

**CITY OF MASON
COUNCIL MEETING
FEBRUARY 23, 2004**

The meeting was called to order by Mayor Beck at 7:08 p.m. 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, Charlene Pelfrey and Peter Beck.

APPROVAL OF MINUTES

A motion to approve the minutes of the February 9, 2004 meeting was made by Councilmember Bradburn, seconded by Councilmember Osborne. VOTE: ALL YEAS

A motion to approve the minutes of the February 17 worksession was made by Councilmember Kidd, seconded by Councilmember Bradburn. VOTE: 5 YEAS, 2 ABSTAINS (McCurley, Pelfrey)

RECOGNITION OF JACK CLASEN, AMERICA IN BLOOM

Jack Clasen addressed Council and explained the beautification program "America in Bloom". He stated he currently serves as one of the judges of the program in the United States. He requested Council's endorsement of the program for the City of Mason. Mayor Beck referred the matter to the Park Board.

RECOGNITION OF VISITORS

Mr. Bill Liedhegner of 626 Lindemann Lane addressed Council and thanked them for the Veteran's Memorial and the additional land purchased for Gould Park.

ORDINANCE 2004-14 AMENDING ORDINANCE NO. 2004-08 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 Vice Mayor Pelfrey. VOTE: ALL YEAS

Ken Schneider requested a motion to amend the title to read Ordinance 2004-16 not 2004-14 as it appears. That motion was made by Councilmember Kidd, seconded by Councilmember Bradburn. VOTE: ALL YEAS

New Title: AMENDING ORDINANCE 2004-16 AMENDING ORDINANCE NO. 2004-08 ESTABLISHING THE POSITIONS AND RATES OF COMPENSATION FOR EMPLOYEES OF THE MASON MUNICIPAL COURT AND DECLARING AN EMERGENCY

Councilmember Osborne addressed Council and presented a power point presentation providing information he was able to obtain that afternoon from the County regarding compensation for the Clerk of Courts position. He stated the current request of \$66,000 for compensation for the Mason Clerk of Court includes both County and City funds and represents a 32% increase over the current salary of \$50,000. He also stated in comparison the Warren County Clerk of Courts handles over 15,000 cases, which is similar to ours and works between 55 and 65 hours per week. The average pay scale for the region is \$55,000. He then stated the maximum salary for any municipal clerk in the region is \$55,544. That person also works for the Appeals Court and earns an additional \$6,943 for a total of \$62,487. Councilmember Osborne suggested the Employee Relations and Finance Committees work with Administration and the Court to implement a salary position and range and establish a payroll procedure for 2005. Councilmember Grossmann asked specific questions regarding Councilmember Osborne's data and Councilmember Osborne replied this was the information he was able to quickly obtain that afternoon but he will receive a written report tomorrow, which provides the documentation. Councilmember Grossmann discussed the differences in the duties performed by the various clerks and he noted no other clerk is performing both clerk and bailiff functions as the Mason Municipal Clerk is performing. Councilmember Grossmann also stated the amount requested by the Court was substantially similar to the amount paid the only other clerk in the area performing more than one function. Councilmember Grossmann cited the Ohio Revised Code stating in effect if the Court revenues exceed its actual expenditures then the Court has the sole authority to set the Clerk's salary. He also stated the Court has come in under the budget that was established for them. City Administration indicated the Court expenditures have exceeded the revenues but Councilmember Grossmann stated the analysis of the City's budgeting process in setting the Court's budget is questionable due the inclusion of rent and various other costs. Ken Schneider stated if the Court is showing a deficit from the preceding year, it is his understanding the additional cost is coming out of the general revenue fund and the City can therefore determine the salary of the Clerk of Court. He also said it is his understanding there is a shortfall. He added if no deficit exists, it is up to the judge. He further stated it is the City's responsibility to comply with any reasonable request for the Court as required by the Ohio revised code. Councilmember Kidd stated he will support the Court's request because the Court has made an effort to streamline their operation by eliminating a position and they are under the budget they have been given. He stated that while governmental entities may not be able to adjust to changes as quickly as others, he supports the efforts. Councilmember Kidd stated the problem lies with the Court not being in agreement with the City on where the responsibility lies for certain costs. He stated the amount set by the City includes rent and services costs plus health insurance for three individuals who are not receiving those benefits. He also stated the Court does not feel they should pay for the salary of the assigned police officer. Councilmember Kidd stated taking those things into consideration; the Court does not feel it is operating in the red. Councilmember Grossmann concurred with Councilmember Kidd's statement and stated as of March 8, 2004 there had been no determination of whether the Court's expenditures had exceeded its revenues. He also stated while the City has maintained that the court was over budget in 2003, the Court

has presented evidence to the Court Liaison Committee disputing that fact. Councilmember Grossmann stated that Council had to remember that the Court was not like another department of the City. He added the Court is created by state law and is largely autonomous and responsible to operate as it deems necessary. He also said this does not mean that Council should not exercise an oversight function on many of the Court's expenditures, but deference should be granted to the Court when operating within the budget set by the City. Councilmember McCurley stated he will only agree to 5% increase. He said the Court was over budget in 2003 and the job description has not changed. Councilmember Osborne suggested a meeting occur between the Court Liaison Committee and the Court to review the salary. He stated a large increase could present problems for the Court if ranges are established and the clerk does not fall within the set limits. He added he could support a salary of \$54,400. Councilmember Grossmann asked for documentation on the number of votes needed to pass this legislation. Ken Schneider replied this is a second reading and four votes will pass the legislation but five are need for the emergency clause to take affect.

A motion to adopt Ordiannce 2004-16 was made by Councilmember Grossmann, seconded by Councilmember Kidd. VOTE: 4 YEAS, 3 NAYS (Bradburn, Osborne, McCurley)

ORDINANCE 2004-17 AUTHORIZING CONTINUED PARTICIPATION IN THE WARREN COUNTY DRUG TASK FORCE AND PAYMENT IN SUPPORT THEREOF

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

Scot Lahrmer explained to Council the City has participated in financially supporting the Warren County Drug Task Force for seven years. He said local agencies collectively match State and Federal grants. In 2000, the Drug Task Force advisory board asked all municipalities to consider an increase in their membership fees based upon one dollar for each resident in respective jurisdictions. In 2000 and 2001 the City of Mason contributed \$21,097 annually based on population figures from 1999. In 2003 the contribution was \$10,000. Scot stated this year the Task Force is requesting membership fees based on population. According to the 2000 Warren County Census the population of Mason is 22,106, therefore, the funding request is in the amount of \$22,016. The Task Force has worked cases and complaints in the City of Mason. In particular, cases, which cross jurisdictions, are referred to the Task Force.

John Burke, Director, addressed Council and stated he would be happy to answer any questions.

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

A motion to adopt Ordinance 2004-17 was made by Councilmember McCurley, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-18 AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$1,500,000 OF TAX INCREMENT FINANCING REVENUE BONDS (TYLERSVILLE CROSSING PROJECT) OF THE CITY OF

MASON, COUNTY OF WARREN, STATE OF OHIO, UNDER SECTION 5709.40 ET SEQ. OF THE OHIO REVISED CODE FOR THE PURPOSE OF PAYING THE COST OF CERTAIN PUBLIC IMPROVEMENTS; AUTHORIZING A PLEDGE OF AND LIEN ON CERTAIN SERVICE PAYMENTS TO SECURE SUCH BONDS; AUTHORIZING A TRUST AGREEMENT SECURING SUCH BONDS; AND AUTHORIZING A SERVICE

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

Scot Lahrmer explained to Council adoption of this ordinance will secure the City's commitment to participate in the Tylersville Crossing project as originally established in November 2003 by Ordinance 2003-137. He said with that action, the City established a Tax Increment Financing (TIF) District referred to as the Commerce West TIF District. This TIF encompasses a broad area containing approximately 307 acres including property abutting US 42 and Tylersville Road. He further explained, Tylersville Crossing is the first commercial/office mixed-use development to benefit from the creation of the Commerce West TIF District. Tylersville Crossing contains 18 acres of land on the northwest corner of US 42 and Tylersville Road and will be developed by Cincinnati United Contractors. This development will complete the entryway into the City as CUC brings the development of Brazen Head Irish Pub, Culver's Frozen Custard and Butterburgers. Jonathon Scott International, industry leader in executive, technology and marketing personnel, will construct a 20,000 square foot headquarters and two 15,000 square feet office condominium buildings. The TIF District provides the City with an additional economic development financing tool to accomplish key projects requiring significant investment in public improvements that otherwise may not be economically feasible to develop. Scot added with the establishment of the Commerce West TIF district, the City may authorize the issuance of revenue bonds to be used towards construction of all or a portion of designated public improvements that will include the widening of Tylersville Road, a traffic signal that will direct traffic out of the two commercial developments west of US 42 and an internal road that is instrumental in the development of these 18 acres. The revenue bonds are backed by a repayment guaranteed from the developer and do not affect the City's full faith and credit. Scot stated the Economic Development Committee has reviewed this proposal and recommends adoption.

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 2004-18 was made by Vice Mayor Pelfrey, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-19 MODIFYING THE COMPENSATION FOR PROSECUTION SERVICES AND DECLARING AN EMERGENCY

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

Eric Hansen explained Robert Peeler, as the City Prosecutor, is appointed and compensated by the City of Mason and is responsible for prosecuting cases brought before Mason Municipal Court. During the 2004 Budget process, the Finance Committee discussed the City's expenses and obligations for Mason Municipal Court. As part of these discussions and to account for the impact of the Prosecutor assuming more responsibility for maintaining case files, the Finance Committee recommended that \$25,000 be budgeted under the Law Director Account to reflect funding available for the City Prosecutor to secure clerical assistance annually. The Prosecutor's compensation, last modified in 2002, is \$58,000 annually - with a \$30,000 contribution towards an Assistant Prosecutor and a \$30,000 contribution towards administrative costs associated with running the Prosecutor's office. These expenses are not budgeted as part of Municipal Court costs. Eric stated the requested funds have been included in the 2004 Budget as recommended by the Finance Committee.

Councilmember McCurley stated, as he understands it, this raise is needed to pay a person to maintain the files. He asked who maintained the case files before this and why does it cost \$25,000. Robert Peeler said the Clerk of Court maintained them but in September 2002, Judge Parker changed the procedure and moved the duties to the prosecutor. Councilmember Grossmann asked if there are now two case files. Robert Peeler replied yes. Judge Parker addressed Council and stated the reason for two files is the difference between the Mayor's Court and the Court of Record. He added due to the separation of powers it is necessary to have two files. He said this protects the rights of the victim. Mayor Beck suggested this be referred to the Court Liaison Committee. Councilmember Bradburn stated this is a matter of needing additional help to handle the volume of paperwork. Ken Schneider stated he would like an amendment to clarify the legislation to state \$25,000 "per year". The motion to amend was made by Councilmember McCurley, seconded by Councilmember Kidd.

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 2004-19 was made by Councilmember Bradburn, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-20 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH VOGELPOHL FIRE EQUIPMENT FOR THE PURCHASE OF FIREFIGHTER TURN-OUT GEAR FOR USE BY THE CITY OF MASON FIRE DEPARTMENT

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

Eric Hansen explained to Council the City of Mason Fire Department provides uniforms and equipment to ensure the maximum safety of all personnel. Firefighter turnout gear is a major component of this commitment. The City's existing turnout gear was purchased when the Department was organized in 1998 and has been used extensively since that time. Because of the Department's reliance on both full-time staff, and a large pool of part-time employees, 70 suits are the minimum necessary to ensure all on-duty staff are properly outfitted. Eric stated

several current sets of gear are in need of extensive repairs or complete replacement and this year, all existing gear will fall outside of the National Fire Protection Agency's (NFPA) standard of replacement every five years. The State Bid price for 70 sets of Turnout gear is nearly \$100,000. Eric stated staff, utilizing the State Bid process, have been able to secure a cost from Vogelpohl Fire Equipment of \$87,990 for 70 sets of turnout gear, however this pricing is only available through February 29, 2004. The 2004 Budget included \$26,000 for the first of five installment payments for turnout gear replacement. Given the attractive pricing available through an immediate group purchase of gear and the current availability of funds; a purchase without five year financing, interest and carrying charges, or the need to encumber future funds is the most cost-effective alternative. Eric stated the Safety Committee of Council met to discuss the above and recommended moving forward with replacement of 70 sets of Firefighter Turnout Gear at the \$87,990 quote.

Vice Mayor Pelfrey asked Chief Fletcher to explain the abbreviation for NFPA (National Fire Protection Agency). She also asked if the Chief could inform them if there are any other replacements they would require in the near future. Chief Fletcher stated they are working on a capital expenditure report that will be completed by the end of February that will clarify the replacement schedule. Councilmember Bradburn asked if the equipment is at the end of its useful life. Chief Fletcher replied yes. Councilmember Bradburn said he would support this legislation. Councilmember Osborne asked if there was any value in the old equipment. Chief Fletcher stated no but the Warren County Career Center needs donations for a class they are holding. Councilmember Kidd asked if this has any insurance implications. Chief Fletcher replied yes, it does impact insurance.

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

A motion to adopt Ordinance 2004-20 was made by Vice Mayor Pelfrey, seconded by Councilmember Osborne. VOTE: ALL YEAS

ORDINANCE 2004-21 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH VOGELPOHL FIRE EQUIPMENT FOR THE PURCHASE OF SELF-CONTAINED BREATHING APPARATUS FOR USE BY THE CITY OF MASON FIRE DEPARTMENT

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

Eric Hansen explained Self Contained Breathing Apparatus (SCBA) is a major component of a firefighter's personal protective equipment by providing safe air to breathe in a potentially hazardous atmosphere. Since the Fire Department's original purchase in 1998, a number of safety and performance upgrades have become available on SCBA air packs and the National Fire Protection Agency raised their standards twice to reflect these upgrades. In lieu of incurring increasing maintenance expenses for outdated equipment, 45 sets of new SCBA gear that meet new NFPA standards are available through the State Bid for \$108,252. Staff has been able to secure a cost from Vogelpohl Fire Equipment utilizing the State Bid process of \$99,715, a

savings of \$8,537. Eric stated training and certification for four employees to perform in-house maintenance and repair is included resulting in additional maintenance savings in future years. The 2004 Budget, as adopted by Council, included \$110,000 for replacement of SCBA gear. The Safety Committee of Council met to discuss the above and recommended moving forward with replacement of the SCBA.

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

A motion to adopt Ordinance 2004-21 was made by Vice Mayor Pelfrey, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-22 APPROVAL OF THE DEDICATION AND EASEMENT PLAT FOR GREENBRIER SUBDIVISION, PHASE 2

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

Richard Fair explained to Council Doug Smith with McGill Smith Punshon, Inc., representing The Drees Company, is requesting approval of an easement dedication plat for Greenbrier, Phase II, Clearwater Drive. He stated Phase II of the Greenbrier Subdivision is located north of Tylersville Road and west of Snider Road. This plat will dedicate the ingress/egress, utility, waterline and sanitary easements needed for this section of the subdivision. Richard added the Planning Commission recommends approval contingent on the following items:

1. Waterline easement and restriction subject to review and approval by GCWW.
2. Please submit a performance bond and subdivider's contract

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 2004-22 was made by Vice Mayor Pelfrey, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-23 APPROVAL OF THE DEDICATION PLAT FOR THE VETERANS OF FOREIGN WARS PROPERTY AS PART OF THE I & O BRIDGE REPLACEMENT PROJECT ON MASON-MONTGOMERY ROAD

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

Richard Fair explained as part of the I&O Bridge Replacement Project on Mason-Montgomery Road, the Veterans of Foreign Wars agreed to dedicate the right-of-way needed for the road-widening project. He said this plat will bring the property into compliance with the City of Mason Thoroughfare Plan and fulfills the VFW's agreement

with the City. The plat is consistent with the requests made by Planning Commission on February 17, 2004 and the City of Mason Thoroughfare Plan. Richard also stated Planning Commission recommends approval of the dedication plat.

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

A motion to adopt Ordinance 2004-23 was made by Councilmember Kidd, seconded by Councilmember Grossmann. VOTE: ALL YEAS

ORDINANCE 2004-24 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 3.869 ACRES LOCATED AT 4753 SOCIALVILLE-FOSTER ROAD FROM R-1 TO HT-1

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

Scot Lahrmer stated a public hearing will take place on this legislation at the March 22, 2004 meeting at approximately 7:05 p.m.

ORDINANCE 2004-25 ADOPTING THE REVISION, CODIFICATION, RECODIFICATION, REARRANGEMENT AND PUBLICATION OF THE ORDINANCES AND RESOLUTIONS OF THE CITY OF MASON IN BOOK FORM, FOR THE CURRENT SUPPLEMENT

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

Scot Lahrmer stated this is a first reading on this legislation and it will be addressed at the next Council meeting in March.

CITY MANAGER'S REPORT

A meeting with the Mason City School Board members is scheduled for Monday February 23, 2004 at 6:00 p.m. It will be held in the second floor classroom of the Municipal Center.

This year's Chamber of Commerce dinner is being held on Thursday, March 18 beginning at 6:00 p.m. at The Manor House. In the past, City Council has authorized the City Manager, Assistant City Manager and Development staff to attend as City representatives. A motion to allow the City Manager, Assistant City Manager and the

Economic Development staff to attend was made by Councilmember Kidd, seconded by Councilmember McCurley. VOTE: ALL YEAS

The request for a Liquor Permit was made by the Mason Grill and tabled from the last Council meeting. Scot stated the request must be answered. Ken Schneider stated they do not look at how many permits are issued in one block but on how many are issued by population. Vice Mayor Pelfrey asked for Council's consensus on this matter as she has a concern over the density in this area. Ken Schneider replied saturation in the neighborhood such that the permit applied for would be detrimental to and substantially interfere with the morals, safety or welfare of the public is one reason to object to the issuance of a permit. Vice Mayor Pelfrey stated it is possible for a legislative authority to request an extension beyond 30 days so there can be some time taken to make this decision. Councilmember Kidd stated while he has the same concerns Vice Mayor Pelfrey has expressed over the number granted in a given area, he also don't wish to see someone progress to the point of opening a business and then be notified they will not be given a permit. Vice Mayor Pelfrey said the Safety Committee would review the matter for future requests and help determine how they can be handled. It was eventually decided no one on Council desired to harm the new business, Mason Grill. Councilmember McCurley moved to not hold a hearing. Councilmember Kidd seconded the motion. VOTE: ALL YEAS

It has been brought to the attention of Administration that a resident who has previously installed and been reimbursed by the City for a back-flow valve prior will be able to participate in the \$2800 reimbursement program.

COMMITTEE REPORTS

Vice Mayor Pelfrey stated the Park Board requests the design of a Skate Park be included in the budget for this year. She suggested this be referred to the Finance Committee. Mayor Beck stated the Council Work sessions have been focusing on the overall park facilities and will address the matter in that process. She received a request from a resident on when the City will be completing a master plan for the new parkland recently purchased. Scot Lahrmer stated the Parks and Recreation Department will be working on request for proposals this spring. Vice Mayor Pelfrey asked if public opinion will be included in this process. He said typically they will ask for input from the people using the parks so groups such as SAY Soccer will be brought into the discussion. He said the Parks Department will actually implement the plan. She then asked when the property will be developed. Scot Lahrmer replied it is really a matter of funding that will dictate how and when the property will be developed. Vice Mayor Pelfrey asked how adjoining property owners can get involved in this process. Scot replied a public forum will be announced where property owners can come and participate.

COUNCIL OLD AND NEW BUSINESS

Councilmember McCurley requested we review the new sign code to determine how signs can be installed for charitable events. He asked if they can use the right-of-way. Scot Lahrmer replied he would not recommend it. Councilmember McCurley recommended that go back to Planning Commission. Councilmember McCurley said he received a call from a resident asking if the City is annexing the new Wal-Mart planned for Deerfield Township. Scot replied nothing is happening towards that at this time.

Councilmember Grossmann addressed the issues of the right-of-way being used by commercial real estate signs yet political signs are not allowed. He stated the City should be cautious on this matter as it appears to be discriminating with the regards to the use of right of way. He stated once you allow one party to use it, it may be open to all parties. He asked staff to review the matter.

Ken Schneider asked for an executive session be added to the agenda to discuss a matter of litigation.

RECOGNITION OF VISITORS

Mr. Bill Liedhegner addressed Council and asked if he was correct and the increase for the Clerk of Court's salary was 32%.

EXECUTIVE SESSION

A motion to go into executive session for the purpose of discussing litigation was made by Vice Mayor Pelfrey, seconded by Councilmember McCurley. VOTE: ALL YEAS

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

ADJOURN

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



Clerk of Council



Mayor