

**CITY OF MASON  
COUNCIL MEETING  
JANUARY 27, 2003**

Vice Mayor Fox called the meeting to order at 7:05 p.m. and led those in attendance in the pledge of allegiance.

**ATTENDANCE**

The following members of Council were present: Jim Fox, Dick Staten, Victor Kidd, Tom Grossmann, Peter Beck and Charlene Pelfrey. John McCurley was absent.

**APPROVAL OF MINUTES**

A motion to amend the minutes of the January 13, 2003 meeting was made by Councilmember Staten to reflect the January 13<sup>th</sup> date in the title. Councilmember Pelfrey seconded the motion. VOTE: ALL YEAS

A motion to approve the minutes of the January 13, 2003 meeting as amended was moved by Councilmember Staten, seconded by Councilmember Kidd. VOTE: ALL YEAS

Mr. John Looker and Jim Freeze from the American Legion Post 194 addressed Council and presented a check for \$6,000 to Councilmember Beck for the Veteran's Memorial Fund. They thanked the City for their cooperation and generosity to help make their dream a reality. The funds were a combined contribution from the members of the American Legion, the Sons of the American Legion and a donation from Jeff Benson.

**RECOGNITION OF VISITORS**—none

Vice Mayor Fox stated a request has been received to discuss Ordinance 2003-14 in executive session. The motion to include that discussion in executive session was made by Councilmember Pelfrey, seconded by Councilmember Kidd. VOTE: 5 YEAS, 1 NAY (Staten)

**ORDINANCE 2003-05 2<sup>ND</sup> READING--APPROVAL OF THE WATERLINE EASEMENT PLAT FOR GREAT AMERICAN INSURANCE COMPANY**

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

Scot Lahrmer requested this legislation be tabled until the February 10, 2003 meeting.

A motion to table Ordinance 2003-05 until the February 10 meeting was made by Councilmember Staten, seconded by Councilmember Beck. VOTE: ALL YEAS

**ORDINANCE 2003-09 APPROVAL OF FINAL PLAT OF LENSRAFTERS  
SUBDIVISION**

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

Richard Fair explained to Council this plat will dedicate right-of-way for Western Row Road, Lenscrafters Lane, and Luxottica Place. It will also provide the necessary easements for the water, utility, sanitary and storm sewers for this subdivision. Richard Fair stated this has been approved by Planning Commission contingent upon submission of a subdivider's contract and a performance bond.

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

A motion to adopt Ordinance 2003-09 was made by Councilmember Kidd, seconded by Councilmember Beck. VOTE: ALL YEAS

**ORDINANCE 2003-10 ACCEPTING PUBLIC IMPROVEMENTS FOR  
GREENBRIER, PHASE 2, SECTION 1A AND RELEASING THE  
PERFORMANCE BOND**

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

Richard Fair explained to Council the purpose of this legislation is to release the performance bond and accept the public improvements as recommended by staff. He stated the various departments from the City have inspected the public improvements and found them to meet the City's standard. He said the streets, which are private, include Lake Shore Drive, Lakelyn drive, Lake Springs Drive, Southwater Drive and the southern portion of Twin Lakes Drive. He also stated those private streets will not become the City's responsibility. He stated staff recommends approval contingent on the submission of a one-year maintenance bond.

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

A motion to adopt Ordinance 2003-10 was made by Councilmember Staten, seconded by Councilmember Grossmann. VOTE: ALL YEAS

**ORDINANCE 2003-11 APPROVAL OF FINAL OF WEATHERSTONE,  
SECTION 3, BLOCK C**

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

Richard Fair explained to Council on December 3, 2002 Planning Commission recommended this final plat for approval prior to the conflict that followed. He further explained on December 13, 2003 Monogram's contractor proof rolled the subgrade in Section 3, Block C under the observation of an Engineering Department inspector. Proof rolling is required by the City's standards before laying curb and gutter or paving in every city subdivision. The subgrade failed and the inspector informed the contractor that the street couldn't be paved in the current condition. Later that day, the inspector returned to the site to discover the contractor had begun paving despite the inspector's instruction. The inspector repeated the instruction regarding the subgrade being unacceptable and ordered the paving to cease. The contractor did not stop the paving operation. Richard Fair stated his office informed the developer and contractor that the pavement would have to be removed and the subgrade recompacted. Instead of removing the asphalt, the contractor returned the following week to the site and placed the second coarse of asphalt, without inspection. Richard Fair also stated this situation is similar to one that happened last year with this same developer in another section of this development. As this is the second time this has occurred with this developer, staff is recommending approval be denied for this section until it is brought up to City standards.

Councilmember Grossmann asked if the developer stated why they were continuing to pave. Richard Fair stated they said they had a timeline for the sale of the lots. Ken Schneider, Law Director, stated the City will comply with the law and it is important the City continue pursuing this in the manner the Engineering Department has established. Mr. Steve Kelly representing the developer, addressed Council and stated they have used this contractor before and have had success with their work. He stated this portion of the development is very important as it provides access to the multi-family section of the project. He stated a bond amount has been submitted to the City and has been reviewed by their staff for the cost required to bring the road up to City standards. Councilmember Grossmann asked Richard Fair if posting an adequate bond would be acceptable for approving this final plat. He replied no because once it is approved, homes will be built and residents will be living in them. The City will then have to tear out the street and the residents will not have adequate access to their homes. Councilmember Grossmann asked if the City could withhold an occupancy permit prior to the street being repaired so residents would not be affected. Mr. Kelly stated the builder of the condominiums has an option on one of the units now and is interested in seeing this timeline continue. He stated he believed the paving contractor might have thought this was a private street and did not have to meet City standards. Councilmember Staten commended the Engineering Department for discovering this substandard work. He stated Planning Commission would not have approved this final plat and recommended approval by Council if they had been aware of this situation. He also stated Planning Commission recommends to Council but their action is not final approval by the City. He said knowing the problems we have had with this developer in the past, the City should not approve this tonight. He asked Mr. Kelly if he took Planning Commission's recommendation as final approval by the City. Mr. Kelly replied no. Mr. Kelly asked the City to allow the developer to post an adequate bond to make corrections as soon as possible in the spring when the asphalt plants open. Mr. Schneider asked Mr. Kelly if Mr. Fair's reasonable representation of the facts are accurate as you understand them. Mr. Kelly said yes, he believes what Mr. Fair

said is accurate. Councilmember Grossmann asked if they had not put in any street, would the curb and gutter survive the winter. Richard Fair stated they took a risk in putting down the curb and gutter and the City cannot be held responsible for their decision. He said the curb and gutter will move in the winter if the asphalt is not installed. Councilmember Grossmann stated he is interested in making sure the roads are built to City standards. He asked if the developer posts the bond, can't the City approve the plat and be confident the improvements will be done. Richard Fair stated this developer has indicated they want to come in the spring and do some testing on the pavement so they will not have to replace it. He stated the road will fail and it will be the City's responsibility to repair it if it is not built to City standards.

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

Councilmember Staten called the question.

A motion to adopt Ordinance 2003-11 was made by Councilmember Staten, seconded by Councilmember Kidd. VOTE: 4 YEAS, 2 NAYS (Pelfrey, Grossmann)

**ORDINANCE 2003-12 APPROVAL OF FINAL PLAT OF WEATHERSTONE, SECTION 4, PHASE B**

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

Richard Fair stated to Council the developer is requesting approval of the final plat, which includes 20 single-family lots on 9.2146 acres. He said this plat will dedicate the sanitary, utility, storm water and landscape buffer easements needed for this section of the subdivision.

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

Councilmember Grossmann referred to the previous legislation and stated he feels it is Council's duty to continue a full line of questioning and discussion and asked for the respect from other Councilmembers to allow this to occur. He stated he is addressing this now as this legislation deals with the same developer and the same project.

A motion to adopt Ordinance 2003-12 was made by Councilmember Staten, seconded by Councilmember Pelfrey. VOTE: ALL YEAS

**ORDINANCE 2003-13 AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE STATE OF OHIO, DEPARTMENT OF DEVELOPMENT PROVIDING FOR CONTINUED PARTICIPATION IN THE COMMUNITY DEVELOPMENT BLOCK GRANT REVOLVING LOAN FUND PROGRAM**

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

Eric Hansen stated this legislation allows the City to enter into an agreement with the State of Ohio, Department of Development to continue participation in the Community Development Block Grant. He stated this is a housekeeping item that requires renewal every three years. Councilmember Pelfrey asked if there is any fine for not utilizing the funds by a certain time. Eric Hansen stated there is no particular deadline although the state encourages use in a timely manner. Councilmember Pelfrey asked if the City will be limited in receiving future grants. Eric Hansen stated he is aware of no connection that would hinder the City's ability to receive additional grants.

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

A motion to adopt Ordinance 2003-13 was made by Councilmember Staten, seconded by Councilmember Kidd. VOTE: ALL YEAS

**ORDINANCE 2003-14 AUTHORIZING THE EXPENDITURE OF FUNDS BY THE MASON MUNICIPAL COURT FOR THE PURCHASE OF AN X-RAY MACHINE FOR COURT SECURITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER**

Vice Mayor Fox stated this item will be discussed in executive session so action will be postponed until later on this legislation.

**ORDINANCE 2003-15 AMENDING ORDINANCE NO.2002-94 ESTABLISHING THE POSITIONS AND RATES OF COMPENSATION FOR EMPLOYEES OF THE MASON MUNICIPAL COURT AND DECLARING AN EMERGENCY**

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

Eric Hansen stated the purpose of this legislation is to allow for an additional magistrate position for the court, who will be paid \$12,000. He stated the County will pay \$4,000 and the remainder will be paid out of court funds. He stated no general fund dollars will be required for this position.

Councilmember Grossmann reported the Court Liaison Committee reviewed the request for a magistrate to handle small claims. This position will handle the appeals for people losing their driving licenses. He said this position is needed and will pay for itself without any funds from the City's general fund. This has been approved by the committee. Councilmember Staten asked if there is a history of the number of cases that justifies this position and who will monitor this in the future. Mr. Bill Scherpenberg, the Clerk of Court, addressed Council and stated the court handles approximately 400 DUI

cases per year. It is anticipated 200 of those cases will be appealed. A cost of \$75 per case is charged. Mr. Scherpenberg stated the court can supply a report that clearly designates the amount of money generated. Councilmember Beck asked who did this function in the past and have the fees changed. He also asked if it is legal to pay salaries out of special project funds. Mr. Scherpenberg stated he has just received an opinion from the auditor's office that it is legal. He also stated in the past it was handled as a negotiation between the prosecutor and the defense. He said now it is moved over to an administrative area. Councilmember Kidd asked for what amount of every dollar is contributed to the special project fund. Mr. Scherpenberg replied he believes it is \$5 per case.

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

A motion to adopt Ordinance 2003-15 was made by Councilmember Pelfrey, seconded by Councilmember Grossmann. VOTE: ALL YEAS

**ORDINANCE 2003-16 APPROVING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF MASON AND TRUCK DRIVERS, CHAUFFEURS AND HELPERS LOCAL 100, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND DECLARING AN EMERGENCY**

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

Eric Hansen explained to Council the City has been negotiating a new contract with the International Brotherhood of Teamsters Local 100 for several months. The current contract expired December 31, 2002. The new contract includes a provision for annual pay increases of 5.5%, 4.5% and 3% for each year of the contract. Eric also stated the new contract includes a modification of the license incentive structure in Public Utilities to account for loss of water operations and a management initiative to increase ability to utilize "beeper pay" to rapidly respond to after hours needs. Staff recommends approval.

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

A motion to adopt Ordinance 2003-16 was made by Councilmember Staten, seconded by Councilmember Pelfrey. VOTE: ALL YEAS

**CITY MANAGER'S REPORT**

A Council Worksession is scheduled for February 11 at 6:00 p.m.

The Warren County property valuations reveal Mason's 2002 valuation is \$847,756,510. This represents a 6.8% increase for 2001's valuation.

The City has used over 2000 tons of salt, 2200 gallons of calcium chloride, 100 tons of sand, driven over 15,000 miles and spent over 400 hours of work plus 750 hours of overtime for snow and ice removal. Councilmember Beck asked about the City's supply of salt and have we had trouble in getting what we need. Scot replied we have a fixed cost for the salt we purchase and the City is reliant on barges being able to travel the river to bring the salt to us.

### **COMMITTEE REPORTS**

Councilmember Beck reported on the Veteran's Memorial CEO breakfast meetings. They are scheduled through February. He stated February 6 at the American Legion there is a special meeting to discuss the dedication of the memorial in November. He invited any interested residents to attend.

Vice Mayor Fox reported a Utility Committee met prior to the meeting tonight. He stated water and sewer rates were discussed and will be brought up at the worksession.

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

Councilmember Kidd asked why the direction of the Heritage Parade was being changed this year. Scot Lahrmer stated the committee handling this event is chaired by Vickie Larcomb and she stated St. Susana's construction will be under way. That means the vacant lot will not be available.

Councilmember Pelfrey asked about the pocket park planned for on US 42 in front of All Smiles Dental. She stated she was disappointed to see the trees removed. Councilmember Staten said Planning Commission was successful in getting the pocket park included in the plan but the property owner had to remove the trees in order to develop his property.

Councilmember Staten asked if an alternate location has been identified for the Farmer's Market since the vacant lot next to St. Susanna's will not be available. Scot Lahrmer replied this has not been resolved. He then asked if the language in Ordinance 2003-11 and 12 is accurate as if referred to approval by Planning Commission. He asked Ken Schneider if it shouldn't state "as recommended by Planning Commission." Ken Schneider agreed it should be by recommendation and will look into the matter. Councilmember Staten asked what a person receives when they request a copy of an ordinance. Scot Lahrmer said they receive exactly what they have requested.

Councilmember Grossmann asked if the City can be subject to litigation if they refuse approval on a final plat if an adequate bond has been posted. Ken Schneider stated he will review the code and report on that later with a complete answer.

### **RECOGNITION OF VISITORS**—none

## **EXECUTIVE SESSION**

A motion to go into executive session for the purpose of discussing litigation, land acquisition and security was made by Councilmember Pelfrey, seconded by Councilmember Kidd. VOTE: ALL YEAS

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

A motion to add Ordinance 2003-17 to the agenda was made by Councilmember Staten, seconded by Councilmember Kidd. VOTE: ALL YEAS

### **ORDINANCE 2003-14 AUTHORIZING THE EXPENDITURE OF FUNDS BY THE MASON MUNICIPAL COURT FOR THE PURCHASE OF AN X-RAY MACHINE FOR COURT SECURITY AND AUTHORIZING THE CITY MANAGER TO EXECUTE A PURCHASE ORDER**

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

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

A motion to adopt Ordinance 2003-14 was made by Councilmember Grossmann, seconded by Councilmember Kidd. VOTE: ALL YEAS

### **ORDINANCE 2003-17 AUTHORIZING THE CITY MANAGER TO ENTER INTO A SETTLEMENT AGREEMENT WITH JOHN J. AND LINDA S. FAVRON, FOR THE ACQUISITION OF PROPERTY LOCATED AT 136 S. MASON-MONTGOMERY ROAD, MASON, OHIO 45040, AND DECLARING AN EMERGENCY**

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

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

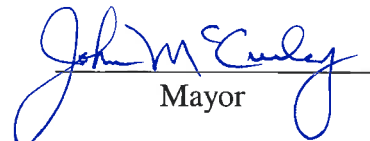
A motion to adopt Ordinance 2003-17 was made by Councilmember Staten, seconded by Councilmember Kidd. VOTE: ALL YEAS

## **ADJOURN**

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



  
Clerk of Council

  
Mayor