

**CITY OF MASON
COUNCIL MEETING
JANUARY 12, 2004**

Mayor Beck called the meeting to order at 7:10 p.m. Pastor J. D. Childers was introduced and opened the meeting with a prayer. Those present recited the pledge of allegiance.

ATTENDANCE

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

APPROVAL OF MINUTES

A motion to approve the minutes of the December 8, 2003 Council meeting was made by Councilmember Kidd, seconded by Councilmember Bradburn. VOTE: ALL YEAS

SWEARING IN OF CHAPLAIN J. D. CHILDERS

Mayor Beck performed the swearing in ceremony for Pastor J. D. Childers for the Chaplain's program.

SWEARING IN OF POLICE OFFICER CRAIG KLINE

Chief Ferrell introduced Police Officer Craig Kline who was then sworn in by Mayor Beck.

RECOGNITION OF VISITORS

Susan Smith of 5190 Concord Crossing addressed Council and explained she has a flooding problem in her basement in which raw sewage comes up through the drain in the floor. She stated this has happened repeatedly and she is now afraid her insurance company will cancel her policy. She shared pictures of the flooding and stated she knows of two other addresses that have experienced the same problem. They are 5187 and 5204 Concord Crossing. She also stated she observed raw sewage around a manhole while she was walking in the neighborhood. She said she has contacted a plumber and had the back flow device checked out and was informed it is working properly. She stated she has researched the situation as her property value has dropped and she has discovered a new device that has been used in the City of Middletown to correct these problems and it is called a "flood gate". She stated she has talked to the man who designed this and he assures her this should correct the problem. She said the cost will be \$2400 and asked the City to cover that expense. Scot Lahrmer stated the City has experienced problems when the storm water enters the sanitary sewer line in two areas of

the City. He said LJB has been hired to review the situation and make recommendations. He stated their report is expected in March or April. He also stated the City wants to correct the problem long term and not just move the problem to affect others. He stated this "flood gate" will be reviewed and they will check with Middletown to make sure it was used successfully in similar situation. Mayor Beck said Council will consider covering the cost of the device. Councilmember Grossmann asked if the City pays for the new device would she be willing to sign a release. She said she would sign a release if she can get this device installed. Councilmember McCurley stated he would like a report at the next Council meeting on this device and he would like a high priority placed on the report from LJB. Susan Smith asked whom she should contact and Scot Lahrmer instructed her to contact Keith Collins as he will be the one reviewing the device.

Jim Fox of 136 Kings Mills Road addressed Council and asked about the status of the request for a skateboard park. Scot replied the design of the park was included in the 2003 budget but due to the opening and operational demands of the Community Center, it was not accomplished. Jim Fox asked if it was included in the 2004 budget and Scot replied no. Mayor Beck stated the Finance Committee felt they did not have enough facts to justify expenditure of \$600,000 without a design. He said he thought the Park Board was coming up with a design recommendation. Jim Fox stated there is a group of citizens looking at the design but they were not intending to create a design. Scot stated \$30,000-\$40,000 was in the 2003 budget for the design. Jim Fox stated this is a sport with a tremendous following. He stated 3 new parks are opening up each week in this country. He stated the City has spent \$400,000 on playground equipment, \$313,000 on landscaping and irrigation on Mason Montgomery Road and \$358,000 for one-years expense on landscaping and maintaining city property. He also stated \$600,000 would build a great skate park and it would receive more use year round than the bike paths. He also stated if it is constructed out of concrete, it would require very little maintenance. He said the Park Board unanimously recommended it and the schools submitted over 1400 signatures in only two days to show support for the project. Mayor Beck stated Delhi Township paid \$187,000 for their skate park. He stated we need further justification to spend \$600,000. He stated Finance Committee can review the matter. Councilmember Grossmann suggested this be done as a regional effort with surrounding jurisdictions. Scot Lahrmer stated the design can move forward if Council agrees to proceed with the expense of \$30,000-\$40,000. Councilmember McCurley stated there should be a design available so we don't reinvent the wheel. Jim Fox stated the Committee could look into that. He suggested it be located by the swimming pool as the bike paths all lead to it. Councilmember Osborne asked if the City has a surplus in the budget. Mayor Beck replied yes. Councilmember Kidd stated any issue that has received 1400 signature shows a lot of support and the City should move forward with it. Councilmember Grossmann stated we need an idea for the design and then determine the cost and see if a joint project with others is a good idea. Mayor Beck concluded by asking Jim Fox to obtain designs and costs if possible.

Mike Ullom of 6253 Crooked Creek Drive addressed Council and stated his basement flooded and he observed gravel. He said some residents have not been as fortunate as the

Smiths and their insurance has not covered any expense. He stated this can be in the thousands of dollars.

ORDINANCE 2004-01 APPROVAL OF THE DEDICATION PLAT FOR THE DEERFIELD ACQUISITION CORPORATION PROPERTY

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

Richard Fair explained to Council, Blake Helms with Hi-Five Development Services, Inc., representing the Deerfield Acquisition Corporation, is requesting the approval of the dedication plat of right-of-way along Mason-Montgomery Road for the ICE Industries site. He said this plat will dedicate 40' of right-of-way along Mason-Montgomery Road to the City of Mason. He also said the plat is consistent with the requests made by Planning Commission on July 1st, 2003 and the City of Mason Thoroughfare Plan and staff recommends approval.

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 Ordinance 2004-01 was made by Councilmember McCurley, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-02 APPROVAL OF THE REPLAT FOR LOTS 2 AND 3 OF THE CENTRAL PARKE OF MASON SUBDIVISION

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

Richard Fair explained to Council Steven Pennington with Henderson and Bodwell, L.L.P., representing Scott Street Partners, is requesting approval of the replat for Central Parke of Mason PUD. He said the Central Parke of Mason PUD is located on the southwest corner of Financial Way and Mason-Montgomery Road. Richard added the purpose of this replat is to revise the location of the property line located between lots 2 and 3. This replat will increase lot 2 by 2.0973 acres to 4.5546 acres and decrease lot 3 to 2.4895 acres. He stated during the January 6th meeting, Planning Commission reviewed the replat and determined that it was a minor change to the PUD and they recommended approval.

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

A motion to adopt Ordinance 2004-02 was made by Councilmember Osborne, seconded by Councilmember Bradburn. VOTE: ALL YEAS

ORDINANCE 2004-03 APPROVAL OF THE REPLAT AND DEDICATION PLAT FOR 100 WEST CHURCH STREET

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

Richard Fair explained to Council, David Cox with Kleingers and Associates, representing the City of Mason, is requesting the approval of the dedication plat of right-of-way along Mason-Montgomery Road for the single-family home located at 100 West Church Street. He stated this plat will dedicate 22' of right-of-way along Mason-Montgomery Road to the City of Mason. He added the plat is consistent with the 2003 City of Mason Thoroughfare Plan.

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

A motion to adopt Ordinance 2004-03 was made by Councilmember Osborne, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-04 ACCEPTING THE PUBLIC IMPROVEMENTS FOR HICKORY WOODS SUBDIVISION, SECTION 2

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

Richard Fair explained to Council Section 2 of the Hickory Woods subdivision includes Shagbark Court and part of Hickory Woods Drive. The Public Utilities, Public Works and Engineering Departments inspected the public improvements, with all items being completed except for the installation of the street trees. He stated Public Works will install the street trees and bill the developer for the installation of the trees. The streets, utilities and other public improvements will become the City's responsibility upon acceptance. Richard said staff recommends acceptance of the public improvements.

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

A motion to adopt Ordinance 2004-04 was made by Councilmember Kidd, seconded by Councilmember McCurley. VOTE: ALL YEAS

ORDINANCE 2004-05 APPROVAL OF THE FINAL PLAT FOR WINDEMERE PUD, PHASE 4

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

Richard Fair explained to Council at the June 2003 Planning Commission meeting, Dan Griffin of Hines/Griffin Development received approval for the final two phases (4 and

5) of the subdivision with several contingencies. The most critical contingencies were for the developer to complete the curbs and base coarse of asphalt work for both phases and the Bethany Road improvements. An additional contingency was that the plats were not to be reviewed by City Council until the contingency items were completed. To date, the Bethany Road improvements have not been completed and the extension of Windemere Way has not been constructed. However, Mr. Griffin is asking City Council to allow him to bond all of the remaining work and receive approval for the final plats in order to construct additional homes.

Richard further stated residents in Sections 1 and 2 continually contact the City and want the items completed by the developer in their sections. This includes bike paths and maintenance on a large retention pond. Richard stated to further complicate the matter, a building permit was issued in Section 4 but the owner cannot move in until the final plat is recorded. He stated the City has suggested two ways of accommodating the resident so they can move in but the developer has not agreed to either option. Richard stated staff is recommending denial.

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

Liesl Roeder addressed Council and stated she has been wanting to become a Mason resident for some time. She stated her builder Fischer homes, made a mistake several months ago by allowing her to sign a contract for a home in this area. She stated the home has been delayed by her builder and has not met the set deadlines. She stated while she understands the problems between the City and the developer she is living out of a suitcase and must get the matter resolved. She stated her life has been in turmoil. Councilmember Grossmann asked if the home was ready to occupy. She said she expects there is four days of work to do before it can be occupied. She stated there is concern from the builder's attorney that she would have to dedicate the street back to the developer if a flag lot was dedicated. Richard Fair said leasing the house was also suggested as an option. Rob Wildermuth addressed Council representing Fischer Homes and stated Fischer Homes has in house counsel that has made these decisions. He said they offered to post bonds that would more than cover the items mentioned by Richard Fair. Councilmember Kidd asked what the objection is for the City to pull the bond. Richard Fair stated it places the City in the middle and calling the bond is a lot of work. Councilmember Osborne asked for clarification of the normal course of events that would occur for a subdivision. Richard Fair stated this is currently one piece of property and is not divided into lots until after it is recorded, the street is dedicated and then lots are plotted. A general discussion took place among Councilmembers and it was decided to approve this ordinance with the amendment that the performance bond will be callable if the public improvements are not completed by July 1, 2004. Councilmember McCurley moved to make that amendment and Councilmember Grossmann seconded the motion. VOTE: ALL YEAS. Richard Fair stated they should do all the work except the topcoat of asphalt. He said this should not be done until all the homes are built.

A motion to adopt Ordinance 2004-05 as amended was made by Councilmember Grossmann, seconded by Councilmember McCurley. VOTE: ALL YEAS

ORDINANCE 2004-06 APPROVAL OF THE FINAL PLAT FOR WINDEMERE PUD, PHASE 5.

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

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

A motion to adopt Ordinance 2004-06 was made by Councilmember Grossmann, seconded by Councilmember McCurley. VOTE: ALL YEAS

ORDINANCE 2004-07 AMENDING ORDINANCE 2003-94 ESTABLISHING POSITIONS AND RATES OF COMPENSATION FOR MASON MUNICIPAL COURT EMPLOYEES

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

Eric Hansen explained to Council the Court has placed before them a request consisting of a series of Court Orders requiring changes to the staffing and compensation of Municipal Court employees. The orders have an effective date of January 1, 2004 but require Council legislation before staff can process for payroll. Eric stated the changes from currently authorized staffing are fairly comprehensive and include adding and deleting positions, adjustments in compensation, modifying job titles, moving part-time positions to full-time and adding benefits, and changing the funding sources for some positions. He also stated a portion of the changes sought were discussed by the Council Finance Committee, while others were not.

Councilmember Grossmann stated the Court Liaison Committee met with the Court prior to the Council meeting and gave a brief overview of the changes. He said the Committee has approved the Court's request and it in fact, has come in below the approved budget. A general discussion took place among Councilmembers with several questions being raised as to the percentage of increase for some positions exceeding 30%, the source of the revenue in the special court fund, and clarification on the authority Council has to approve compensation for certain positions as dictated by law. Councilmember Osborne stated Council should receive a greater lead-time to review this matter and he requested this be delayed until the next meeting. Councilmember Grossmann stated we have court orders to dictate we address this and if we fail to do so, we could be denying a court order. Mayor Beck asked if they do not have revenue to pay these positions in the future from the special court fund, who would have to pay. Councilmember Grossmann stated

if they would need to use funds from another source, they would have to put the request before Council.

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

A motion to adopt Ordinance 2004-07 was made by Councilmember Grossmann, seconded by Councilmember Kidd. VOTE: 3 YEAS, 2 NAYS (McCurley, Beck), 1 ABSTAIN (Osborne)

CITY MANAGER'S REPORT

City Council will meet in a work session on Monday, January 19 beginning at 6:00 p.m. in the Atrium Conference Room.

The January issue of Mason Matters will be delivered to residents in the January 15 issue of the Pulse-Journal newspaper.

Christmas tree recycling officially ended but recycling continues and residents are urged to place their cut trees at the curb as the City provides year-round brush collection and chipping services.

A liquor license permit has been received from Bruno Management Company requesting a transfer to Maison De Mason LLC located at 5948 Snider Road. A motion to not hold a hearing was made by Councilmember McCurley, seconded by Councilmember Osborne. VOTE: ALL YEAS

A liquor license permit has been received from Discount Drug Mart Inc. with a proposed location at the corner of Tylersville Road and Snider Road. The request is for a new license. A motion to not hold a hearing was made by Councilmember Bradburn, seconded by Councilmember McCurley. Councilmember Kidd asked for clarification on how we might object. Scot Lahrmer replied the City may request a hearing but must be ready to justify why a license cannot be granted. VOTE: ALL YEAS

The Heritage Festival is a topic for discussion, as Council should discuss some options on the future organization of this event. Mayor Beck stated it would be discussed at the worksession on January 19, 2004.

COMMITTEE REPORTS None

COUNCIL OLD AND NEW BUSINESS

Councilmember Grossmann stated he was concerned over the failure of Council to act on a court order from Judge Parker regarding Ordinance 2004-07. He also stated by law the Judge has the right to designate the use of the balance in the special court fund and determine compensation on the various positions he has complete control over, as

designated by the Ohio Revised Code. He stated the two positions Council have discretion over are salaries for the Clerk of Court and Chief Court Officer Bailiff. Eric Hansen said this should be checked for accuracy but those two positions are what he believes Council has the right to their compensation. Mayor Beck stated the percentage of increase was unreasonable on certain positions. Councilmember Grossmann suggested the City could be vulnerable for legal action from the court if they do not act on a court order.

Councilmember Grossmann moved to approve a new ordinance which approves compensation for two classes of court employees namely, the positions for which the court has the authority to set compensation levels under the Ohio Revised Code and the positions which are funded by the Mason Municipal Court's special funds. He added this should be passed under an emergency measure. Councilmember Kidd seconded this motion. VOTE: 5 YEAS, 1 NAY (McCurley)

ORDINANCE 2004-08 AMENDING ORDINANCE NO. 2003-94 AND ESTABLISHING THE POSITIONS AND RATES OF COMPENSATION FOR CERTAIN EMPLOYEES OF THE MASON MUNICIPAL COURT AND DECLARING AN EMERGENCY

Councilmember Bradburn stated this is confusing and he is not happy with it but is concerned over the action the Court may take if we don't approve this. He said Council needs to receive this in a timely manner so we have ample time to review. Councilmember McCurley stated he couldn't approve this, as it is totally different than what was approved by the Finance Committee.

Councilmember Grossmann moved to suspend the rule and allow for adoption after the first reading. The motion was seconded by Councilmember Kidd. VOTE: 5 YEAS, 1 NAY (McCurley)

Councilmember Grossmann moved to adopt Ordinance 2004-08. Councilmember Bradburn seconded the motion. VOTE: 5 YEAS, 1 NAY (McCurley)

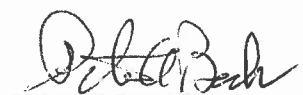
Councilmember McCurley stated his vote does not reflect any criticism to the Court Liaison Committee.

RECOGNITION OF VISITORS None

ADJOURN

A motion to adjourn was made by Councilmember Grossmann, seconded by Councilmember Bradburn. VOTE: ALL YEAS Time: 10:19 p.m.


Clerk of Council


Mayor