

**MINUTES OF THE PUBLIC HEARING AND SPECIAL MEETING
AMBERLEY VILLAGE COUNCIL
MONDAY, JULY 10, 2008**

The Council of Amberley Village, Ohio met to conduct a public hearing and special session of council at Adath Israel, 3201 E. Galbraith Road on THURSDAY, JULY 10, 2008 at 7:30 P.M. Mayor Charles Kamine called the meeting to order. The following roll call was taken:

PRESENT:

Charles Kamine
Jon Chaiken
Fran Cohen
Peg Conway
Louis Katz
Merrie Stillpass

ALSO PRESENT:

Stephen Cohen, Village Solicitor
Chief Monahan, Police/Fire Chief
Bernie Boraten, Village Manager
John Eisenmann, Village Engineer
Nicole Browder, Clerk of Council

ABSENT:

Rich Batterberry, Treasurer

Mayor Kamine welcomed everyone to the public hearing and special meeting of the Amberley Village Council, and led those in attendance through the pledge of allegiance.

Mayor Kamine provided a brief background on the Crest Hills property. He stated that the court had ruled that the Village's denial of a request for a zone change from Park P Zoning was unconstitutional. He stated that the Village has exhausted its appeal process. He informed residents that the Village must now comply with the trial judge's court order.

Mayor Kamine informed those present that the public hearing was being conducted because the Planning Commission, at its regular meeting on July 7, 2008, approved the recommendation to change the zoning of the property formerly known as Crest Hills from "Park P District" to "Residence A District." The Council has received the recommendation from the Planning Commission to change the zone, which is under consideration at this meeting for approval of Residence A zoning.. He stated that if the Council does not take action on this matter prior to July 14th, Judge Marsh could impose sanctions on the Village. He stated that Council feels the property is important and valuable as a green space and it would be the goal to attain control over the property. He informed the audience that Council has been actively negotiating with the Ridge Club through mediation to fairly compensate the Ridge Club for the property in order for Amberley to acquire it.

Mayor Kamine announced that the zone change was the only decision before Council this evening. He then explained to the audience that those who wished to speak could complete an index card to be included on the list of speakers. He stated that Council will take notes during the presentations and answer questions after the last speaker.

Mr. Leonnard Bernstein, resident at 3117 Esther inquired as to the legal process for eminent domain. He stated he would like a legal opinion prior to exercising this option as he felt this was a radical approach. He did not agree that the Village should have to give up the property. He asked that if a golf course would be included should Zone A be accepted. He was against the Village running a public golf course.

Mayor Kamine took a moment to explain the uses under Residence A zoning.

Ms. Carol Hubbard, resident at 7790 Willowbrook, stated that she felt development would adversely affect the air and water quality in the area. She asked if soil testing would be required to

be performed on the property for toxic materials prior to development. She stated that runoff would increase if the land were to be disturbed and pointed out that flooding was already an issue.

Mr. James Coleman, resident at 2909 East Galbraith Road, stated that he has lived in the Village for 72 years. He stated that he does not want the increased traffic, noise and light that will result from development. He urged that green buffers be required if development does occur.

Ms. Mary-Bob Rubenstein, on behalf of resident Wendy Saunders, stated that the Village is at a crossroads and must make the right decision to continue as a premiere community. She stated that change must not be rejected and the Village must seize the moment and allow development. A planned community should be considered versus another boring subdivision. This planned community would include paths for walkways and biking. This planned community could be a Village within the Village. She urged everyone to look to the future and not settle for status quo.

Ms. Miriam Bernstein, resident at 3117 Esther Drive, stated that we must focus on why we want to develop. She stated that older residents would like to downsize but cannot find such housing within the Village. She stated that she agreed with the statements provided by Wendy Saunders. She stated that we will miss the boat if we do not think forward.

Ms. Diane Levine, resident at 6770 Fair Acres, stated that she felt with the addition of the Jewish Community Center along with the new Montessori school, a golf course would be another positive addition to the Village. She stated that she felt that just because you change, the Village should not have to change.

Mr. Bob Stewart, a long-time resident at 5086 Rollman Estates, and former councilmember for 12 years, serving two years as Mayor stated that since 1970, council has wanted the best for Amberley Village. He stated that during the last four years the Village has been on a strange journey. He stated that hard feelings have developed among residents due to the Crest Hills property. He stated that we have a great geographical location. There is a 133-acre wasteland that could provide benefits to everyone in the Village. He stated that we need to take the right steps to support development as it would bring new people and provide additional taxes.

Mr. Michael Gersen, resident at 6700 East Beechlands, stated that he thought Council had been doing a great job. He stated that Council fought the good fight and lost. He stated that he felt that the Ridge Club slapped the Village in the face when it closed the golf course and left the Village.

Mr. Brad Limberg, resident at 7400 Fair Oaks, requested that Council explain to the residents the process in which Council is proceeding. He stated that if the Council has planned to pursue purchase of the property, it should be clearly conveyed to the residents, including all costs involved for the purchase, any renovation and revitalization of the property, etc. He stated that he felt Blue Ash would be a direct competitor to a Village golf course and Blue Ash has a larger tax base whereas the Village does not. He stated that a lot of money would have to be spent to renovate. He questioned what the taxes would have to be to facilitate such a renovation and operation of a public course. He stated that he felt empty-nesters were the audience to be targeted.

Mr. Ahron Leichtman, resident at 8660 Lynnhaven, provided a typed statement of his comments (attached hereto).

Mr. Tom Brown, resident at 7707 Twigwood, stated that he was not aware that a planned unit development was being considered. He stated that if one is implemented he would like to serve on the board of the planned unit development committee. He stated that he has been in real estate for

35 years. He then questioned why Council sent a questionnaire if they did not plan to utilize the results in decision-making.

Mr. Tom Neuman, resident at 5120 Rollman Estates Drive, stated that based on the resident survey, he felt low density development would have been appropriate. He stated that Council would not be providing choices to the residents if eminent domain is pursued. He stated that if Council pursues eminent domain, he will follow through with a referendum to challenge the decision. He stated that residents should not be forced into this position.

Mr. Fran Barrett, attorney for the Ridge Club, stated that after four years of litigation he should not be limited to three minutes to speak. He thanked Councilmember Chaiken for the extra presentation time allotted at the Planning Commission. He stated that he would like to resolve the litigation and any action at this evening's meeting would be a step backward. He stated that he did not believe that this zone change is what the Ridge Club had in mind. He emphasized that the Ridge Club has always tried to present the highest quality development and this matter could have been resolved four years ago. He stated that zoning the entire property Residential A would not require the extensive buffers that previous development plans have included.

Ms. Karen Friedman, resident at 3300 Lamarque, stated that she was a former club member. She stated that the property is not a wasteland and it is the only real green space owned by Amberley. She stated that she was appalled at the idea of development. She stated that there are many lots and homes sitting on the market and now was not the time to develop. She stated that green is in and development is out.

Mr. Ralph Davidow, resident at 3590 Sorrento, stated that he and his wife, Carolyn, have been residents for 51 years and they want to stay. He stated that he was the Treasurer of the Lostantiville Club, and it would take 4-5 million dollars to restore the property and the golf course will still fail.

Mr. Andy Schott, resident at 7193 Fair Oaks, stated that he represents the developers. He stated that the important fact is that Crest Hills is private property and Village Council has unlawfully restricted the property for four years. He stated that if the Village purchases the property the residents will have to write a check. He stated damages have been mentioned well into the millions and must be paid. He stated that the Mayor maintains that insurance will cover the damages. He stated that the Mayor reported in the Village newsletter that there is no cost for appeal. He assured the audience that the cost is extraordinary. He stated that with the building bond on the verge of expiration that Village taxes should go down. He stated that he agreed with Tom Nueman's statement to allow voters to decide if the property should be purchased. He felt that A zoning would prohibit the use of the property. Mr. Schott then inquired as to why a new Council member has not been appointed yet. He stated that he felt it was because the Mayor did not want another voice on Council during the Crest Hills litigation in case it was an opposing opinion.

Dr. Margo Hide stated she was a professor at Xavier and moved here in 2001 to avoid traffic, breath cleaner air and have a safer place for her children. She wants to have the choice to say what happens to this property. She stated that she does not want to explain to her children that Amberley Village would not keep a green space. Other meetings that she has been to gave her the perception that there were other choices, instead of the all or nothing. She urged Council to think further down the road and provide something that we are going to be proud to show our children.

Mr. Michael Margolis stated that he was a member of the Ridge Club and lives in a single family in Carpenter's Run which is mixture of single family and condos. He stated that it is not an issue, in his opinion, to have the condos as it does not pose a traffic problem. He stated that Amberley

residents have stated they do not want to overlook rooftops, yet they live in a house with a roof on it. Amberley residents do not want traffic nearby, but they drive cars. He stated that he finds it ironic that it is okay that other people live in Amberley, but they do not want any other residences added to the Village. He stated that he supported a green space on the perimeter of the property with empty nester housing in the center, which would keep long-time Amberley residents here. It will offer green space, walking trails and limit the views of the development. He believed that this option would be a compromise that has not been discussed. He stated that he does not think that landominiums would be a negative in a community such as Amberley

Ms. Brenda Shomfield stated that she has lived in Amberley since 1980. She stated there are a lot of foreclosed homes on her street and a rental property next door to her. She stated that she does not understand why the Village would develop additional housing when the current housing is unable to be sold. She supported keeping the property a green space which would be better than 90 houses that could foreclose.

Ms. Gale Walmark stated that she is a new resident of Ohio and Amberley Village and it has been difficult to keep up with this issue. She wanted to know that if Council adopted the committee recommendations to change the zoning to residence A, will the other options, such as a planned unit development still be available to the Village. She then asked where residents can find out what the specific financial ramifications of the eminent domain option.

Ms. Amy Itescu, resident at 3260 East Galbraith Road, stated that she felt she would be directly impacted by the development. She stated that she believed there will be traffic issues. She does not want that many homes on the site. She stated that empty-nesters cannot afford \$500,000 homes. She felt that development would spoil the Village.

Mayor Kamine thanked and complimented everyone who spoke. He stated that he appreciated the speakers staying within the three minute time limit. He stated that the Council session will now begin for consideration of the proposed zone change. He took a moment to comment on the various questions that were posed by the speakers.

Mayor Kamine clarified that the eminent domain action as in the Norwood case was an issue of prohibiting a municipal government taking a property and turning it over to a developer. A municipality can take a property for a public purpose, such as a park. Eminent domain requires that you pay just compensation and does not allow seizure of the property. The Village would have to pay fair compensation for the property.

Mayor Kamine stated that in reference to the questionnaire sent out by the Village, the Council asked at that point in time would the residents be willing to vote on a 10% increase on property taxes in order to acquire the property and turn it into a golf course. Sixty percent of the residents were not in favor of the tax increase. Therefore, Council began looking at other ways to acquire the property without a tax increase. The problem with the questionnaire is that the 60 percent that did not want a tax increase were split evenly between one acre housing and high density housing. There was no mandate that Council derived from the questionnaire except not to raise taxes.

Mayor Kamine stated that Tom Nueman's referendum is the legal right of the residents. Any decision Council makes is subject to a referendum by the people. He has to obtain 250 signatures on a petition and then referred to the Board of Elections. If the petition is found to be in order, the Board of Elections will put it on the next ballot. It would probably not be possible to make the November ballot so it would appear in March of 2009. The Mayor stated that legally the Village cannot put this kind of issue on the ballot. The tax increase would be allowable on the ballot, but

Council cannot put advisory questions on the ballot and that is why the survey questionnaire was mailed to residents.

Mayor Kamine stated that Andy Schott made references to damages in the litigation. The purpose of this hearing is only about zoning, not to rehash the last four years of litigation. He stated that the Village does have insurance. The insurance carriers are part of the negotiations and have been talking with the Ridge Club about acquiring the property and compensating damages. If the negotiations work out the insurance company will be paying part of the money and the Village will be paying part of the money. The Village's portion will be related to the acquisition of the property, not to the damages. If negotiations break down, then the court will schedule the matter for a second trial on the issue of damages and that will proceed in the course of litigation as to whether or if there are damages. He stated that the Village rightly defended our zoning. It was challenged and defended accordingly. He stated that the suggestion that the Council acted irresponsibly is not appropriate.

Mayor Kamine stated that the Council will now consider the proposed ordinance regarding the zone change. Mayor Kamine read Resolution 2008-07, RESOLUTION REFERRING TO THE PLANNING COMMISSION, FOR ITS RECOMMENDATION, A CHANGE OF THE ZONING OF THE PROPERTY FORMERLY KNOWN AS CREST HILLS COUNTRY CLUB FROM "PARK P DISTRICT" TO "RESIDENCE A DISTRICT," which was passed by Council at the June 9, 2008 regular council meeting.

Mayor Kamine announced that the matter now before the Council is a recommendation from the Planning Commission to adopt the zone change from Park P District to Residence A District. Mr. Katz read and moved to approve ORDINANCE NO. 2008-13, ORDINANCE CHANGING ZONING OF REAL PROPERTY FORMERLY KNOWN AS CREST HILLS COUNTRY CLUB FROM A "PARK P DISTRICT" TO A "RESIDENCE A DISTRICT." Seconded by Mrs. Conway. The Mayor opened the floor to Council for comments.

Mayor Kamine introduced the zoning map to the audience. He stated that the plan of Amberley Village was that the smaller lots and the more intensive usages of properties would be on the west edge by the railroad tracks and that the Residence B zoning is along the perimeter areas and as you move toward the center of the Village there are less intensive usages with the core center of the Village being zoned park. This has been understood as the plan of the Village over the years.

Mayor Kamine stated that he has been through three prior public hearing processes in Amberley and in each case there was a very strong public voice that Amberley is a residential community and we are unique which is one of the factors that make us distinct and to change to the type of housing that exists in Blue Ash would make this area less unique.

Mayor Kamine pointed out that it is the responsibility of the Village to do no harm to other residents during these changes. Residence A protects the adjacent property owners, which is why this is the appropriate zoning for this site.

Mayor Kamine also stated that the judge had suggested that she believed that the final Hal Silverman plan was reasonable. Meaning that if the Village chose to approve that plan it would have been acceptable zoning. The western half would have been A zoning and the eastern half would have been B zoning, which does not match the zone plan of the Village.

Mr. Chaiken stated that the Planning Commission met to consider the zone change. He stated it was apparent that the Village could either rezone the property or allow the court to rezone. He stated

that commission chose to approve council's position. He stated that he did not believe the courts should decide the zoning of this property; therefore he agreed with the zone change.

Mr. Katz stated that Council has spent countless numbers of hours considering this issue. It has been four years since this started. The prior Council considered the issue and they voted it down at that point in time. Subsequent to that there was an attempt for a number of candidates to seek office in the Village. At that time the residents voted for the candidates supporting keeping the property green and that was the mandate that this Council has supported. Based upon the fact that we are under an order now by Judge Marsh to change the zoning; it is with some reluctance that he cast his vote in favor of the zone change. If it was not mandated by a court order he would vote for park zoning. He stated that from the number of comments that he has received he is convinced that the residents still want to keep this property green. He stated it will be his position in the future to seek methods to keep the property green.

Mrs. Stillpass echoed comments in support of the Mayor, Louis Katz and Jon Chaiken. She stated she believed that Residence A was in keeping with the character of the community and Amberley Village as it is today. It is recognized in the Cincinnati area as a single-family community and it is important to also consider, based on residents' concerns, the impacts of additional traffic and development. She stated that she is not in favor of development that would impact residents for the gain of someone else.

Mrs. Cohen stated that the decision before Council is to change the zoning from Park to Residence A and no matter what anyone says it has to be done. Therefore she voted for Residence A zoning.

Mrs. Conway echoed Council's comments and added that as a new resident she was attracted by the large lots, trees and beauty. She stated that it is important to maintain the existing environment. She stated that she really appreciated that what we have is unique and preserving it is a very future-oriented approach.

The Mayor read the ordinance on the table to be voted upon. The clerk called the roll and showed the following vote:

AYE: Kamine, Chaiken, Cohen, Conway, Katz, Stillpass	(6)
NAY:	(0)
ABSENT:	(0)

Mr. Katz moved to approve the Ordinance passed as an emergency measure. Seconded by Mrs. Cohen and the roll call showed the following vote:

AYE: Kamine, Chaiken, Cohen, Conway, Katz, Stillpass	(6)
NAY:	(0)
ABSENT:	(0)

There being no further business, Mrs. Cohen moved to adjourn. Seconded by Mrs. Conway. The motion carried unanimously.

Nicole Browder, Clerk of Council

Mayor Charles Kamine