

WESTFIELD CITY COUNCIL, June 8, 2009

The Westfield City Council met in regular session Monday June 8, 2009 at the Westfield City Hall. Members present were Rob Stokes, Steve Hoover, Tom Smith, Bob Horkay, Bob Smith, Ken Kingshill and John Dippel. Also present were Mayor, Andy Cook, Clerk Treasurer, Cindy Gossard and Legal Counsel, Brian Zaiger. Mayor Andy Cook called the meeting to order at 7:00 p.m.

Ken Kingshill announced that the Council will be hearing Ordinance 09-09 first, as there are many people wishing to speak.

Approval of Minutes:

Steve Hoover made a couple of corrections with attendance and the meeting date. Steve Hoover made the motion to approve May 11, 2009 minutes, as amended. Rob Stokes seconded. Vote: Yes-7; No-0. Motion carried.

Guests: None

Claims:

Bob Smith made the motion to approve claims as presented. John Dippel seconded. Vote: Yes-7; No-0. Motion carried.

Ordinance 09-09: Smoking Ordinance
First Reading – May 1, 2009
Second Reading – June 8, 2009
Public Hearing – June 8, 2009

President Ken Kingshill stated the Council will not act on this Ordinance tonight but there will be opportunity for public input. He went on to explain that cards need to be turned in and there will be a three minute time for each speaker.

The public hearing opened at 7:10 P.M.

Sheila Wheeler spoke in favor of ordinance 09-09. She stated that she had experienced loss in her family from smoking. She also stated that she was sympathetic to not only patrons but employees that were subjected to second hand smoke.

Margaret Newland spoke in opposition of ordinance 09-09 in a 21 and older establishment.

John Schleeter spoke in favor of ordinance 09-09 for personal reasons and protecting young children.

Helen Lee spoke in opposition of ordinance 09-09. She expressed that smoking was her right.

Barry Ginder spoke in favor of ordinance 09-09.

Carl Bjork spoke in opposition of ordinance 09-09. He feels that if you are over the age of 21, that you should be allowed to make your own choice.

Jannete Fernandez, Yessica Love and Brenda Vargas are part of an organization called Latino Voice. Latino Voice has been active petitioning against the tobacco industry and they have a petition in support of ordinance 09-09 which they presented to the Council. Tom Smith applauded the young ladies efforts no matter what side of the issue you may be on.

Jason Foust representing Carey Tavern spoke in opposition of ordinance 09-09. His position is that all of his employees, as well as patrons are 21 and over and should be able to make their own choice.

Karina Fernandez also from Latino Voice would like a smoke free Westfield, therefore is in support of ordinance 09-09.

Saul Lemke owner of Bucky's Pub and Grill spoke in opposition of ordinance 09-09. He explained that a high percentage of drinkers were smokers and if they are not allowed to smoke there, they will go elsewhere to spend their money.

Larry Stewart spoke in favor of ordinance 09-09.

Christopher Wilder, an employee of Bucky's Pub and Grill, spoke in opposition of ordinance 09-09. He explained that he worked at another establishment that went non smoking and it reduced his income considerably. He feels that it is a choice working and going to a bar.

Jose Beyer spoke in favor of a ban on smoking at public places but not at 21 and older bar establishments

Mary Ake spoke in favor of ordinance 09-09. She referenced a letter that was sent to the Council from Pam and Jan Ryan. They own a few Buffalo Wild Wings restaurants. They have a store that is under a smoking ban. At first this business saw a slight decrease but shortly the new customers more than made up the difference. Mary is concerned of the health of the citizens in Westfield.

Jim Ake spoke as a private citizen in favor of ordinance 09-09. He also represented Centennial Homeowners Association. He polled the community and the majority was in favor of ordinance 09-09.

Tina Cardarelli spoke in favor of ordinance 09-09. She works in the medical industry and has seen many children affected negatively by prenatal smoking and second hand. She also is a cancer survivor and is concerned with the negative affect of second hand smoke.

Shelli Arriaga is a server at a local establishment and feels that any decrease in business after enacting a smoking ban would be short lived. She is in support of ordinance 09-09.

Julius Kasa spoke in favor of ordinance 09-09 for health and safety purposes.

Jeff Bowen spoke in opposition of ordinance 09-09. Although he is not a smoker and does not personally like smoking he feels that it is a choice.

Ken Kingshill announced that the City had received around 150 responses from citizens and the majority was in favor of some sort of smoking ban.

Ken Kingshill closed the public hearing at 7:38 P.M.

There was a five minute recess.

**Miscellaneous Business/Special Recognition:
Appeal of fine due to violation of Ordinance 05-30**

Tom and Staci Brown explained that they are here to appeal the fine and did not intentionally discharge their pool water inappropriately. They had relied on their pool company who advised them to put a chemical in the water and discharge in to their back yard. Westfield Public Works showed up to investigate a smell and a \$ 1,000.00 fine was assessed. The Brown's are asking for waiving of this fine or a reduction of the fine.

Public Works Director Kurt Wanninger explained that his staff did a thorough investigation that determined this violation. He explained that Westfield is now an MS-4 City and that the DNR mandates that MS-4 cities update ordinances and fees or fines could be placed on an MS-4 city if not in compliance.

Kurt went on to describe some of the possible consequences to the City. After some discussion among the Council members of what the legal ramifications would if the fine was reduced. The proposed reduced amount was discussed.

Rob Stokes made the motion to reduce the fine assessed to the Brown's to \$100.00. Tom Smith seconded. Vote: Yes-7; No-0. Motion carried.

Old Business:

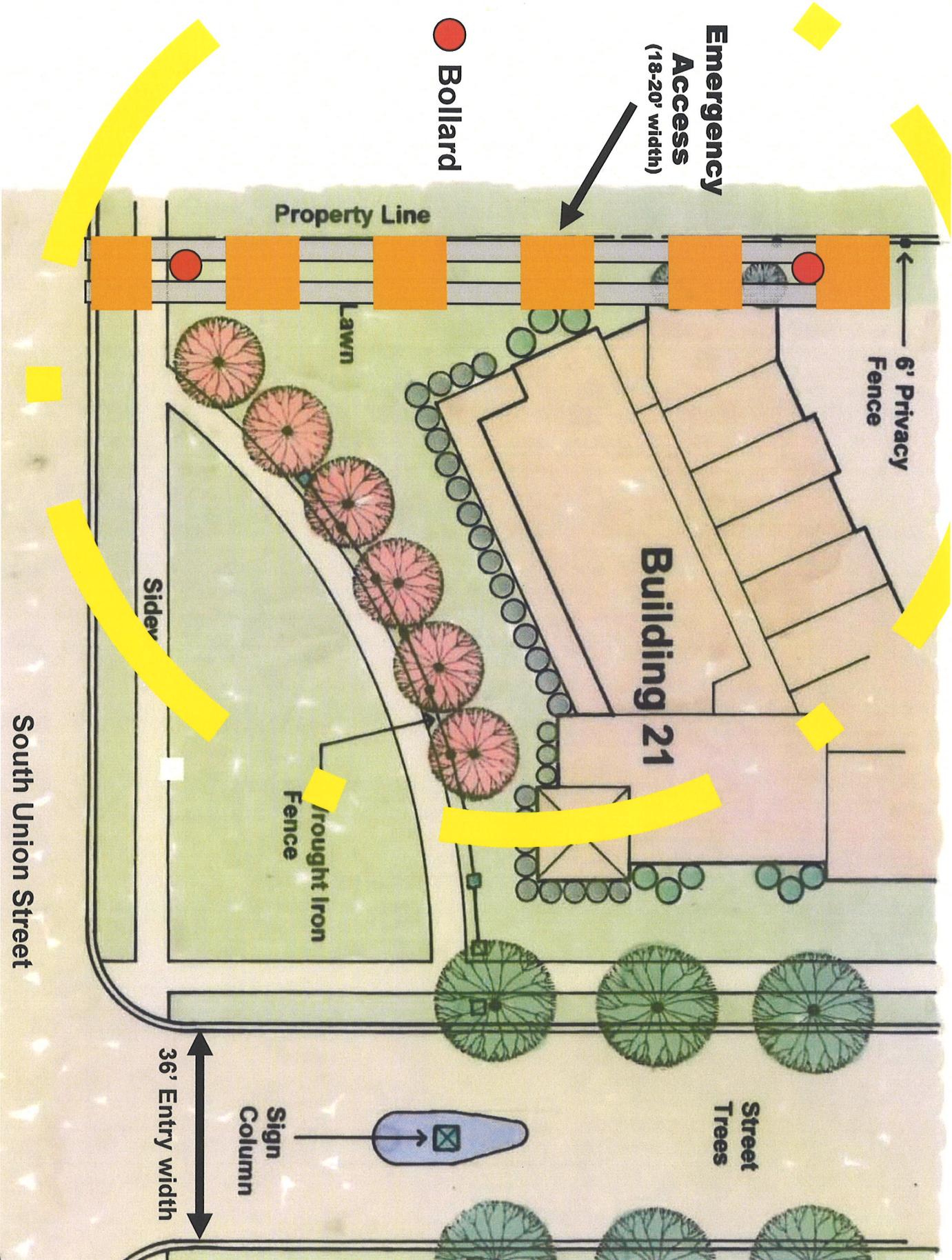
Ordinance 09-02: Introduction – February 9, 2009
Advisory Plan Commission Workshop – March 2, 2009
Advisory Plan Commission – March 16, 2009
First Reading – March 9, 2009
Second Reading – June 8, 2009
Adoption Consideration – June 8, 2009

Community Development Director, Matt Skelton presented this PUD Ordinance which amends the Zoning Map of Westfield. Matt also stated this Ordinance was forwarded by the Plan Commission with a positive recommendation. He went on to describe the amendments to the Council for their consideration. Community Development Director, Matt Skelton presented this PUD Ordinance which amends the Zoning Map of Westfield. Matt also stated this Ordinance was forwarded by the Plan Commission with a positive recommendation. He went on to describe the PUD amendments to the Council for their consideration, which include: (1) a modification of front yard setback requirement so that the front yard setback along Union Street is measured from the Union Street right-of-way line as it exists today, instead of from the right-of-way line as it will exist after the developer dedicates a 40' half right-of-way to the City; and (2) a reduction in buffer yard width requirement along Union Street from 20' to 5' in order to accommodate the City's request for the dedication of a 40' half right-of-way along Union Street.

Jim Shinaver, with the Law Firm of Nelson & Frankenberger, introduced his team. John Hart, Todd May, Gary Weaver and Beau Wilfong. He went on to explain the amendments to this Ordinance that came out of the last meeting. One recommendation from the Fire Department was a second entrance for emergency access. Exhibits illustrating the proposed emergency access proposal were presented to the Council. Fire Chief Burtron has reviewed and approved this plan for emergency access.

Steve Hoover asked that if the developer would cooperate in allowing the possible relocation of the homes along South Union Street that are planned for demolition. Jim Shinaver agreed that if a third party would bear the financial burden that J.C. Hart would do everything within reason to cooperate.

Tom Smith made the motion to approve Ordinance 09-02 with the following conditions: (1) the developer shall comply with the emergency access plans that were presented to the Council, approved by Fire Chief Burtron and attached to this record and made a part hereof; and (2) the developer shall make reasonable accommodations for allowing relocation of the Union Street homes existing on the Union Street Flats development site by a third party. Steve Hoover seconded. Vote: Yes-7 No-0. Motion carried.



● Bollard

Emergency Access
(18-20' width)

Property Line

6' Privacy Fence

Building 21

Lawn

Sideroad

Wrought Iron Fence

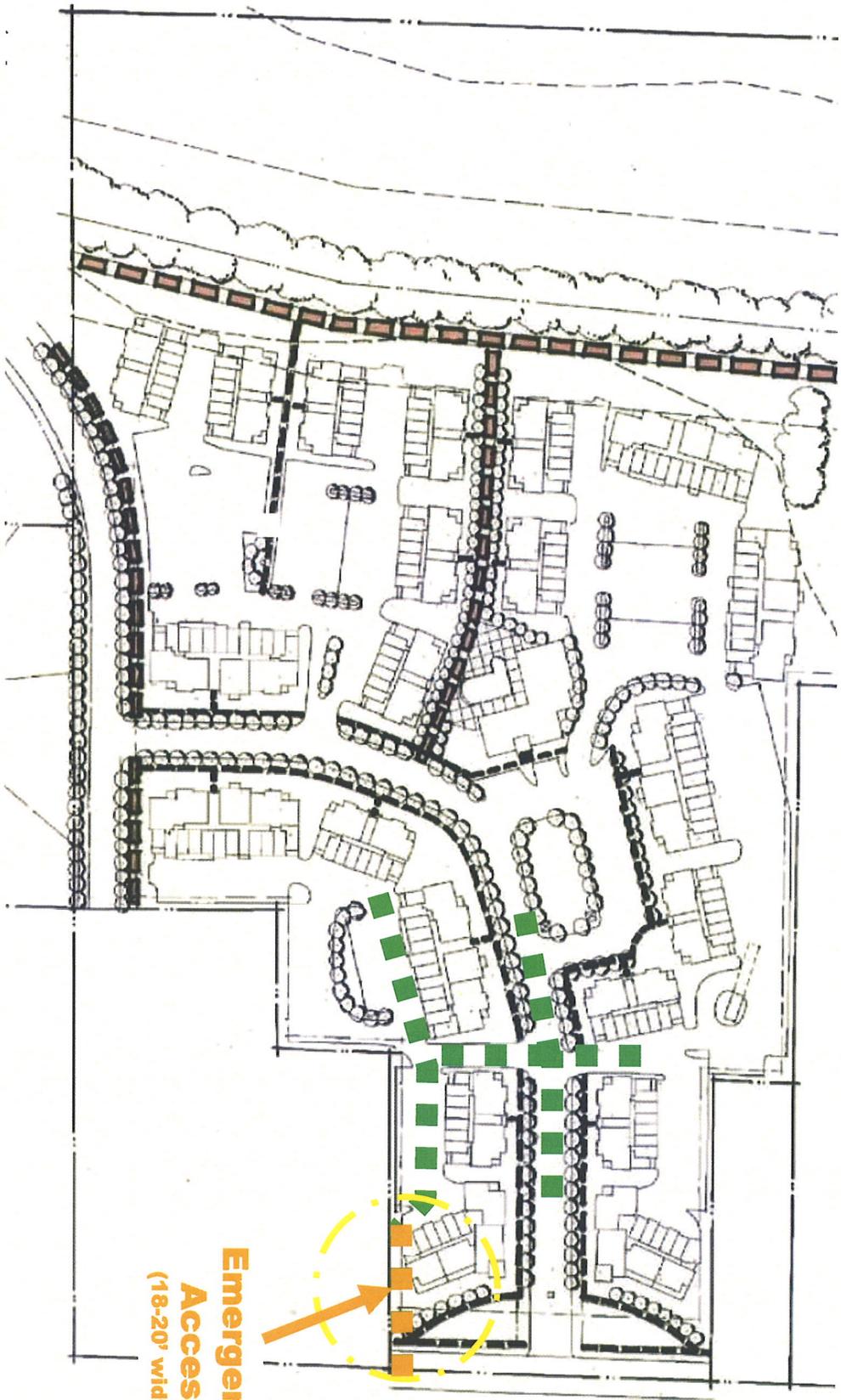
Street Trees

Sign Column

36' Entry width

South Union Street

Union Street Flats – Emergency Access Plan



Emergency Access
(18-20' width)

New Business:

Ordinance 09-10: Parks & Recreation Department Fee Schedule
First Reading – June 8, 2009
Second Reading – July 13, 2009

Ordinance 09-11 Fire Department Fee Schedule
First Reading – June 8, 2009
Second Reading – July 13, 2009
Adoption Consideration July 13, 2009
Adoption Consideration –July 13, 2009

Ordinance 09-12 Police Department Fee Schedule
First Reading June 8, 2009
Second Reading – July 13, 2009
Adoption Consideration – July 13, 2009

Attorney Brian Zaiger explained that the next three ordinances (09-10; 09-11; 09-12) are identical and applicable by department. He also explained that this was a request from the Clerk-Treasurer's office to comply with State Statute. The ordinances can be amended in the future through a resolution.

Bob Horkay made the motion to suspend the rules and consider Ordinances 09-10; 09-11; 09-12 with the first reading. Tom Smith seconded. Vote: Yes-7; No-0. Motion carried.

Bob Smith made the motion to accept Ordinance 09-10 as presented. John Dippel seconded. Vote: Yes-7; No-0. Motion carried

Bob Horkay made the motion to accept Ordinance 09-11 as presented. Steve Hoover seconded. Vote: Yes-6; No-0; Abstain-1 (Bob Smith). Motion carried.

Tom Smith made the motion to accept Ordinance 09-12 as presented. Bob Horkay seconded. Vote: Yes-7; No-0. Motion carried.

Animal Control Agreement

Attorney Brian Zaiger explained that this is an annual agreement that allows the City of Westfield to utilize the Hamilton County Humane Society for stray animals in the community. The fee is \$ 138.26 per stray animal.

Bob Smith made the motion to approve the animal control agreement as presented. Bob Horkay seconded. Vote: Yes-7; No-0. Motion carried.

Council Comments

Bob Horkay and Bob Smith stated that there was no APC meeting last month but a workshop was held to discuss the Health Clinic to the East of City Hall.

Steve Hoover complimented the Firefighters for having a program, which he participated in called "Firefighter for the Day". Everyone was welcomed and treated very well in this educational experience.

Mayor Comments

Mayor Cook encouraged the City Council to participate in the "Eyes of Westfield".

He also mentioned that the Monon Dedication took place over the weekend and was a beautiful day. He introduced Alyn Bernell in attendance and announced that this portion of the trail was named after Alyn.

He is also working with Bruce Hauk with our two congressmen on the ongoing zip code issue.

He also commented on the Carnival that Simon Properties put on over the weekend in cooperation with the City of Westfield. This was an attempt to boost the retail sales and keep businesses in our City. The Burton Brothers Amusement Company pledged 5% of the gross sales. Mayor Cook would be very interested in how the retail merchants benefited. He would also like the Council's input for future requests of this nature. The City of Westfield did get a check for \$ 3,582.00.

With no further business the meeting was adjourned at 9:10 P.M. An executive session followed the meeting.

Clerk-Treasurer

Council President

