

**CITY OF MASON
COUNCIL MEETING
JUNE 26, 2000**

The meeting was called to order by Mayor McCurley at 7:07 p.m.

ROLL CALL

The following members of Council were present: Jim Fox, Dick Staten, Tom Muennich, Peter Beck, Betty Davis, Charlene Pelfrey and John McCurley.

APPROVAL OF MINUTES

A motion to approve the minutes from the June 12, 2000 meeting was made by Councilmember Davis, seconded by Councilmember Muennich. Councilmember Pelfrey requested a correction regarding the State's official motto. It should read "With God all things are possible". A motion to approve as amended was made by Councilmember Davis, seconded by Councilmember Muennich.
VOTE: ALL YEAS

RECOGNITION OF VISITORS

None

RESOLUTION 2000-12 - PROCLAIMING JULY AS NATIONAL PARKS AND RECREATION MONTH

The Resolution was read by Eric Hansen.

A motion to suspend the rule was made by Councilmember Muennich, seconded by Councilmember Pelfrey. VOTE: ALL YEAS

A motion to adopt was made by Councilmember Davis, seconded by Vice Mayor Fox. VOTE: ALL YEAS.

RESOLUTION 2000-13 - ADOPTING BUDGET OF CITY FOR JANUARY 1, 2001 - DECEMBER 31, 2001.

A motion to read by title only was made by Vice Mayor Fox, seconded by Councilmember Pelfrey.
VOTE: ALL YEAS

Staff requested this legislation receive a first reading with a Public Hearing being held at the next Council meeting.

Mayor McCurley scheduled a Public Hearing for July 10, 2000 at 7:05 p.m.

ORDINANCE 2000-64 –2nd READING-- AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 141.98 ACRES FROM R-2 TO MIXED USE PUD LOCATED ON THE EAST SIDE OF MASON-MONTGOMERY ROAD, SOUTH OF WESTERN ROW ROAD (WESTERN ROW LAND DEVELOPMENT, MICHAEL DAVIS, STEPHEN GERARD AND DONALD SPURLING)

Mayor McCurley opened the Public Hearing at 7:15 p.m.

A motion to read by title only was made by Councilmember Staten, seconded by Councilmember Davis. VOTE: ALL YEAS.

Richard Fair explained to Council the proposed rezoning consists of 23.5 acres of retail located in the northwest corner of the site, 49.8 acres zoned for Office/Industrial and 68.62 acres of single family residential. He further stated the current planned submitted by the developer proposes 4 out parcels ranging in size from 0.96 acres to 1.13 acres and one large retail use, a Kroger Store, with strip retail uses located on either side. Mr. Fair explained the industrial portion of the site consists of 11 lots ranging in size from 2.52 acres to 5.29 acres. The residential portion consists of a total of 130 lots. He stated the developer failed to address several staff comments. Planning Commission denied the application based on the fact the plan does not comply with the Comprehensive Plan.

Ms. Sherry Allen of 6872 Man-of-War Lane addressed Council and spoke in opposition of the development. She stated it does not meet the Comprehensive Plan, it is not consistent with the surrounding area, it will generate more traffic and noise and produce large parking lots. She stated a petition had been signed by 880 residents opposing this development. Mr. Craig Ullery of 6869 Man-of-War Lane addressed Council and asked if Council had received a letter from their attorney, Mr. Bennett. Mayor McCurley stated it had been distributed to Council. He also stated the proposed plan fails to comply with the comprehensive plan, provides no buffering and generates more traffic and lights. Ms Anita Zoutendam of 4328 Hyacinth Drive addressed Council and stated she worked on the landscaping committee for the Mason-Montgomery Road project and it was not designed to include a retail area. She stated the city needs more green space and to keep the retail uses at Fields Ertle Road. Ms. Helen Fox of 6095 Little Lake Dr. addressed Council and stated she represented the "Balance" organization which promotes controlled growth. She stated the organization is concerned that the proposal presented to Council is not the highest and best use of the property.

Mr. Robert Peeler spoke representing his client, the owner of the property Mr. John Zopff. He stated Mr. Zopff wishes to see the property develop. He stated the owner considers the profits from the sale his retirement fund. He is willing to work with the City and have a development that is in compliance with the Comprehensive Plan and he wishes to recognize a value for his property.

The Public Hearing was closed at 7:31 p.m.

Council discussion followed and it was mentioned it is the desire of Council to listen to the residents wishes as well as adhere to the City's Comprehensive Plan as they have done in the past. Mayor McCurley stated the Comprehensive Plan was done for a purpose. It is used to provide City Council with the tools to develop the City in a desirable manor. It was also noted the Planning Commission is informed on every detail of these projects and Council respects the decision and recommendation of this commission.

A motion to adopt Ordinance 2000-64 was made by Councilmember Staten, seconded by Councilmember Pelfrey. VOTE: ALL NAYS.

ORDINANCE 2000-85 - APPROVING OF THE FINAL PLAT OF WINDEMERE SUBD, PHASE 3.

A motion to read by title only was made by Councilmember Staten, seconded by Councilmember Muennich. VOTE: ALL YEAS.

Richard Fair stated this phase of the Windemere Subdivision consists of only two lots containing 4.7128 acres and no right-of-way. He said the plan is consistent with the final PUD plan and Planning Commission recommends approval.

A motion to suspend the rule was made by Councilmember Davis, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

A motion to adopt Ordinance 2000-85 was made by Councilmember Davis, seconded by Councilmember Muennich. VOTE: ALL YEAS.

ORDINANCE 2000-86 - APPROVING THE REVISED PRELIMINARY PLAT OF AVALON FARMS SUBDIVISION.

A motion to read by title only was made by Councilmember Muennich, seconded by Councilmember Davis. VOTE: ALL YEAS.

Richard Fair explained to Council this plan varies from the original plan submitted to Council. The new layout includes the remaining north half of the Gardner Property which extends to Bunnell Road. The revised plat includes a total of 70.4 acres and 63 single family lots. There will be sidewalks on both sides of the street. The homes of the Gardners and Whitakers will remain as part of the subdivision. Mr. Fair stated Planning Commission and staff recommend approval of the preliminary plat contingent of the following items: 1) The emergency access easement between lots 21 and 22 must be increased to 20 feet with the installation of a 10 foot wide paved driving surface. 2) the future access right-of-way along Street A across from Lot 2 must be increased towards the east to be a total of 200 feet wide. 3) A note must be added to the plan that Lot 1 will not have direct access onto SR 741 and lots 21 and 22 will not have direct access onto Bunnell Road.

David Reibold from Robert Rhein Interests gave a brief description of the upscale development they

have planned. He stated the road to Bunnell may be gravel but it will have a chain with a lock on it to prohibit access from that direction. He also stated the lake will be owned by the Homeowners Association and not for public access.

A motion to suspend the rule was made by Councilmember Muennich, seconded by Councilmember Davis. VOTE: ALL YEAS.

A motion to adopt Ordinance 2000-86 was made by Councilmember Muennich, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

ORDINANCE 2000-87 - AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH TERRY CONSTRUCTION INC. FOR MAINTENANCE OF VARIOUS STREETS IN THE CITY

A motion to read by title only was made by Councilmember Muennich, seconded by Councilmember Davis. VOTE: ALL YEAS.

Scot Lahrmer stated the purpose of this legislation is to maintain and to extend the life of various streets in the City by applying crack sealing, a stress absorbing membrane interlayer (SAMI) during the street resurfacing, and general maintenance as required to extend the life and performance of the existing pavement. The contract is for the amount of \$114,909.63. It is staff recommendation to award it to Terry Industries. The City has worked with this firm in the past and is pleased with their performance.

A motion to suspend the rule was made by Councilmember Muennich, seconded by Councilmember Staten. VOTE: ALL YEAS.

A motion to adopt Ordinance 2000-87 was made by Councilmember Davis, seconded by Councilmember Muennich. VOTE: ALL YEAS.

ORDINANCE 2000-88 - AUTHORIZING A CHANGE ORDER TO INCREASE THE CONTRACT OF AHERN & ASSOCIATES FOR THE I & O RR BRIDGE REPLACEMENT AND MASON MONTGOMERY ROAD WIDENING PROJECT

A motion to read by title only was made by Councilmember Davis, seconded by Councilmember Staten. VOTE: ALL YEAS.

Scot Lahrmer stated in October of 1998, City Council authorized a contract to construct a new I&O railroad bridge and widen Mason-Montgomery Road at that location. The City received a state grant from the Ohio Public Works Commission (OPWC Issue II) for a portion of the total cost of the project. Shortly after the work began, errors in the construction drawings surfaced. Engineering staff met with the Utility Committee to discuss the problems and a decision to go forward was made making the necessary corrections in the field. Scot explained there are several reasons changes were made on this project that affected the final cost He listed them as follows:

- 1) Changes due to construction drawing errors and omissions. Total cost \$642,617.69
- 2) Changes due to City requested items. Total cost \$59,695.21
- 3) Changes due to overtime work requested by the City. Total cost \$119,806.57
- 4) Changes due to unexpected field conditions. Total cost \$173,015.13
- 5) Changes due to redesign of construction drawings. Total costs savings \$125,265.50
- 6) Changes to the agreement with I&O Railroad. Total cost savings \$90,000

Due to these changes, the following legislation requires Council's approval to close the project: Ordinance 2000-88 approves \$810,173.89 to be paid to Ahern & Associates, Ordinance 2000-89 approves \$29,000 to be paid to LBJ Engineers and Architects, and Ordinance 2000-90 approves \$39,500 be paid to Testech Construction Testing & Inspection Services. Council discussion followed and it was stated the City will actively pursue collecting portions of the costs due to errors committed by the original engineer. It was also stated the City should pursue requesting additional funds from the Ohio Public Works Commission in an effort to maintain their original percentage of total cost.

A motion to suspend the rule was made by Councilmember Davis, seconded by Councilmember Staten. VOTE: ALL YEAS.

A motion to adopt Ordinance 2000-88 was made by Councilmember Staten, seconded by Councilmember Beck. VOTE: ALL YEAS.

ORDINANCE 2000-89 - AUTHORIZING A CHANGE ORDER TO INCREASE THE CONTRACT OF LBJ ENGINEERS AND ARCHITECTS FOR THE I&O RR BRIDGE REPLACEMENT AND MASON MONTGOMERY ROAD WIDENING PROJECT

A motion to read by title only was made by Councilmember Staten, seconded by Councilmember Muennich. VOTE: ALL YEAS.

A motion to suspend the rule was made by Councilmember Staten, seconded by Councilmember Davis. VOTE: ALL YEAS.

A motion to adopt Ordinance 2000-89 was made by Councilmember Davis, seconded by Councilmember Muennich. VOTE: ALL YEAS.

ORDINANCE 2000-90 - AUTHORIZING A CHANGE ORDER TO INCREASE THE CONTRACT OF TES TECH CONSTRUCTION TESTING AND INSPECTION SERVICES FOR THE I&O BRIDGE REPLACEMENT

A motion to read by title only was made by Councilmember Muennich, seconded by Councilmember Davis. VOTE: ALL YEAS.

A motion to suspend the rule was made by Councilmember Muennich, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

A motion to adopt Ordinance 2000-90 was made by Councilmember Davis, seconded by Vice Mayor Fox. VOTE: ALL YEAS.

ORDINANCE 2000-91 - PROVIDING FOR THE ISSUANCE OF \$230,000 OF NOTES BY THE CITY OF MASON, OHIO, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF ACQUIRING A FIRE TRUCK FOR THE CITY.

A motion to read by title only was made by Councilmember Davis, seconded by Councilmember Muennich. VOTE: ALL YEAS

Scot Lahrmer stated this legislation is a result of the split from the Joint Fire District. At that time he explained, it was agreed each entity would agree to assume their pro rata share of the outstanding notes when the current ones matured. This legislation is the City of Mason's share of these notes.

A motion to suspend the rule was made by Councilmember Muennich, seconded by Vice Mayor Fox. VOTE: ALL YEAS

A motion to adopt Ordinance 2000-91 was made by Councilmember Muennich, seconded by Vice Mayor Fox. VOTE: ALL YEAS.

CITY MANAGER'S REPORT

The Warren County Municipal League meeting will be held at the Houston Restaurant on Wednesday, June 28, 2000.

A request for a Liquor Permit has been received by the City for an Ameristop located at the northwest corner of US 42 and Snider Road. This does not exist now nor has it been introduced to Planning Commission. It was decided a decision on this permit does not mean the City is also approving the use of the property. A motion to not hold a hearing was made by Councilmember Muennich, seconded by Councilmember Staten. VOTE: ALL YEAS

COUNCIL OLD AND NEW BUSINESS

Ken Schneider announced a decision has been received today on the School/Batsche annexation. The Court of Appeals upheld the previous decision of the Warren County Common Pleas Court and the Warren County Commissioners.

Ken Schneider discussed the City's Ordinance regarding sexually oriented business. He suggested revising the time required for the city to issue permits and he suggested adding a distance requirement for the library. Council directed him to proceed with the changes.

Ken Schneider reported to Council nine property owners filed for annexation on June 26, 2000. It was suggested by Council an attempt be made in the future to collect the City's attorney fees

incurred in the defense of an appeal of a valid annexation decision.

Ken Schneider reported a review of the Procter and Gamble Agreement had been completed and it is the City's position that the Township is due a financial refund for the amount of dollars collected in levies prior to the agreement. The ones that have followed do not apply. This information will be relayed to the Township.

Fireworks will be held on July 2, 2000 at the Sunshine Concert held at Pine Hill Park.

It was decided by Council to proceed with the installation of a traffic signal at Bethany Road and US 42 at a cost of \$430,000. It was suggested a "Dangerous Intersection" Sign be installed on Bethany Road immediately. Councilmember Staten moved to put the contract out to bid for this traffic signal. The motion was seconded by Councilmember Muennich. VOTE: ALL YEAS It was noted it typically takes 6-8 months to complete the installation.

AUDIENCE COMMENTS

None

EXECUTIVE SESSION: PERSONNEL AND LAND ACQUISITION

A motion to adjourn into executive session was made by Councilmember Muennich, seconded by Councilmember Staten. VOTE: ALL YEAS.

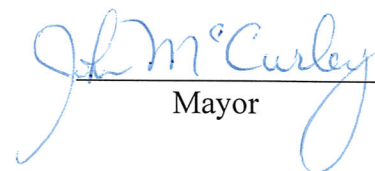
A motion to reconvene into regular session was made by Councilmember Muennich, seconded by Councilmember Davis. VOTE: ALL YEAS.

ADJOURN

A motion to adjourn was made by Councilmember Davis, seconded by Councilmember Staten. VOTE: ALL YEAS

TIME: 9:55 p.m.


Clerk of Council


Mayor