

**CITY OF MASON  
COUNCIL MEETING  
SEPTEMBER 22, 2014**

The meeting was called to order at 7:07 p.m. Vice Mayor Kidd opened the meeting in prayer. All those present recited the Pledge of Allegiance. The 2Knight2Knight group sang the National Anthem.

**ATTENDANCE**

The following members of Council were present: Victor Kidd, Barbara Spaeth, Rich Cox, Tom Grossmann, Don Prince, and David Nichols. Charlene Pelfrey was absent.

**APPROVAL OF MINUTES**

A motion to approve the September 8, 2014 Council Meeting Minutes was made by Vice Mayor Kidd, seconded by Councilmember Cox. VOTE: ALL YEAS.

**CITY MANAGER'S REPORT**

- ▶ On Tuesday, September 23<sup>rd</sup>, The Leukemia and Lymphoma Society will host their annual Light the Night walk at the Mason Municipal Center. Registration begins at 5:30 p.m., the walk begins at 7:00 p.m., and the event is open to the public.
- ▶ The 4<sup>th</sup> annual Patriot Fair will be held on Saturday, September 27, from 10:00 a.m. to 5:00 p.m. at the Mason Municipal Center, Memorial Park, and the surrounding grounds.
- ▶ Applications are being taken for the Community Center's next Shop Local event to be held on Wednesday, December 3, 9:00 a.m. – 4:00 p.m. Space is limited so get your application in early. Application deadline is November 5, 2014.

**COMMITTEE REPORTS**

Councilmember Cox read the Bicentennial Committee report. In the report, Councilmember Pelfrey thanked Councilmembers and City staff for assisting with the Bicentennial float at the Heritage Festival, the Festivals of Mason organization for another successful Heritage Festival, and Don Prince for organizing the parade. TriHealth has donated \$10,000 as a Bicentennial Sponsor which will help support Common Ground All-Inclusive Playground. Other sponsors include Kings Island and Great Wolf Lodge. Mason Monopoly games can now be pre-ordered through the Bicentennial website. The Bicentennial Opening Ceremony will be held on January 26, 2015 with recognition of special guests and sponsors.

Councilmember Spaeth reported that at the September Park Board meeting, Mason Community Center programs and activities were discussed including Teen GRIT, Girls on the Run, Yoga Expo, and Fall Fest in October. Activities in the parks include Moonlight Fishing, Light the Night Walk, Patriot Fair, and Andrew B. Foundation 5K run. She encouraged Councilmembers

to attend the Warren and Hamilton County Municipal Leagues' joint meeting on October 11<sup>th</sup> for a discussion on House Bill 5.

Councilmember Grossmann reported that at the Finance Committee meeting, recommendations were made to Festivals of Mason (FOM), an independent non-profit organization. The committee recommended changes to FOM by-laws including appointments of FOM Board of Trustee members be made by the FOM Board (not Mason City Council) and that contractual services by FOM Board Members for festival events be prohibited. The Finance Committee also recommends that FOM raise private funds in support of FOM events instead of relying on City funds. Councilmember Grossmann stated that the 2014 Heritage Festival was a wonderful event that was well attended and thanked the City for their support. He explained that the 2015 Bicentennial marquee event will be combined with Heritage Festival and requested a Council Work Session in October to discuss funding for this event. Councilmember Grossmann stated that he would like to resolve any conflict with Councilmembers regarding FOM funding issues.

Councilmember Prince stated that there were 67 entries and about 1600 walkers in the Heritage Festival Parade. He said that Councilmembers have been offered two tickets each to attend a USO Military Tribute with the Cincinnati Pops at Music Hall this Sunday that will honor gold star families and veterans.

#### **RECOGNITION OF PATRIOT FAIR REPRESENTATIVES**

Denise Waterman and Rich Pieper invited the community to attend the Patriot Fair on Saturday to enjoy activities and presentations for all age groups, period artisans, entertainment, and food. Special activities this year include a Molly Pitcher Tribute, Annie Oakley, and Buffalo Bill's Wild West Show.

#### **RECOGNITION OF 2014 LITTLE MISS HERITAGE COURT**

Mayor Nichols congratulated the girls as they were introduced and gave them cookies from the City of Mason. Allison Smith - Little Miss Heritage, Remi Deupree - 1<sup>st</sup> Attendant, and Ella Hardesty - 2<sup>nd</sup> Attendant shared their interests and expressed appreciation to the City of Mason for supporting Festivals of Mason.

#### **RECOGNITION OF VISITORS**

Kathy and Dave [REDACTED] of [REDACTED] expressed their frustration with the cancellation of a Police Officer disciplinary meeting and the results of a fact finding report compiled by City staff. They feel that there was Police misconduct concerning a crime against their family. Ken Schneider stated that Special Counsel to the City of Cincinnati and Warren County Prosecutor's Office both determined that there was not sufficient evidence of a crime being committed. Eric Hansen stated that when a number of serious allegations were made, the City initiated continued investigation from two outside parties. The Warren County Prosecutor's Office looked broadly at the case and determined that there was no misconduct with how the case was handled that impacted the outcome. There was nothing improper that Mason Police Department did that would have changed the outcome. A third outside party from the City of

Cincinnati investigated alleged issues regarding the conduct of Mason Police Officers and found no misconduct or criminal conduct that would have impacted the outcome of the case. He explained that at the conclusion of these lengthy and thorough investigations, the City followed up with a final fact-finding to clarify and summarize all the known items. At the conclusion of that fact-finding, it was determined that there was some miscommunication, officers used language that wasn't always clear or transparent, and no evidence was found that was worthy of discipline for any of the officers involved. He explained that there was no need for the preliminary disciplinary hearing because no facts found indicated the need to move forward. The internal investigation regarding Police Officer misconduct is over.

**RESOLUTION 2014-15 PROCLAIMING THE WEEK OF OCTOBER 5-11, 2014 AS NATIONAL FIRE PREVENTION WEEK**

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

Eric Hansen stated that Fire Prevention Week is observed each year in the week that October 9<sup>th</sup> falls. The Great Chicago Fire started the night of October 8, 1871. The NFPA theme for this year is "*Smoke Alarms Save Lives, Test Yours Every Month*" with the emphasis on working smoke alarms to give sufficient time to get out safely. He explained that the Mason Fire Department encourages families to install smoke alarms in every bedroom, interconnect all smoke alarms throughout the home, test alarms monthly, and replace all smoke alarms when they are 10 years old or sooner if they don't respond properly. Open houses will be held at Mason Fire Station 51 on Sunday, October 5<sup>th</sup> and at Station 52 on Saturday, October 11<sup>th</sup>. A "Smoke Alarm Blitz" is planned that week with firefighters going door-to-door to check or install smoke alarms and replace smoke alarm batteries. Fire prevention literature reinforcing safety will be distributed.

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

A motion to adopt Resolution 2014-15 was made by Councilmember Prince, seconded by Councilmember Spaeth. VOTE: ALL YEAS.

**ORDINANCE 2014-64 SECOND READING: AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO TO PROVIDE FOR THE REZONING OF APPROXIMATELY 0.6 ACRES FROM R-1 SINGLE FAMILY TO R-4 SINGLE FAMILY (608 CHURCH STREET)**

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

Kurt Seiler stated that Willard Tracy, property owner, is requesting to rezone approximately 0.6 acres of land located at 608 Church Street from R-1 to R-4. The property is on the north side of Church Street, just west of Mason Road, and adjacent to the future Gould Park. He explained that R-1 and R-4 zones are both Single Family Residential and allow the same uses. The main

difference between the two zones is that an R-1 zone requires a 40,000 square foot lot and an R-4 zone requires a 12,750 square foot lot. The zoning change would make this property similar to properties that are south and east of the property and extend the downtown area up to the flood plain. Staff and Planning Commission recommend approval of this rezoning.

The Public Hearing was opened at 8:01 p.m.

The Public Hearing was closed at 8:02 p.m.

Kurt Seiler confirmed with Councilmember Spaeth that the property owner could build an additional home on the rezoned lot and that he believes that is the owner's intent. Councilmember Grossmann asked if the property owner could tear down the existing home to build two homes on the property. Kurt responded that it would get more complicated if the existing home was removed, and that he believes their intention is to make improvements to the existing home and add a second home. This is consistent with surrounding properties and notice was published in the paper, is on the City website, and was sent to about 30 adjacent property owners.

A motion to adopt Ordinance 2014-64 was made by Councilmember Prince, seconded by Vice Mayor Kidd. VOTE: ALL YEAS.

**ORDINANCE 2014-65 SECOND READING: AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO TO PROVIDE FOR THE REZONING OF APPROXIMATELY 31.3 ACRES FROM B-2 SHOPPING CENTER AND R-6 CONDOMINIUM AND LANDMINIUM RESIDENTIAL TO BUSINESS PLANNED UNIT DEVELOPMENT WITH APPROVAL OF THE CONCEPT PLANNED UNIT DEVELOPMENT PLAN LOCATED ON THE SOUTH SIDE OF TYLERSVILLE ROAD WEST OF RADIO WAY (EVERYBODY'S FARM PHASE II)**

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

Kurt Seiler stated that the 31.3 acre property, located south of Tylersville and east of Snider Road, is currently zoned B-2 and R-6, and is proposed to be rezoned B-PUD Business Planned Unit Development. The Concept Plan for the development shows six buildings totaling 172,020 square feet. The proposal shows one multi-tenant building in the center of the development with commercial outlots towards Tylersville Road and three story office buildings positioned along the western property line. He explained that green space on the site totals 6.3 acres, or 20.1% of the property, which meets PUD requirements. Walking paths are incorporated in the plan. Kurt stated that this is a concept plan and not a final PUD plan, which will come back for Planning Commission's approval. He explained that buffering along the west property line was discussed at Planning Commission and since that time the developer has done a lot of work to address concerns in this area. The proposed uses within the development complement the adjacent uses in Everybody's Farm Phase I as well as those within the Greenbrier development on the north side of Tylersville. The proposed office uses on the western portion of the property can serve as a buffer between the more intense commercial uses and the adjacent residential uses. Kurt said

that should the plans be approved by City Council, a detailed study of internal access points and buffering will need to be provided to staff and Planning Commission for final approval in addition to standard Final PUD requirements. Planning Commission requested that notices be sent to property owners during the Final PUD review process. Planning Commission has recommended approval of Ordinance 2014-65.

The Public Hearing was opened at 8:10 p.m.

Bill Chester with Bunnell Hill Development introduced his team on this project: Jim Shumate, Civil Engineer with CDS; Jeff Eichhorn with Henkle Schueler; and Chris Papakirk, landscaper with TOPOS Studios. Bill explained that after hearing the concerns at Planning Commission in July, the developer hired a landscaper to catalog all the trees along the western property line with a 6" caliper or greater. With a goal to save the 257 trees that were identified, the developer decided to move the grading back 20 feet from the property line in order to leave an undisturbed area for the trees, add additional trees and fencing, then grade to a natural stone stream. This area would create a 90 foot buffer. Jeff Eichhorn stated that a unique retailer wants to locate to the City of Mason. He explained that with the revised plans to preserve as much of the natural buffer as possible, the developer loses over a half acre of land that could have been developed. This increased buffer is over and above what is required.

Jared Kiley of 6308 Fireside Drive explained his concerns with the development regarding a connection becoming a cut-thru, the buffer, and reduced property value. He stated that he spoke with residents, including residents that will be visually affected by this development. He would like a 75-foot buffer of undisturbed land to include evergreen trees and existing brush. He would like that no connection from the development be made to Fireside Drive or Firethorne. Any connection would increase traffic through the neighborhood. Mr. Kiley stated that the 2010 Comprehensive Plan outlines medium density residential bordering shopping center district and a community park for Everybody's Farm development. He is concerned that a change to this plan would create a severe loss of residential property values due to increased noise levels and lights from the parking lots. He listed items in the Comprehensive Plan addressing tree stance, sound, pedestrian paths, and a greenway corridor connecting to a future park. Jared presented paperwork regarding this future development that many residents took the time to complete.

Jennifer Haggerty of 6394 Amber Court expressed her concerns regarding the importance of protecting existing trees for wildlife and households. She requested that Mason build more parks for families and stop building shopping areas.

Edwin Porter of 6341 Fireside Drive stated that when he purchased his home in 2010, he understood that the property east of his house would be landminiums and a park. The proposed plan is quite different. He restated Mr. Kiley's remarks regarding the tree line and a Fireside and Firethorne cut-through.

Michael Monds of 6299 Tracy Place expressed his opposition to 3-story buildings being built adjacent to his property.

Scott Dieffenderfer, President of the Finsbury Point Association, 6116 Fireside Drive asked if the natural watershed area would be disturbed. Jim Shumate, Civil Consultant to Bunnell Hill, explained how water from a culvert that runs under Tylersville Road would be directed to a stormwater management area. In this area there is a water quality basin adjacent to a wet-dry detention pond. This pond is a grassy area that will fill up during heavy rain events and slowly release the water within 48 hours. Jeff Eichorn addressed Mr. Dieffenderfer's question about tax breaks to the developer by stating that there are none.

Lisa Slater of 6248 Fireside stated that she has lived in her home for 18 years, loves her view, and would like the buffer to remain. She wonders if 20 feet will be enough to protect the buffer. Chris Papakirk, landscaper with TOPOS studios stated that many of the trees worth saving are right on the property line and most likely will survive any disturbance 20 feet out.

Celia Davey of 6334 Chimney Court stated that she lives in the Condos adjacent to this development and moved for the family friendly community. She expressed her concerns regarding a commercialized development so close to residential, what happens if the commercial tenants vacate the property, building heights, and the effect this development will have on residential property values.

Steve Morgan of 6336 Chimney Court had questions that were answered by the Bunnell Hill team. Chris Papakirk stated that existing trees in the buffer zone range from 20 to 50 feet in height. Bill Chester stated that the height of a 3-story building is about 30 feet and explained the location of buildings in the concept plan. No builders were interested in developing the current R-6 zone and stated that it is not large enough to build 180 units. Mr. Chester stated that the development has never had a park or connection to the adjacent residential neighborhood in the plan. Jim Shumate explained that the ridge elevation varies at the existing tree line and that graded elevations of the development will be from 10-15' lower than existing homes. Chris Papakirk explained that evergreen trees can be planted that will have fast growth rates and decent initial height so that within 10 years there would be significant height, up to 25' in the buffer.

Ron Greene of 6307 Tracy Place asked questions regarding plans for the southern buffer, where grading material will be dumped, connection to the future Common Ground Park, and lighting levels of the parking lots. Jim Shumate explained that the stream is far enough from the existing buffer to the south and that the southern property line is expected to remain undisturbed. He stated that there is no intention to connect Fireside to the park property. The zoning code addresses lighting heights and expects that the City requires zero foot-candles at the property line.

Greg Ennis of 6293 Tracy Place expressed concerns regarding erosion, basement flooding, and increase flow from the relocated stream impacting these issues. Jim Shumate explained that the relocated stream remains separate from the Little Muddy Creek tributary near the property in question and will not increase the tributary's flow rates. The rerouting of the stream and additional stormwater management planned may improve the problems Mr. Ennis expressed. He explained that rerouting this tributary requires permits and is not feasible at this time.

Margo Joyce of 6344 Chimney Court repeated concerns already expressed. To her concerns regarding costs to existing homeowners for the retention pond in the proposed development, Mr. Shumate stated that the developer is responsible for these costs.

John Keuffer of 6377 Fireside Drive asked Councilmembers to consider what they would do if they lived in the neighborhood adjacent to this development.

The Public Hearing was closed at 9:11 p.m.

Councilmember Cox stated that he is impressed with the developer's plans to lose property in order to save the tree line, reroute the stream, and believes that these efforts exhibit the developer's concern for adjacent property owners. He stated that as a homeowner, he would prefer this development over condos because weekend and evening traffic will be reduced and he believes that the buffer will be adequate.

Councilmember Spaeth asked about future opportunities for residents to communicate with the developers on this project. Kurt Seiler responded that residents can contact the developer at any time. Residents will receive notification of Planning Commission meetings that consider approval of each final PUD on this site. He added that the developer plans on planting trees in the buffer before construction of the office buildings and buildings along the western property line, so that when these buildings are in place, the trees will be more mature.

Vice Mayor Kidd talked about how the City has changed from a farming community since he moved to Mason in 1965. He discussed advantages of PUD zoning over current zoning for this development and believes that the proposed PUD plan would be desirable.

Councilmember Grossmann asked for clarification regarding street plans to the adjacent neighborhood. Kurt Seiler stated that the 2005 Thoroughfare Plan does not show a connection but that the 2010 Comprehensive Plan does show a connection. Any connection would be difficult if the office buildings are constructed and would be considered a major change. Major changes to the concept plan require notification and come back to both Planning Commission and City Council for approval. Kurt explained that the final landscape plan and buffer will be reviewed and approved at Planning Commission. Councilmember Grossmann stated that his principle concern is the rezoning of 17 acres of the property from residential to business which is a fundamental change in usage. Kurt explained that staff felt that with additional set-back, trees, and office buildings, this area would act as a buffer between the residential and higher commercial usage. Bill Chester explained that residential developers need a minimum of 180 units in order for a condominium development to make sense. A number of residential developers have been approached regarding building in the R-6 zone and all have passed.

Councilmember Prince talked about the significant buffer, the importance of keeping the streams separate on the property, and parking lot lighting. He stated that if he lived in this area, he would prefer this development over what could potentially be there. Councilmember Prince asked if an amendment to the ordinance is needed to remove the possibility of a cut-thru connection between the development and residential. Kurt Seiler stated that he doesn't believe an amendment is necessary since the Thoroughfare Plan does not require this connection, the concept plan does

not show this connection, and it would require Planning Commission and Council approval if a connection is ever proposed in the future.

Mayor Nichols stated that he considers barriers and lighting into residential to be most important. In new developments, the City requires installation of dark sky fixtures. He expressed Council's desire to consider concerns expressed by the residents and he believes that PUD zoning will be better in the long term than what could have been.

A motion to adopt Ordinance 2014-65 was made by Vice Mayor Kidd, seconded by Councilmember Cox. VOTE: 5 YEAS, 1 NAY (Grossmann).

**ORDINANCE 2014-81 AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO THE EXISTING AGREEMENT BETWEEN THE CITY OF MASON AND LJB INC., FOR DESIGN SERVICES NECESSARY FOR THE KINGS ISLAND DRIVE IMPROVEMENT PROJECT IN THE AMOUNT OF \$81,585**

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

Eric Hansen explained that the City has been working with a number of partners on two major projects in this area, improvements to Kings Island Drive and a full interchange at Western Row Road. Kings Island has coordinated with the City to benefit the roadway by consolidating their parking. The Federal Government required a change to interchange plans with relocation of the northbound I-71 on-ramp to the Western Row/Kings Mills intersection. Eric explained that the relocation does not require any right-of-way changes but does require revision of several plan drawings. LJB will need an additional \$81,000 to make necessary revisions to construction documents to keep both projects on schedule.

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

During Council discussion, Kurt Seiler explained I-71 interchange project ramp locations. He stated that the Federal Highway Administration (FHWA) requested that the planned on-ramp across from Soak City Drive be moved down so that it is now coming off of Western Row Road. Traffic traveling west on Western Row will use this relocated ramp and traffic traveling east will use the loop ramp that remains unchanged.

A motion to adopt Ordinance 2014-81 was made by Vice Mayor Kidd, seconded by Councilmember Spaeth. VOTE: ALL YEAS.

**ORDINANCE 2014-82 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MERCER GROUP, INC. FOR THE RECONDITIONING OF THE BASEBALL FIELDS AT CORWIN NIXON PARK IN THE AMOUNT OF \$159,991 AND DECLARING AN EMERGENCY**



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

Eric Hansen explained that the 2014 Budget included \$300,000 for work related to Heritage Oak Park and Corwin Nixon Park. Replacement of fencing at Corwin Nixon Park ball fields has been authorized at a cost \$180,000. Additional improvements are needed to address concerns about the condition of the fields. The Corwin Nixon fields have not had a major renovation in over 20 years. Work that is needed includes cutting and straightening the edges, removal of vegetation in the infield, grading the surface to remove irregularities, and installation of an irrigation system to maintain the sod. Bids for this work came in at approximately \$180,000 which is \$40,000 more than remaining budgeted funds. Eric explained that the Recreation Improvement fund has higher than budgeted revenues due to the increase in activity for building permits this year. The additional \$40,000 needed for the field work could be funded from the Recreation Improvement Fund. A supplemental appropriation would be needed at the end of the year.

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

A motion to adopt Ordinance 2014-82 was made by Councilmember Spaeth, seconded by Councilmember Cox. VOTE: ALL YEAS.

#### **OLD AND NEW BUSINESS**

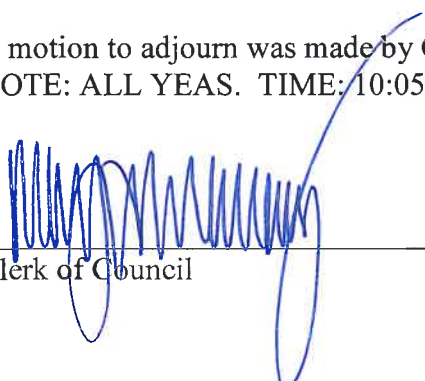
A motion to approve Mayor Nichols' appointment of Rachel Kopfler to the Tax Board of Review was made by Vice Mayor Kidd, seconded by Councilmember Cox. VOTE: ALL YEAS.

Mayor Nichols asked for continued prayers for the families of the three American and British citizens recently beheaded by terrorists and for the many unnamed American hostages being held.

#### **RECOGNITION OF VISITORS** - none

#### **ADJOURN**

A motion to adjourn was made by Councilmember Grossmann, seconded by Vice Mayor Kidd. VOTE: ALL YEAS. TIME: 10:05 p.m.

  
Clerk of Council

  
Mayor