

**CITY OF MASON
COUNCIL MEETING
APRIL 11, 2011**

The meeting was called to order at 7:00 p.m. Chaplain Edmund DeArco opened the meeting in prayer. All those present recited the Pledge of Allegiance.

ATTENDANCE

The following members of Council were present: Michael Gilb, Christine Shimrock, Rich Cox, Tony Bradburn, Charlene Pelfrey, David Nichols, and Don Prince.

APPROVAL OF MINUTES

A motion to approve the March 28, 2011 Council Meeting Minutes was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: 6 YEAS, 1 ABSTAIN (Shimrock).

PRESENTATION OF PROCLAMATION TO ATHLETES IN ACTION – STEVE SIMPSON

Mayor Prince read the Proclamation and presented a plaque to Steve Simpson. Mr. Simpson explained the program and named past Champions along with the two honorees at this year's banquet, Kim Anthony and Frank Reich. He announced that the banquet date is May 5, 2011 and anyone interested should visit their website www.aianightofchampions.com.

RECOGNITION OF VISITORS

Michelle McNally of 5126 Spire Oaks Dr. expressed her desire to be heard during the public hearing portion of the meeting.

RESOLUTION 2011-03 EARTH DAY

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

Jennifer Heft discussed the next two Resolutions. She stated that Resolution 2011 – 3 declares April 22, 2011 as Earth Day and Resolution – 4 recognizes April 29, 2011 as Arbor Day in Mason. Jennifer explained that since 1872, Americans have joined together on Arbor Day to recognize the value of trees and woodlands to human welfare and that 41 years ago 20 million Americans joined together on Earth Day to demonstrate their concern for the environment. Their efforts brought about new laws to protect our air, water, and land quality. She explained that Resolutions 2011-3 and 4 continue Mason's tradition of supporting and encouraging planting, care, health of trees in the community, and concern for the environment. Jennifer announced that Mason will host the twentieth annual Earth Day celebration on Friday, April 22 at 12:00 pm at Pine Hill Lakes Park. The celebration will begin with a brief ceremony, followed by a walk around the perimeter of the park. As part of the event, Duke Energy has donated \$1,000 for the purchase of trees that will be planted in the community. She explained that additional activities during the event include: The Mason in Bloom Committee will be on hand providing plants and information on backyard

vegetable gardening; Marvin's Organic Gardens is assisting with a Prairie planting program; Natorps is donating 200 tomato and pepper plants; Greenfield Plant Farm will provide plants, supplies and volunteers to educate participants on Fairy Gardening; and Warren County Soil and Water Conservation District will be present to discuss Rain Gardens. Our local Boy Scout and Girl Scout troops will be on hand to celebrate and assist with the event. Jennifer concluded by stating that the City will again be receiving the Tree City USA award for 2011 at a ceremony to be held in Troy, Ohio.

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

A motion to adopt Resolution 2011-3 was made by Vice Mayor Nichols, seconded by Councilmember Shimrock. VOTE: ALL YEAS.

RESOLUTION 2011-4 ARBOR DAY

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

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

A motion to adopt Resolution 2011-4 was made by Vice Mayor Nichols, seconded by Councilmember Cox. VOTE: ALL YEAS.

RESOLUTION 2011-5 PROCLAIMING THE WEEK OF MAY 8-14, 2011 AS CLEAN WATER WEEK

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

Eric Hansen explained that Resolution 2011-5 is an opportunity for City Council to draw attention to the investment and efforts that the City makes in providing a clean environment to the residents of Mason specifically in terms of water and wastewater. The beginning of Clean Water Week coincides with the fifth anniversary of the City's new Water Reclamation Plant (WRP) going on line. The WRP is a state-of-the-art facility which exceeds current EPA standards as well as more stringent requirements which will likely be implemented in the future. Eric stated that Clean Water Week is an opportunity to recognize the contributions of the City's Public Utilities Department. All members of the department are highly educated in their fields and the plant relies on just three operators because of the extensive instrumentation utilized at the plant. He said that in addition to the operation of the water reclamation plant, the Public Utilities Department maintains 9 lift stations, over 200 miles of sewer lines and over 3,000 manholes. They conduct annual inspections, maintenance, and projects to insure the integrity of the system and residents quality of life.

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

A motion to adopt Resolution 2011-5 was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

ORDINANCE 2011-13 APPROVAL OF A CONDITIONAL USE PERMIT TO ALLOW A GAS STATION AND CONVENIENCE STORE ON A B-2 ZONED PROPERTY LOCATED AT THE NORTHWEST CORNER OF BETHANY ROAD AND MASON-MONTGOMERY ROAD (BETHANY GREEN CIRCLE)

Mayor Prince explained that since this is a continuance of the Public Hearing in progress, persons unable to speak at the last meeting would be given preference tonight. He asked that each speaker avoid repeating issues already raised (posted on screen), provide new information or concerns, and to limit their comments to 5 minutes or less.

Councilmember Gilb made a motion that the Public Hearing be closed. He stated that general conditions under the Conditional Use Permit have not been met and cannot be met based on evidence heard during the Public Hearing two weeks ago. Although Planning Commission made a determination, the final determination is up to Council. Councilmember Gilb stated that three standards in the general conditions not met are Standard #3 "...harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area", #4 "Will not be hazardous or disturbing to existing or future neighboring uses", and #7 "... not involve activities processes, materials, equipment and conditions, or operations that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors". He believes that there is no additional condition that Council could impose that would alleviate any of these and that based on the failure to meet these general conditions, the Public Hearing should be closed and the application be denied.

After Council discussion, it was decided to continue with the Public Hearing.

The continuance of the Public Hearing from March 28, 2011 was opened at 7:25 p.m.

Vickie Wells of 4940 Bethany Road stated her opposition to the gas station. She made several requests to minimize the negative visual impact this development would have on her property. Her requests included mounding evergreen barriers, low-setting monument style signage with landscaping and no pole or canvas signage. She stated that she has been a medical professional for over 30 years and has worked with childhood cancer patients. She presented a number of published scientific studies linking acute non-lymphocytic leukemia to living near benzene emission sources like gas stations. She supplied Council with a copy of these reports.

Bob Haaga of 5219 Spire Oaks Drive stated that he has no objection with Phase II of this project, his objection is with the suitability of a gas station at this location. He stated that there have been no B-2 Conditional Use Permits granted since 1998 and of the six B-2 zoned lots in the City, this is the first to be considered for a Conditional Use Permit. Mr. Haaga suggested that the two conditional uses, a gas station and convenience store, are two separate uses and should be considered separately. He would not have an objection to the store. He presented zoning regulations for the downtown overlay district which restrict gas stations as disruptive to pedestrian activities, yet this gas station is considered "walkable". He repeated some of the issues already raised.

Chris Champ of 5205 Spire Oaks Drive stated that he has been a resident of Mason for 45 years and has witnessed many changes. This would not be a good change. He felt that even if all of the “improvements” that have been suggested were made, it would not change the gas station from what it is. It would merely be “putting lipstick on a pig”. He observed that there are no existing gas stations in Mason that infringe on residential property as this location would. He stated that he has no objection to development, but this fit does not make sense.

Dr. James Weaver of 5065 Bethany Road expressed his concerns regarding subsequent owners of this business, headlights, traffic safety, and building aesthetics. He presented a landscape plan to minimize the light pollution onto his property and requested that street improvements be complete before this business is opened. He compared the proposed corrugated steel canopy to similar structures on South Mason-Montgomery Road, suggesting that it was a lower building standard. Dr. Weaver explained how drainage on his property has degraded, describing his backyard as a swamp. He has been in contact with the City on this issue. How would this new development impact the drainage?

Carl Shurtleff of the Chestnut Hill Subdivision expressed his concerns with stormwater runoff impacting his neighborhood. He raised the question of precedence, stating that any decision made on this B-2 parcel would carry over to other B-2 zoned properties. He suggested that traffic and business studies be conducted with expanded projections for future growth ten years into the future. These studies should include with gas sales and without gas sales. Mr. Shurtleff had questions regarding the percentage of impervious surfaces and the plans in place to capture the runoff from these surfaces. He suggested that Council deny this permit request and send it back to the Zoning Board for further review.

Michelle McNally of 5126 Spire Oaks Drive presented a variation on her request for a buffer. She would like an earthen berm with a 6 foot fence totally 15-18 feet. This berm should have a variety of vegetation to reduce noise and improve the air quality. She explained the many benefits of this option.

John Chambers of Coolidge Wall, 33 West First Street in Dayton, introduced Mike Schueler. Mike Schueler, President of Henkle Schueler, recognized that of all the people who spoke tonight, three had very valid concerns, their homes are across the street from the property. He said that they are prepared to deal with the homeowner’s issues individually and that everything they’ve asked for tonight Henkle Schueler can comply with. He expressed their frustration with the homeowners’ refusal to meet with them. He discussed some of the homeowner’s requests that are already in the plans. Mr. Schueler explained the development of Crooked Tree in the 1980’s and his resistance to the rezoning of the R-6 to R-4 property adjacent to this B-2 parcel. There has been a sign in place for 25 years indicating that this parcel is zoned commercial so that any potential buyer would be aware. He also stated that he was told the R-4 lots adjacent to this B-2 zone were reduced in price to reflect this. Mr. Schueler described some of the real estate brokerage deals that have benefitted the City of Mason such as Mitsubishi, Noritake, and donating the property for the new Station 51. He reiterated that Henkle Schueler is prepared to meet with each neighbor and rationally attempt to deal with their real concerns. Mr. Chambers instructed Council on their quasi-judicial role in this matter. Council needs to weigh the evidence presented and determine what is credible and competent not based on emotion or opinion. He suggested that Council review the Planning Commission Report. He believes the evidence supports this use as one that is good and fits the

neighborhood. Mr. Chambers encouraged Council to take their time making this decision and reminded them that Henkle Schueler is willing to work with the neighbors and staff to deal with the significant problems. There will be some that perhaps we can never satisfy, but he believes that they can do a credible job, one that Mason will be proud of for many years to come.

The Public Hearing was closed at 8:22 p.m.

Mayor Prince opened Council discussion by outlining the options. During Council discussion it was decided the best option would be to take the time to clarify and review all the evidence in a work session. Eric Hansen clarified that a Council Work Session is a meeting open to the public and the date will be announced. He also mentioned that formal action is normally not taken during a Work Session.

A motion to table Ordinance 2011-13 to a Council Work Session on May 23, 2011 was made by Councilmember Gilb, seconded by Vice Mayor Nichols. VOTE: 6 YEAS, 1 ABSTAIN (Bradburn).

A motion for a 5 minute recess was made by Councilmember Bradburn, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

A motion to reconvene was made by Councilmember Gilb, seconded by Councilmember Cox. VOTE: ALL YEAS.

ORDINANCE 2011-37 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 0.44 ACRES LOCATED AT 135 NORTH MASON-MONTGOMERY ROAD FROM R-4 TO B-1 (FORMER FIRE STATION PROPERTY)

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

The date for the Public Hearing was set for May 9, 2011.

ORDINANCE 2011-38 APPROVAL OF THE WATERLINE EASEMENT PLAT FOR THE GREENERY SUBDIVISION

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

Richard Fair addressed Council and stated that this is a small waterline easement for the Greenery which starts at the Lindner Family Tennis Center and connects to a dead end line by Walnut Lane. The easement is on the west side of Fairway Drive. The total size of the easement is less than 1000 square feet. He also stated that there is no cost for the easement since the Greenery is dedicating it to the City. The Planning Commission has recommended adoption of Ordinance 2011-38.

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

A motion to adopt Ordinance 2011-38 was made by Councilmember Cox, seconded by Councilmember Gilb. VOTE: ALL YEAS.

ORDINANCE 2011-39 APPROVAL OF THE DEDICATION PLAT FOR 3810 STATE ROUTE 741 (J.K. STUCCO)

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

Richard Fair stated that J.K. Stucco has built a 21,000 square foot addition to their building at 3810 SR-741. This plat will dedicate approximately 0.1722 acres of right of way to the City of Mason. He said with a couple of minor plan changes, Planning Commission recommends approval of Ordinance 2011-39.

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

Councilmember Cox commented that J.K. Stucco has an amazing facility and he projects that more employees will be added to their payroll with this expansion of their excavation business.

A motion to adopt Ordinance 2011-39 was made by Councilmember Cox, seconded by Councilmember Gilb. VOTE: ALL YEAS.

ORDINANCE 2011-40 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BANDIT OF OHIO FOR THE PURCHASE OF ONE MODEL 1490 BRUSH CHIPPER

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

Jennifer Heft stated that this ordinance authorizes the purchase of one new Bandit Industries Model 1490 brush chipper. Currently the City has two brush chippers, a 1999 Morbark with over 6900 hours of operation and a 2005 Bandit with over 2200 hours of operation. She stated that in 2009 the City changed its brush chipping policy moving from weekly pickups to monthly which has significantly reduced the man-hours required to complete the program. There has also been a reduction in the number of stops and cubic yards chipped. This is likely a result of the 2008 hurricane removal of deteriorating wood that may have taken longer to fall. She stated that it takes on average 6.2 days per month for the brush chipping program. If either of the brush chippers are out of service, it significantly delays the program. The Morbark chipper was recently taken out of service and sent back to the manufacturer due to the fuel pump model assembly malfunctioning. The chipper was out of service for two weeks and the repair cost approximately \$3,000. With no backup equipment the brush chipping program was dramatically delayed. She explained that both current chippers will remain in the fleet and this new purchase will be used as a backup unit. As part of the 2011 budget process, both the Equipment Committee and the Finance Committee discussed and recommended the replacement of the 1999 Morbark chipper. The 2011 Budget includes \$40,000 for the replacement of this equipment.

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

Councilmember Cox asked how this equipment is stored. Richard Fair answered that at this time, the equipment is stored outside. Councilmember Cox stated that this type of storage is hard on the equipment.

A motion to adopt Ordinance 2011-40 was made by Councilmember Cox, seconded by Councilmember Bradburn. VOTE: ALL YEAS.

ORDINANCE 2011-41 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CHARLES H. HAMILTON COMPANY FOR EMERGENCY REPAIR TO THE WESTERN ROW LIFT STATION FORCE MAIN, FOR NOT TO EXCEED AMOUNT OF \$37,000.00, AND DECLARING AN EMERGENCY

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

Eric Hansen stated that on March 8, 2011 a break was discovered in the force main from the City's Western Row Lift Station. He explained that due to the critical importance of continuous operation of the Western Row Lift Station, depth of the force main, location of other utilities, and poor soils, Charles H. Hamilton Company (CHHC) was requested to provide men and equipment on an emergency basis to uncover the break and repair it. A temporary repair was completed and the excavation was partially backfilled, allowing easier access for the permanent repair, scheduled to begin on April 11. Eric stated that the City has good success with Charles Hamilton with funds remaining from two previous Charles Hamilton contracts. \$172,636 remains on the Phase 2B US 42 Trunk and \$73,691 on Phase 2B US 42 Trunk Alternate A Projects. Both projects were held under budget due to the diligence and management of the Public Utilities and Engineering Departments. The prices for the recent emergency work compared favorably with the pricing on these competitively bid projects. Eric stated that this emergency Ordinance is recommended for adoption providing for payment to Charles H. Hamilton, Co. for time and material charges in the not to exceed amount of \$37,000 for temporary and permanent repair of the Western Row Lift Station force main.

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

Vice Mayor Nichols asked how long a permanent fix of this nature is expected to last. Richard Fair responded that it should last as long as the plastic pipe.

A motion to adopt Ordinance 2011-41 was made by Councilmember Gilb, seconded by Vice Mayor Nichols. VOTE: ALL YEAS.

CITY MANAGER'S REPORT

► The next Warren County Municipal League meeting is scheduled for Wednesday, April 20 beginning at 6:00 p.m. The topic is "Current Financial Climate for Warren County Municipalities". If any Councilmembers are planning on attending, please call Joan.

► City offices will be closed on Friday, April 22 in observance of Good Friday. The Mason Community Center will be open normal hours on April 22. The Community Center will be open with limited access from 12:00 p.m. – 4:00 p.m. on Easter.

► The NEC Chamber will sponsor its annual Spring Dinner and Auction on Wednesday, May 11 at The Manor House. A motion is in order if Council wishes to authorize attendance by Council Members, City Manager, Assistant City Manager and Economic Development staff to this event on behalf of the City. Cost is \$75 per person.

A motion to authorize attendance to the annual NECC Spring Dinner was made by Councilmember Cox, seconded by Councilmember Shimrock. VOTE: 6 YEAS, 1 NO (Bradburn)

► Council may wish to consider a modified summer schedule with a single meeting a month for May, June, July, and August as has been done in years past. A modified summer schedule allows more opportunity for committee meetings and work sessions such as the May 23rd work session put on the schedule tonight. To accommodate upcoming schedules and legislation, it is recommended that the 1st regular meeting (2nd Monday) of the month be held, cancelling the 2nd regular meeting (4th Monday). If Council wishes to make such a modification to the schedule a motion is in order.

A motion to modify the Council Meeting schedule was made was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

► On April 16, the City's annual Easter Egg Hunt will be moving to the Mason Community Center as an Eggstravaganza. Beginning at noon anyone in the community can participate in this event with activities along Main Street for children ages 0-12. Additional activities for Kids who are Mason Community Center members include the Zumbatomic Bunny Hop, the Duck Toss in the pool, the dance competition, and the egg hunt. These additional activities are available for non-members at the discounted rate of just \$20 for the entire family.

► The Community Center Open House held Saturday April 9 with a focus on group exercise was very successful. There were 176 participants in the group exercise classes, 20 memberships were sold, and this morning the group exercise classes were at capacity.

► The Community Center will host the Second Shop Local Event on Wednesday, April 20 from 11:30 a.m.-1:00 p.m. and 5:00 p.m.-7:00 p.m. The City has mailed out numerous applications for this event to local merchants and home sales representatives and has 11 different merchants or home sales representatives participating. The event will be held in the entrance and along Main Street of the Center and the public is invited.

► Again this year Mason Sports Park will be home to the Reds Rookie Success League. Dates are Thursdays and Fridays from June 9 – July 1 beginning at 10:00 a.m. and ending at 1:00 p.m. In partnership with the Cincinnati Reds, this character building skills camp is available to children ages 7-10.

► Registration for the Mason Water Moccasin outdoor swim team will begin on Monday, April 18.

COMMITTEE REPORTS

Councilmember Gilb reported that the Golf Course Committee will be presenting the new management contract at one of the next two Council meetings. Councilmember Bradburn questioned if this work might go out for bids or possibly consider the work being done in-house. He expressed the need to consider as many options as possible in order to reduce costs.

OLD AND NEW BUSINESS

Vice Mayor Nichols encouraged the residents near the Bethany Green Circle development to sit down with Henkle Schueler. He said that there is no harm from sitting down, talking and clarifying the information along with their positions. There seems to be a disconnect here with different information presented.

RECOGNITION OF VISITORS

Perry Schwartz of 6309 Tarton Fields Lane stated that he has reviewed the Golf Course financial statements as far back as 1990. He believes that decreased revenue is the problem, not maintenance which is a fixed cost. He suggests increasing revenue by organizing more leagues, corporate sponsorships, and improving the restaurant. Mayor Prince inquired as to the status of the driving range. Eric Hansen responded that the “boutique” range is ready to open soon and that the larger north range should be finished in 4-6 weeks.

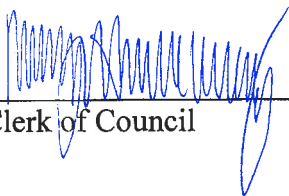
EXECUTIVE SESSION: LAND ACQUISITION

A motion to adjourn into Executive Session for the purpose of discussing Land Acquisition was made by Councilmember Bradburn, seconded by Councilmember Pelfrey. VOTE: ALL YEAS. TIME: 9:20 p.m..

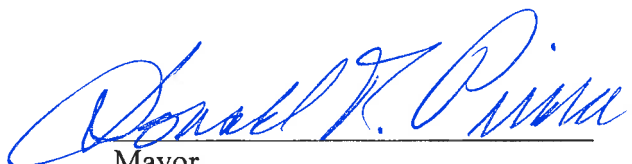
A motion to reconvene into Regular Session was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: ALL YEAS. TIME: 10:15 p.m.

ADJOURN

A motion to adjourn was made by Councilmember Cox, seconded by Councilmember Gilb. VOTE: ALL YEAS. TIME: 10:16 p.m.



Clerk of Council



Mayor