of a second in the prior meeting was not simply my due course in stating that I didn't want to provide sponsorship support for this issue, but not that I was against it in any way. I do feel that the costs of developing a residential development due come at a burden to the City as well as to the schools.

President Gibson asked if there were any other Council comments. There were none. President Gibson then asked Clerk Bates to call the roll. A vote was taken on Mr. Kessler's introduction. Motion failed 3-4. Mr. Owen, Ms. Berbach, Mayor Hale and President Gibson voted nay. President Gibson informed everyone the motion failed and the ordinance was not passed.

Adjournment

Mr. McDermott moved to adjourn. Ms. Berbach seconded. Motion carried.

Meeting adjourned at 8:30 pm.

Joseph Gibson, President of Council

Attest: _____
Janice Bates, Clerk of Council



