

**CITY OF MASON
COUNCIL MEETING
SEPTEMBER 13, 2004**

Mayor Beck opened the meeting at 7:06 p.m. Pastor J.D. Childers, from the Chaplains Program, opened the meeting with a prayer. Those in attendance recited the pledge of allegiance.

ATTENDANCE

The following members of Council were present: Victor Kidd, Steve Osborne, Tony Bradburn, Tom Grossmann, John McCurley, Charlene Pelfrey and Peter Beck.

APPROVAL OF MINUTES

A motion to approve the minutes of the August 23, 2004 council meeting was made by Vice Mayor Pelfrey, seconded by Councilmember Bradburn. VOTE: ALL YEAS

A motion to approve the minutes of the August 30, 2004 joint meeting between Council and the Chamber was made by Councilmember Osborne, seconded by Councilmember McCurley. VOTE: 6 YEAS, 1 ABSTAIN (Pelfrey)

A motion to approve the minutes of the August 30, 2004 council worksession was made by Councilmember Osborne, seconded by Councilmember Bradburn. VOTE: 6 YEAS, 1 ABSTAIN (Pelfrey)

RECOGNITION OF TOM KAPER OF MASON HERITAGE FESTIVAL

Tom Kaper addressed Council and thanked everyone involved with this years Heritage Festival. He said they are now working on Christmas in Mason. He also stated next year will be the 40th Heritage Festival. Councilmember Osborne thanked Don Allen and Michael Hecker for the efforts from the City's Park and Recreation Department.

PRESENTATION BY MARK AND DON DAVIS ON THE HIFIVE CINCY CHALLENGE

Mark Davis addressed Council and announced the details for the regions newest and largest soccer tournament that is being held in Mason called the HiFive Cincy Challenge. He said 163 teams are participating in age groups from 9-16. He said they anticipate 12,000 people coming to Mason and the expected revenue to the area is approximately \$1,000,000. He also stated there will be no admission charge. Mayor Beck presented him with a proclamation recognizing this successful venture.

RECOGNITION OF VISITORS None

ORDINANCE 2004-97 APPROVING THE DEVELOPER'S PROPOSED CONCEPT PLAN AND AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 76.96 ACRES LOCATED ON THE WEST SIDE OF STATE ROUTE 741, NORTH OF BETHANY ROAD AND SOUTH OF BUNNELL ROAD FROM I-1 TO RESIDENTIAL PUD (NEYER PROPERTY)

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

Richard Fair explained to Council this is a continuation of the public hearing on August 23, 2004. He stated C. Francis Barrett of Barrett & Weber, representing River III, LLC of Mason, is requesting Concept Plan and rezoning approval of 76.96 acres of land zoned I-1 Light Industrial to Residential PUD at the west side of State Route 741, north of Bethany Road and south of Bunnell Road to develop a 78 lot single-family residential subdivision. Steve Wallace, the owner of River III, developed Avalon Farms on the east side of SR. 741, north of the City-owned property Industrial PUD. C. Francis Barrett, in his letter dated July 1, 2004, lists site constraints that reportedly prevent the property from being developed by any of the uses permitted in the I-1 District. Poor soil conditions (lake deposits and peat soils), among other items, were mentioned making industrial development impractical. The applicant submitted soil boring test results to the Engineering and Building Department however; such natural constraints equally apply to both residential and industrial development. Richard stated the same land area proposed for residential development on the Concept PUD Plan could also be developed as industrial. Additional constraints on the property that seem to make it undesirable for residential growth are the overhead electrical wires and easements that run through the property. Richard said residential development is generally not consistent with the uses permitted in the adjacent Industrial PUD and I-1 District to the east and the I-1 District to the south. He added permitting residential zoning at this location may set an undesirable precedent whereby additional residential rezoning of industrial zoned land are requested to permit more residential development in the "Business Park" future land use designation. Richard further explained Planning Commission and Staff recommend that the application to rezone 76.96 acres of land zoned I-1 Light Industrial to Residential PUD be denied because the proposed zone change is not consistent with the Future Land Use Map of the Comprehensive Plan, the uses permitted in the proposed zoning district are not consistent with surrounding uses, and an undesirable precedent may be set if zoning is approved. Additionally, the Business Park future land use designation supports a long-standing city policy of locating industrial/office parks at major thoroughfares throughout the city to provide for long-term economic development, a diverse local economy, and job creation. Approving residential zoning at this location is not consistent with our land use plan and may initiate other residential rezoning and make business park development to the north of the site more difficult in the future after a residential land use pattern is established.

Mr. Barrett addressed Council and stated they would have liked to delay this hearing until the next meeting to allow more time to discuss the matter with staff but Richard Fair thought there was ample information available to continue the hearing tonight. Mr. Barrett introduced the representative from White Oak Farm Partnership, Tom and Sara Davidson, River III LLC, Jeff Kern from M.E. Company and Dan Neyer. Councilmember Grossmann added if there was a

problem with delaying this for another month. Councilmember Bradburn agreed he could see no negative to granting a continuation. Councilmember Bradburn moved to continue the hearing until October 25, 2004. Councilmember Grossmann seconded the motion. VOTE: ALL YEAS

ORDINANCE 2004-114 APPROVING THE SOLID WASTE MANAGEMENT PLAN UPDATE OF THE WARREN COUNTY SOLID WASTE MANAGEMENT DISTRICT

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

Eric Hansen stated the State of Ohio requires local solid waste districts to have regularly updated compliance plans in place to ensure the reduction of waste throughout the state. The Warren County Solid Waste Management District's initial plan was approved in 1993. After several years of discussion, the Warren County Solid Waste Management District has prepared an updated solid waste management plan that meets Ohio EPA requirements. Eric stated Betty Davis has been the City's representative on the Solid Waste District and at the August 9th Council meeting addressed questions. The Warren County Commissioners have approved the plan update which includes performance contracts with all waste haulers in the county to provide consistent recycling programs throughout the County and meet the 90% access requirement. It also includes a "generation fee" of fifty cents per ton imposed on all solid waste disposed of at a landfill. The resulting revenues would fund required district programs. Eric concluded by stating if ratified, the generation fee would likely go into effect Spring 2005. The City's waste hauling contract with Rumpke would likely generate \$7-12,000 in generation fees annually based on typical tonnage. The City will need to negotiate with Rumpke how to handle these additional costs at that time.

A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember Kidd, seconded by Vice Mayor Pelfrey. VOTE: ALL YEAS

A motion to adopt Ordinance 2004-114 was made by Councilmember Kidd, seconded by Councilmember Bradburn. VOTE: ALL YEAS

ORDINANCE 2004-115 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH TEC ENGINEERING FOR THE ENGINEERING, DESIGN AND ENVIRONMENTAL SERVICES NECESSARY FOR THE MUDDY CREEK BIKE PATH PROJECT

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

Scot Lahrmer explained to Council, last year, the City acquired property that stretched between Mason-Montgomery Road and Kings Mills Road. The property has frontage on Mason-Montgomery Road and is directly north of the bridge over Muddy Creek. One of the purposes identified for the acquisition was to link our parks via bike paths. Therefore, the City applied for grant funds and was successful in receiving nearly \$350,000 for this project. Scot stated the City was recently notified that we are recipients of Transportation Enhancement Funds for the

construction of the Muddy Creek Bike Path. The proposed bike path is a 3,500-foot bike path that will be constructed beginning at Mason-Montgomery Road following the Muddy Creek to Kings Mills Road to Pine Hill Lakes Park. The City was awarded \$347,780, which equates to 80% of the funds for construction. Scot said the City will be responsible for the remaining 20% of construction costs, \$86,945, plus the costs for the engineering, design and environmental work. Scot further explained, the contract with TEC Engineering will allow the City to proceed with the development of the engineering, design and environmental work for the project. TEC Engineering is familiar with the project and grant requirements. They were responsible for preparing the grant application on behalf of the City and they are ODOT pre-qualified which is a requirement of the grant. The proposed cost for TEC to complete this preliminary work is not to exceed \$70,000.

A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember Kidd, seconded by Councilmember Grossmann. VOTE: ALL YEAS

A motion to adopt Ordinance 2004-115 was made by Councilmember Grossmann, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-116 APPROVAL OF THE FINAL PLAT FOR WEATHERSTONE SUBDIVISION

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

Richard Fair explained to Council, Pat Maupin with Weatherstone at Mason LLC, is requesting the approval of the final plat for Weatherstone, Section 4, Block C, zoned R-3. He said this subdivision is located on the south portion of the Weatherstone Subdivision, east of Stone Ridge Drive and contains twenty-one single-family lots on 10.42 acres. This plat will dedicate the right of way, sanitary, utility and storm water easements needed for this section of the subdivision. Richard stated throughout the construction of the Weatherstone Subdivision, the developer has been stock piling the excavated material from all sections of the subdivision (including Section 4C) on-site. This mound, located where Stone Ridge Drive is to be extended to US 42, is currently made up of approximately 35,000 cubic yards of material. He said if it becomes necessary for the City to complete the public improvements for Weatherstone, the current bond amounts do not cover the cost to remove this excess material from the subdivision. Therefore, staff requests that the developer provide an additional bond for \$577,500 for the removal of the dirt mound prior to the release of the final plat for Weatherstone Section 4C. Richard said Planning Commission and staff recommend approval of the final plat contingent on the following:

1. Please provide a subdivider's contract and performance bond for the improvements for Weatherstone Section 4C
2. Please provide a performance bond for the removal of the dirt mound.

A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember Kidd, seconded by Councilmember McCurley. VOTE: ALL YEAS

Councilmember McCurley asked about the develop altering the flood plain in this area. Richard Fair stated the City has a bond for the proposed bridge the developer is required to build.

A motion to adopt Ordinance 2004-116 was made by Councilmember Bradburn, seconded by Councilmember Grossmann. VOTE: ALL YEAS

ORDINANCE 2004-117 APPROVAL OF THE DEDICATION AND EASEMENT PLAT FOR PEBBLE CREEK AT MASON SECTION 3

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

Richard Fair explained to Council, Allison Sears of Bayer Becker Engineers is requesting approval of an easement dedication plat for section 3 of the Pebble Creek subdivision. He stated this plat will dedicate the water main, sanitary, utility and access easements needed for this section of the subdivision. This plat will also dedicate 100'-0" of right of way for Reading Road which is consistent with the 2003 Thoroughfare Plan. Richard added Planning Commission recommends approval of the dedication and easement plat contingent on the following:

1. Please change "Restrictions on Sewer Easements and Water Line Easements" to "Restrictions on Sewer Easements".
2. Please add the Greater Cincinnati Water Works waterline easement restriction to the plat.
3. Please increase the waterline easement from 20'-0" to 30'-0" as required by Greater Cincinnati Water Works.
4. Please provide a subdivider's contract and performance bond.

A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember Grossmann, seconded by Vice Mayor Pelfrey. VOTE: ALL YEAS

A motion to adopt Ordinance 2004-117 was made by Councilmember Grossmann, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-118 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT TO PURCHASE WITH JOHN P. GIBSON, TRUSTEE, FOR THE ACQUISITION OF PROPERTY LOCATED AT 595 WESTERN ROW ROAD, MASON, OHIO

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

Richard Fair explained as part of the Western Row Road and Snider Road Intersection Improvement Project, it is necessary to acquire a portion of the Western Row Road frontage owned by John P. Gibson, Trustee at 595 Western Row Road for right-of-way. He stated this property is also known as the Childtime Children's Center daycare. Mr. Gibson has agreed to donate the 2,003 square feet (0.046 acres) right-of-way to the City in exchange for reimbursement of his legal fees in an amount not to exceed \$1,000. Based on the settlements

with Royalmont Academy and Mason Masonic Temple, donation of the right-of-way is estimated at \$2,500.

A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember Grossmann, seconded by Councilmember Kidd. VOTE: ALL YEAS

Mayor Beck asked when the road would be open. Richard Fair reported it should open this week.

A motion to adopt Ordinance 2004-118 was made by Vice Mayor Pelfrey, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-119 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PARADISE ARTISTS, INC. FOR THE RED, RHYTHM & BOOM CONCERT PERFORMED BY SURVIVOR AND LOU GRAMM OF FOREIGNER ON JULY 3, 2005

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

Scot Lahrmer stated the City's Red, Rhythm & Boom celebration has grown into a regional patriotic celebration. The last five years, the City has witnessed tremendous growth with up to 10,000 people in attendance. The 2005 Red, Rhythm & Boom is scheduled for Sunday, July 3 and the City's entertainment is proposed to be the high profile act of Survivor and Lou Gramm of Foreigner. He stated the Parks & Recreation Advisory Board on September 9 enthusiastically support this choice for the 2005 Red, Rhythm & Boom entertainment. He said Survivor and Lou Gramm of Foreigner had several remarkable songs top the charts from Survivor from 1980-1989 including 'Eye of the Tiger' (theme song from Rocky III), 'The Search is Over', and 'Is This Love.' and many more. He also stated Lou Gramm of Foreigner hit the 1977-1980 era with great hits like 'Cold As Ice', 'Double Vision' and 'Waiting for a Girl Like You'. Scot also stated purchasing the services of an entertainer does not require competitive bidding since it is a service similar to contracting with an engineering firm. The contract amount for both groups combined is \$50,000 and is an increase of what the City has paid for previous entertainment. In addition to the contract amount, the City will be responsible for other expenses such as sound, lighting, and accommodations.

A motion to suspend the rule and allow for adoption after the first reading was made by Vice Mayor Pelfrey, seconded by Councilmember Kidd. VOTE: ALL YEAS

Councilmember Osborne asked if this was an increase over past years. Scot Lahrmer reported it is but there are two bands and they are more recent. Councilmember Bradburn suggested the City look into providing bus service for residents so parking is not a problem.

A motion to adopt Ordinance 2004-119 was made by Councilmember Bradburn, seconded by Vice Mayor Pelfrey. VOTE: ALL YEAS

ORDINANCE 2004-120 REPEALING ORDINANCE NO. 2003-92, APPOINTING KENNETH J. SCHNEIDER AS LAW DIRECTOR AND CONTRACTING WITH THE FIRM OF WOOD & LAMPING FOR LEGAL

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

Scot Lahrmer stated this legislation authorizes an increase in pay for the City's Law Director effective July 1, from \$25,000 to \$26,000, a 4% increase. In addition, the legal services performed by the law firm would increase from the rate of \$148 per hour to \$153 per hour, a 3.4% increase. One exception to the \$153 rate is litigation and labor negotiations, which are being proposed at \$168 per hour, a 3.7% increase.

A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember Kidd, seconded by Councilmember McCurley. VOTE: ALL YEAS

Mayor Beck stated he would like a two year contract instead of a one year.

A motion to adopt Ordinance 2004-120 was made by Councilmember Bradburn, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-121 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 46.7 ACRES FROM R-1 RESIDENTIAL TO B-4 PUD AND APPROVAL OF THE CONCEPT PLANNED UNIT DEVELOPMENT PLAN FOR PROPERTY REFERRED TO AS THE GREAT WOLF LODGE RESORT AND CONFERENCE CENTER PROPERTY

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

Mayor Beck set the public hearing for October 11, 2004 at approximately 7:05 p.m.

RESOLUTION 2004-15 ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR

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

Scot Lahrmer explained the purpose of this legislation is to comply with the Ohio Revised Code requirements per Sections 5705.34 and 5705.35. He said on June 14, Council adopted Resolution 2004-10 adopting the 2005 Tax Budget. The Tax Budget is then certified to the County Auditor. Scot said based on the amounts certified in the Tax Budget, the Warren County Budget Commission determines the tax rates necessary to be levied within and without the ten mill tax limitations. The Warren County Budget Commission certified the rates to the City of

Mason. The City of Mason is then required to accept the rates, through the adoption of a resolution which is then certified to the County Auditor

A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember McCurley, seconded by Councilmember Kidd. VOTE: ALL YEAS

A motion to adopt Resolution 2004-15 was made by Councilmember Kidd, seconded by Councilmember Bradburn. VOTE: ALL YEAS

CITY MANAGER'S REPORT

A Council work session is scheduled for Monday, September 20 at 6:00 p.m. The meeting will be held at the Mason Municipal Center and will include dinner.

Residents wishing to voice their opinions about Warren County's transportation problems can now call and leave a message on an automated hot-line number (695-7992) and their calls will be forwarded to the appropriate person for follow up. It's a chance for officials to get public feedback as part of the on-going Southwest Warren County Transportation Study, the goal of which is to identify key bottlenecks and traffic hassles and find solutions to them. The study also has a website: www.plan4swwarrenco.com.

The City has received a request for a transfer of a liquor permit for the Crooked Tree Golf Course located at 5171 Sentinel Oak Road. It has recently changed ownership. A motion to not require a hearing was made by Councilmember McCurley, seconded by Councilmember Bradburn. VOTE: ALL YEAS

COMMITTEE REPORTS

Councilmember McCurley reported on the Planning Commission meeting of September 7, 2004. He also reported on the Southwest Warren County Transportation Task Force meeting. He said they are reviewing among other items a road that connects S.R. 63 at I-75 to I-71. He also stated a full interchange at Western Row Road and I-71 is being considered.

Vice Mayor Pelfrey stated the Heritage Festival has been reviewed and items such as traffic and safety were discussed. She stated the City will need to be considering in the near future the continuation of a position to organize the special events. She also suggested the City review the ordinance on sexually oriented businesses to ensure we are up to date. She stated the Safety Committee would review the matter.

COUNCIL OLD AND NEW BUSINESS

Councilmember Bradburn stated he received a letter from the Trailside Acre residents association on the proposed new mall on Kings Mills Road. He suggested the City have a third party independently review the plans for another opinion to consider. He said such a large project could have substantial impact on the area in terms of noise, lighting and flood management to mention a few. Councilmember Kidd agreed with this suggestion. Scot Lahmer

stated the only problem would be finding a qualified firm that had the time to review this matter. He will see if that is possible.

Councilmember Kidd mentioned the new restaurant opening in Mason, Pitrelli's Italian Cuisine.

Mayor Beck asked if Council supports sending a member to the Leadership Warren County program. Councilmember Grossmann stated he felt it was a good idea for the City to participate and said it takes one day a month. Councilmember McCurley stated we should send someone that will benefit the City with their time left on Council. Councilmember Bradburn and Vice Mayor Pelfrey said they would be interested in attending. Councilmember Grossmann moved to fund two participating in this program. Councilmember Kidd seconded the motion. VOTE: ALL YEAS

Mayor Beck mentioned participating in the American Legion Golf Outing, which supports the Veteran's Memorial. He also stated the first Mayor's Forum will be held on September 24, 2004.

RECOGNITION OF VISITORS None

EXECUTIVE SESSION

A motion to adjourn into executive session for the purpose of discussing land acquisition was made by Councilmember Bradburn, seconded by Councilmember Kidd. VOTE: ALL YEAS

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

ADJOURN

A motion to adjourn was made by Councilmember Bradburn, seconded by Vice Mayor Pelfrey. VOTE: ALL YEAS

TIME: 9:30 P.M.


Clerk of Council


Mayor