

LUDLOW COUNCIL MEETING
MINUTES

June 10, 2021

Mayor Josh Boone called the meeting to order at 7:15 p.m. followed by the Pledge of Allegiance. City Clerk Laurie Sparks called the roll which showed the following council members present: Steve Chapman, Tiffany Grider, Brie Banks, Chris Wright, Vanetta Davis, and Julie Terry Navarre.

ALSO ATTENDING: City Attorney Steven Taylor, City Administrative Officer/Police Chief Scott Smith, City Clerk Laurie Sparks, Fire Chief Mike Steward, and Public Works Director Shane Hamant

Presentation by Fischer Homes on Proposed Development

Amanda Webb with Fischer Homes gave a presentation on Cityview Station, the proposed development on property currently owned by Norfolk Southern. Fischer Homes is requesting a zoning change in the area to allow for construction of the development, which would include 28 single-family homes, 306 condominium units, and a 400-unit apartment complex. Discussion on plans for managing traffic around the single entrance/exit to the development, including adding parking for current Highway Avenue residents and changing Montrose Street to one-way east. Highway Avenue would retain its Level A service rating by the Kentucky Transportation Cabinet (KYTC). Discussion on the recent Kenton County Planning Commission (KCPC) meeting in which KCPC did not recommend the development. Discussion on the geotech report of the area and comparison to the issues were handled in similar Fischer Developments, such as Tuscany in Covington. Ms. Webb advised that the development would have amazing views, help increase surrounding property values, generate tax revenue for the City and schools, and improve economic development in the central business district.

Questions from Council Regarding the Fischer Development

- In response to Mr. Chapman's question, Ms. Webb confirmed that the 400-unit multi-family development would be necessary. Fischer Homes would find another builder to construct the multi-family unit. Fischer Homes does not currently own the land but has a contract to purchase the property from Norfolk Southern contingent to the project approval. Ms. Webb advised that Norfolk Southern is aware of the plans for the development and signed off on the application.
- Joe Kramer of Cardinal Engineering discussed the extensive efforts that would be made with the construction to prevent slippage and to divert water runoff directly to the river. In response to Ms. Terry Navarre's question, Mr. Kramer advised that a large pipe would be installed under Route 8 that would reduce the flow of water off of the hill and divert it directly to the river.
- Ms. Grider inquired why the multi-family unit was necessary. Ms. Webb advised that it was a matter of economics, and that Fischer could not afford to complete the project without the multi-family unit.

Comments/Questions from Citizens

- Eric Russo, Executive Director of the Hillside Trust, spoke about the organization and their dedication to thoughtful use of hillsides in the area. Mr. Russo discussed his concerns about the development and compared it to potential issues that have been experienced along Columbia

Parkway in Cincinnati. Mr. Russo expressed concerns about moving forward with a project that KCPC did not recommend and about the impact to the neighbors in Covington and Park Hills who have experienced issues of slippage in the past. Mr. Russo advised that it could take 15-25 years for slippage issues to manifest, and no insurance company will cover landslide damages.

- Van Collins, 212 Stokesay Street, advised that he has lived in Ludlow for 72 years and has seen the city go from a vibrant, self-sustaining community to decline and a loss of businesses, such as the railroad and Duro Bag. Mr. Collins advised that if the developer does its due diligence and the City does its due diligence, there is an opportunity for development. Discussion on new housing in Ft. Wright and Covington that only have one access road. Mr. Collins advised that this development could be a chance for the city to go forward and that we cannot sit idly by and watch the progress go to other cities.

- Patti Sheehan, 510 Laurel Street, discussed an issue with people not stopping at the intersection of Adela and Laurel. Ms. Sheehan advised that she has a petition signed by neighbors who are concerned about people who are speeding and running stop signs in the area. The petition contains four basic requests – newer and bigger stop signs; adding signs, similar to those in Villa Hills, stating that a complete stop is free, but a roll through would cost \$145.00; painting ‘STOP’ on the street at the intersection; and painting white stop lines. Ms. Sheehan advised that she is still working on adding signatures to the petition in hopes of creating a safer intersection.

- Wayne Chapman, 437 Pinnacle Way, advised that he has been a resident of River’s Breeze since 2004 and has 28 years of experience in local government. Mr. Chapman expressed concerns about how the proposed development would affect the safety and quality of life of Ludlow residents, including concerns about hill slippage and traffic. Mr. Chapman encouraged the City to obtain an independent professional review of the development before making a decision on the project. Mr. Chapman’s statement is attached to the minutes, per his request.

- Cindy Jones, 143 Highway Avenue, suggested that the traffic study was not accurate because it was performed during the pandemic when schools were closed and many people were home. Ms. Jones inquired whether Fischer would construct a retaining wall. Mr. Kramer advised that Fischer would not construct a retaining wall, but that they would excavate down to the rock and begin packing the soil to prevent long term slippage. Ms. Jones expressed concern about the loss of the trees that keep the hillside in place and the loss of wildlife and birds in the area. Ms. Jones advised that she is concerned that KCPC voted 14 to 1 against the project.

- Challis Hodge, 220 Riversbreeze Drive, advised that he and his wife are residents of the city and owners of Taste on Elm. Mr. Hodge advised that he was concerned about the City’s finances when he first looked at opening a business in Ludlow, but the City has become more stable and the community has supported their business. Mr. Hodge advised that he is looking to open three additional food establishments in the city. Mr. Hodge expressed concern that without any additional development in the city, property taxes will be raised each year. Mr. Hodge advised that the City needs to do it right but needs to approve the development because there are not many other opportunities available.

- Lori Davenport, 109 Deverill Street, advised that she keeps hearing comments about economic development and that the idea of putting money before safety is frightening. Chief Smith advised that the City would not put money before safety and that public safety is his main job as police chief. Chief Smith advised that the three main concerns about the proposed development is slippage, drainage, and traffic. When River’s Breeze was built 20 years ago, people expressed many of the same concerns as they have over the proposed development today. Chief Smith advised that the development is not a done deal. It will be a long process because the City will make sure if the project is done, it is done right.

- Jene Galvin, 435 Pinnacle Way, advised that he is a sixteen-year resident of River's Breeze who is generally pro-development, but expressed concern about KCPC voting 14-1 against the project. Mr. Galvin advised that he understands the concern about hillside slippage because he experienced it first-hand when he built on a hill in the past. Mr. Galvin respects Mayor, Council, and Chief Smith and advised them to not be so desperate for development that they are not careful. Mr. Galvin encouraged the City to get an independent study.
- Paul Miller, owner of Circus Mojo/Bircus, advised that he has had his business in Ludlow for twelve years and that he recently purchased property on the other side of the railroad bridge for use as an event center. Mr. Miller advised that he is pro-development. Mr. Miller advised that he is developing a circus school in a building that he purchased from the City for one dollar. Mr. Miller advised that we can do things and that Ludlow is a great place to be.

Jason Wisniewski, of Grand Communities, discussed the staff report from Planning and Development Services of Kenton County (PDS) regarding the KCPC's decision. Discussion on the geotech report in which Mr. Wisniewski advised that potential issues would only arise if they did not construct the development the way it is outlined in the report. Mr. Wisniewski advised that they have been working with KYTC for months about what to study and how to study traffic in the area and KYTC is in agreement with their findings. Mr. Wisniewski advised that the PDS report does not state that Fischer Homes did anything wrong. PDS did not recommend the proposal because the development did not meet the Comprehensive Plan. Chief Smith advised that the Comprehensive Plan was developed in 2011-2012 to apply to all cities in Northern Kentucky in an effort to develop plans to better suit cities and their growth. Ludlow is not able to follow the Plan because it is better suited for cities like Florence and Independence that have more space for development. Discussion on PDS's issue with the density of the development on the hillside because they would prefer that the development be spread out more. In 2018, the City had the opportunity to amend the Comprehensive Plan, but the City Administrator at that time advised that no changes were needed. One of the requirements of the Comprehensive Plan is to include walking trails; however, there is no space to do so in the area of the proposed development. Chief Smith advised that there is no area in the City for development that could meet the requirements of the Comprehensive Plan.

- In response to a question from a resident of River's Breeze, Ms. Webb advised that there would be approximately twenty units per acre, which is the same density as River's Breeze.
- Charlie Hartman, 448 Elm Street, inquired whether a development at the Carlisle property would fall under the Comprehensive Plan. Chief Smith advised that the property is a landfill, so it must remain a greenspace. Mayor Boone advised that all plans that have been proposed for the property have been for recreational purposes.

Greg Fischer, of Fischer Homes, advised that Ludlow has a special place in his heart and that his in-laws live in Ludlow. Mr. Fischer takes pride in the city and his role with the River's Breeze development in 2001. Mr. Fischer advised that market studies show that the area would support luxury apartments, similar to those at Aqua on the Levee, for the multi-family portion of the project.

- Paula Graszus, 739 Oak Street, advised that she is pro-development, but expressed concern that the scale of the development may be too large for the site.

Motion by Ms. Terry Navarre, second by Mr. Wright, to approve the minutes from the council meeting on May 13, 2021. Following a voice vote, motion carried: all ayes.

STAFF REPORTS

Fire Department

Fire Chief Mike Steward discussed his report. Twenty-one people participated in the recent Hoxworth Blood Drive. There are plans to host another blood drive in the fall.

Public Works

Mr. Hamant discussed his report, including trying a new product for pothole patching.

Code Enforcement

Since Mr. Garner was not in attendance, Mayor Boone briefly discussed Mr. Garner's report.

MAYOR'S REPORT

Mayor Boone discussed the need for the amendment to the Interlocal Agreement with the Kenton County Fiscal Court for Code Enforcement. PDS is changing its fee structure for how cities will pay for building and zoning services. Although the City will pay between \$15,000.00 and \$17,000.00 more under the new agreement, Mayor Boone advised that he supports the agreement because it is still cheaper than if the City had to pay someone in-house. Mayor Boone thanked everyone who participated in the Memorial Day Parade and thanked Paula Graszus, the Ludlow Vets, and Dale Meier. Mayor Boone advised that he is looking forward to the Christmas Parade.

COUNCIL COMMITTEE REPORTS

Finance – The Committee met recently with Chief Smith to review the checks for May and discuss the budget.

Public Works – The Committee did not meet.

Safety – The Committee met with Chief Smith in May. The Police continues to be proactive.

CITY ADMINISTRATIVE OFFICER'S REPORT

Chief Smith advised that the Ludlow Park renovation project would occur in two phases. The first phase will include a \$600,000.00 to \$650,000.00 renovation of Lemker Field. The City is \$250,000.00 short in funding and will try to obtain donations. The second phase will include replacing the existing playground equipment with new handicap accessible equipment and replacing the existing building in the park and with a new building containing restrooms and a concession stand. The Adela Avenue Paving Project has been completely approved and is estimated to begin in three weeks. Discussion on the possibility of installing speed bumps on Adela Avenue and having officers watch the stop signs in the area to improve safety. Chief Smith advised that there are several properties in the west side riverfront area under contract by a potential developer. The project that was planned for the area across from the city building fell through because the developer could not obtain an easement from KYTC. Discussion on the budget amendment and the need to address the Tax Anticipation Note loan that will be due soon. Anyone who qualifies for the utility bill payment assistance will need to apply through the Northern Kentucky Area Development District. The Police had 388 calls for the month of May and continue to be proactive.

CITIZENS WISHING TO ADDRESS MAYOR AND COUNCIL

Peter Bishop, 329 Skyview Court, inquired about the process moving forward regarding the proposed Fischer development. Mayor Boone advised that he would like at least one month of open public comment before having a reading to amend the zoning on the property. Even if Council has a first reading of a zoning ordinance, the second reading of the ordinance would not have to be the following month but could be delayed. Mayor Boone advised that he understands everyone’s concerns and wants to do our due diligence. Chief Smith advised that even if Council changes the zoning on the property, the development plans would still need to be reviewed and approved by PDS. Mr. Bishop discussed his personal experiences with Fischer in purchasing his condo in River’s Breeze. Chief Smith advised that Fischer has hindsight to see what worked and did not work with the construction of River’s Breeze and could use that knowledge in the new development. Mr. Bishop advised that he would be happy to serve if the City chooses to form an ad hoc committee. Chief Smith advised that the City is in no rush to push the project through because they want to make sure the project would be done right.

UNFINISHED BUSINESS

None

NEW BUSINESS

Ordinance 2021-4

Mr. Taylor completed the first reading of Ordinance 2021-4 *An Ordinance of the City of Ludlow, in Kenton County, Kentucky, Adopting an Amended Interlocal Agreement Between the Kenton County Fiscal Court and the Cities of Bromley, Crescent Springs, Crestview Hills, Edgewood, Elsmere, Fort Wright, Independence, Kenton Vale, Lakeside Park, Ludlow, Park Hills, Ryland Heights, Taylor Mill and Villa Hills for Code Enforcement in Kenton County, Kentucky.*

Ordinance 2021-5

Mr. Taylor completed the first reading of Ordinance 2021-5 *An Ordinance Amending the Budget for the Fiscal Year July 1, 2020 Through June 30, 2021 for the City of Ludlow Calling for Revenue of ~~\$4,179,896.00~~ \$4,097,863.00 and Expenditures of ~~\$4,015,610.00~~ \$3,593,021.00.* Mayor Boone announced that a special council meeting will be held on Thursday, June 24, 2021, at 6:45 p.m. for the second reading of Ordinance 2021-5.

ANNOUNCEMENTS

Mr. Wright & Mr. Chapman both stated that it was great to see so many people in attendance at the meeting. Ms. Banks thanked Paula Graszus for her work in organizing the Memorial Day Parade.

Motion by Ms. Grider, second by Ms. Terry Navarre, to adjourn the meeting at 9:34 p.m. Following a voice vote, motion carried: all ayes.

Respectfully submitted,

Laurie Sparks, City Clerk

Attest: _____
Josh Boone, Mayor

**Statement of Wayne Chapman to Ludlow City Council
Regarding Proposed CityView Station Development**

June 10, 2021

Good evening. I am Wayne Chapman. I address you tonight as a resident of Ludlow since 2004, living in the River's Breeze Community. I also address you as a 28-year local government professional, having served as city manager in Schenectady, New York and Aspen, Colorado, budget director and director of housing and neighborhood economic development for the City of Cincinnati. And for the past 25 years I have been a consultant to hundreds of city and county governments across America. So my thoughts carry a large degree of experience and expertise in matters of local government.

We, the residents of Ludlow, have placed our solemn trust in you, our elected officials, to protect our safety and quality of life. The proposed development of 734 residential units raises questions regarding the safety and quality of life of the current residents of Ludlow.

The safety issue springs from the proposal to disturb the now stable slope that the River's Breeze Community sits on top of. The slope has experienced landslides in the past and remains landslide susceptible today. The developer's geotechnical engineer claims that with appropriate mitigation the slope can be developed. However, we only need to look across the river to Cincinnati's Columbia Parkway, Riverside Drive and Mt Adams to know that even engineered mitigation may not hold up against the forces of nature. Even geotechnical experts get it wrong. Imagine the impact on the Ludlow residents living in the Rivers Breeze community that rests on top of a slope that suffers a landslide. Imagine the impact on future Ludlow

residents living in CityView Station at the bottom of a landslide. The downside risk of mitigation failure is that hundreds of Ludlow residents living in Rivers Breeze and CityView Station could suffer irreparable harm in terms of safety, financial loss, and/or quality of life in the event of mitigation failure. What would be our recourse in that case? The developer will either be long gone or judgement proof. Getting satisfaction from the geotechnical engineer or its insurer would, at a minimum, take years of litigation with a high degree of uncertainty. Would the municipal government of Ludlow have any exposure for damages given that it ignored the recommendation of professional planners without doing its own due diligence? If so, the residents of Ludlow would bear the onus of paying for any damages. And make no mistake, the potential damages would be in the tens if not hundreds of millions of dollars.

As to the quality-of-life issue, traffic analysis indicates that 734 units of housing at an average of 1.5 cars per household would add over 1000 cars to the current traffic load. KDOT would require that Montrose Avenue be converted from two-way to one-way and that alternate side parking on Highway Avenue be implemented. So, current residents of those Ludlow neighborhoods will have their life styles and conditions altered to accommodate this development. Imagine the impact of 1000 additional automobile trips on Highway Avenue and Elm Street during morning and evening rush hour. Imagine the exponential increase in accident probability with 1000 additional cars making two to three trips per day. Imagine the difficulty of entering Highway Avenue and Elm Street from side streets with 1000 additional cars making two to three trips per day. To help with your imagination of the impact, at an average of 12 feet in length, 1000 cars placed end-to-end would be 2.25 miles long.

The professional staff of the Kenton County Planning Commission analyzed the proposed development and applied prudent and proven standards for safety and quality of life. Even with the proposed mitigations to protect against landslides and ease traffic concerns those professional practitioners, whose only concerns are safety and quality of life for the residents of Ludlow, nearly unanimously rejected the proposed development. It was not even close. If you are considering ignoring the in-depth analysis and conclusions of an independent review that has applied time-tested standards of safety and quality of life, without even doing your own due diligence, then the solemn trust that Ludlow residents have placed in you has been misplaced.

Questions remain that you must ask and have answered. For example, has the developer's proposed landslide mitigation solution been verified independently by a geotechnical expert not employed by the developer, who is obviously looking for the least costly approach? If not, the Ludlow City Council should, before blindly accepting the claim of the developer, hire its own geotechnical expert to review and quantify the risk, to opine on the adequacy and life span of the proposed mitigation, to spell out how the proposed landslide mitigation must be managed and maintained and the cost of maintaining the mitigation. And, there must be a 100% guaranteed source of paying the cost of maintaining the mitigation. Will it be levied on the new home owners' association? Will it become the responsibility of Ludlow and its current residents? Who will be responsible for replacement and repairs? Without answers to these questions you will be failing in your due diligence and in default of the solemn trust of the residents of Ludlow.

Questions also remain as to traffic impacts. The traffic analysis appears to be solely focused on issues of entrance and exit from the

proposed development site. What about the potential for negative impact westward on Elm Street? Will traffic congestion during rush hours back up into the business district? Will entrance onto Elm Street become very difficult at intersections without traffic signals? What will be the impact eastward on existing rush hour choke points at the Anaconda traffic signal, at the left turn stop sign at third street in Covington? What will the impact be at the already existing choke point at the intersection of Third street and Philadelphia? And, at the already congested intersection at Philadelphia and Fourth Street? You may say those issues are not the Ludlow City Council's or the developer's to answer. Yet your approval of a development that adds 1000 cars two to three times a day to existing congestion problems will impact the quality of life of every Ludlow resident who uses Route 8 during rush hour every day they go to and return from work. Do you know how much travel time will be added to the daily commute of your residents? Could it be an hour a day? Is adding long commute times an improvement in the quality of life of your residents? Is creating traffic congestion and increasing accident probability an improvement in the quality of life of Ludlow residents? Your duty is to them to make sure these issues are analyzed and answered to make a fully informed decision.

You may argue that the cost of such studies is beyond the ability of Ludlow to pay. If your argument is that we cannot afford to pay for our own due diligence then you are obligated to accept the only other independent due diligence that has been performed. That of the Kenton County Planning Commission. If your argument is that while we may afford it but it is an ill-advised expense, I would reply that such an expense to protect the safety and quality of life of Ludlow residents is never ill-advised. And if you argue that such additional studies are not necessary, then you are placing all your trust in the

developer, contrary to planning professionals, to the detriment of the solemn trust placed in you by your residents.

In my opinion you have only two options to consider if you prioritize the safety and quality of life of current Ludlow residents. The first is to accept the due diligence that has been performed by the Kenton County Planning Commission and to reject the zoning map amendment that permits the currently proposed CityView Station plan. The second is, if you wish to continue to work with the developer to try to independently assure a development that will not compromise the safety and quality of life of your residents, you should table further action on the proposed plan and carry out the due diligence that I propose in this statement. The additional due diligence may independently verify that the current proposed plan will not be detrimental to the safety and quality of life of your residents. Or it may provide information that will help you, as our trusted elected officials, conceive an alternative plan that will be safe for your residents while also enhancing their quality of life. Or it may verify the judgement of the Kenton County Planning Commission that the proposed CityView Station plan should not be approved. In the words of former President Ronald Reagan: "Trust, but verify."

In summary, an independent professional review of the proposed development, applying modern, prudent and proven standards for safety and quality of life, has nearly unanimously rejected approval of the proposed development. To ignore this rejection without additional independent due diligence would not only be arrogant in the extreme, it would be a betrayal of the solemn trust placed in you by your friends and neighbors.

Thank you for the opportunity to share my thoughts with you.