

**CITY OF MASON
COUNCIL MEETING
August 9, 2004**

Mayor Beck called the meeting to order at 7:06 p.m. Chaplain Rick Huff opened the meeting with a prayer. Those in attendance 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 July 12, 2004 Council meeting was made by Councilmember Kidd, seconded by Councilmember Bradburn. VOTE: ALL YEAS

A motion to approve the minutes of the July 26, 2004 Council meeting was made by Councilmember Osborne, seconded by Councilmember Kidd. VOTE: ALL YEAS

RECOGNITION OF VISITORS

Betty Davis addressed Council and presented an update on the Solid Waste Management District Plan. She said new plan was included in the Council packets and the last plan had expired five years ago. She stated the requirements have changed due to the passage of House Bill 592. After five years of negotiations, she stated the new plan has everyone paying equally contrary to the past when cities supported the entire district. She stated the plan needs to be ratified and if the plan is adopted it will become effective in the spring of 2005. She stated Mason, as the largest city, and Warren County are the only two entities that can cast a dissenting vote. She explained in the past we had Big Foot landfill but that has closed. The plan calls for a generation fee of fifty cents per ton. Councilmember Osborne asked why we no longer had the hazardous waste disposal dates. Betty Davis replied they are too costly and now there is no revenue source. She stated any one with questions or wanting a copy of the plan could contact Dana Storts at the county offices. She stated the plan would also be presented at the Warren County Municipal League on August 18, 2004.

Richard Cox of 657 Reading Road addressed Council and stated the City's building official approached a renter in property he owns at 653 Reading Road. He said this should not have occurred. Mr. Cox said he had checked with the City to make certain the zoning was correct for retail when he purchased the building. At that time, he reported no other issues such as fire code were mentioned. He stated he is now aware there are some issues on the property and he is handling them. He said there are three issues: fire rating, handicap ramp, and structure of 100 psi per square foot. He stated the problem is with the City's procedure not being business friendly and he is very frustrated with trying to do business in the City of Mason. Mayor Beck asked the City Manager to look into the matter and report back to Council. Councilmember Osborne asked

what was appropriate to assist the business owner requesting Council's help. Mayor Beck asked Paige Bryan, the Downtown Business Coordinator, to review the matter and report back to the Downtown Committee of Council.

ORDINANCE 2004-90 ACCEPTING THE PUBLIC IMPROVEMENTS FOR THORNGATE AT WINDEMERE, SECTIONS 1 & 4, AND RELEASING THE PERFORMANCE BOND

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

Richard Fair explained to Council the purpose of this legislation is to release the performance bond and accept the public improvements. He said the first reading took place at the August 12, 2004 Council meeting. He stated the streets are private and include part of Thorngate Drive and Rydal Lane. The various city departments have completed the necessary inspections and staff is recommending adoption contingent upon the submission of one-year maintenance bond.

A motion to adopt Ordinance 2004-90 was made by Councilmember McCurley, seconded by Councilmember Bradburn. VOTE: ALL YEAS

ORDINANCE 2004-93 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 0.09 ACRES LOCATED AT 109 NORTH EAST STREET FROM R-4 TO B-1

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

Richard Fair explained to Council Mr. Mark Davis, of HiFive Development Services of Mason, is requesting approval to rezone 0.09 acres located at 109 North East Street. The property, formerly owned by the City and being purchased by HiFive Development, is located on North East Street north of the old municipal building. Richard stated it is currently zoned R-4 (Single Family Residential) and the applicant is requesting to rezone the area to B-1 (Central Business District). The proposed B-1 Central Business District is consistent with the Future Land Use Map of the Comprehensive Plan which calls for a variety of office, business, commercial and service uses in the planned "Downtown" designation. He added in general, uses permitted in the proposed B-1 Central Business District are not compatible with the surrounding residential uses. However, the incompatibilities created by this proposed zoning change currently exist throughout the downtown area. Richard concluded considering that the rezoning application is in compliance with the Mason Comprehensive Plan, and that there were no objections from neighboring residential property owners of the incompatibility of the proposed zone change, Planning Commission and Staff recommend approval of the rezoning.

Mayor Beck opened the public hearing at 7:44 p.m. Hearing no comments either for or against this project, the hearing was closed at 7:45 p.m.

Mr. Ferrell addressed Council and stated if the rezoning does not pass on Ordinance 2004-94 than he would object to this one passing. Richard Fair said Mr. Champ has requested a fence be installed between the two properties and showed a picture of the agreed upon design.

Councilmember McCurley stated while he is reluctant to agree to zoning changes in this area, this one makes sense and is necessary for the development of downtown.

A motion to adopt Ordinance 2004-93 was made by Councilmember Kidd, seconded by Councilmember McCurley. VOTE: ALL YEAS

ORDINANCE 2004-94 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 0.125 ACRES LOCATED AT 201 WEST CHURCH STREET FROM R-4 TO B-1

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

Richard Fair stated Mr. James Ferrell of Mason is requesting approval to rezone 0.125 acres located at 201 West Church Street. The property is located at 201 West Church Street at the southwest corner of West Church Street and North East Street. It is currently zoned R-4 (Single Family Residential) and the applicant is requesting to rezone the area to B-1 (Central Business District). Richard said the proposed B-1 Central Business District is consistent with the Future Land Use Map of the Comprehensive Plan which calls for a variety of office, business, commercial and service uses in the planned "Downtown" designation. In general, uses permitted in the proposed B-1 Central Business District are not compatible with the surrounding residential uses. However, the rezoning of the subject property will serve as an extension of an existing condition in the downtown whereby commercial buildings are adjacent to residences. Richard concluded, considering that the rezoning application is in compliance with the Mason Comprehensive Plan, and that there were no objections from neighboring residential property owners of the incompatibility of the proposed zone change, Planning Commission and Staff recommend approval of the rezoning.

Mayor Beck opened the public hearing at 7:47 p.m. Hearing no comments either for or against this project, the hearing was closed at 7:48 p.m.

Kathleen Sherman of 106 W. Church addressed Council and asked why rezone this to business when Church Street is residential and many empty business locations exist on Main Street. Mayor Beck stated the property owner has requested this and all adjacent property owners were notified. Councilmember Osborne asked about only notifying adjacent property owners. He stated in some cases a property owner could be less than 100 feet away and not be notified. He suggested the code be revised to require notification based on a certain distance from the rezoning request. Councilmember McCurley stated the firehouse is on Church Street and does not detract from the residential character. He also mentioned Rosie's Salon is on Church and has been for years and adds character. Jim Ferrell stated he has no plans for this property. He said he wanted the rezoning to be flexible. Councilmember Kidd stated the property is intended to be used as a parking lot.

A motion to adopt Ordinance 2004-94 was made by Councilmember McCurley, seconded by Councilmember Bradburn. VOTE: 5 YEAS, 1 NAY (Grossmann)

ORDINANCE 2004-95 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 8.54 ACRES FROM R-6 TO BUSINESS PUD AND 2.58 ACRES FROM B-3 TO BUSINESS PUD LOCATED AT THE SOUTHEAST CORNER OF THE SNIDER ROAD EXTENSION AND TYLERSVILLE ROAD.

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

Richard Fair explained Mr. Donald Follmer of Henkle Schueler, representing Everybody's Farm, Inc., is requesting to rezone 11.12 acres as follows: (1) 8.54 acres from R-6 Landominium Residential District to Business PUD; and (2) 2.58 acres from B-3 Road Service District to Business PUD. The subject property is located at the southeast corner of the Tylersville Road and future Snider Road extension intersection. Richard stated the City of Mason's Comprehensive Plan indicates the subject property is designated as "neighborhood commercial." Neighborhood commercial provides for a mix of retail and service establishments serving customers within a one-mile radius. He said the Plan indicates that this mix could also include professional office space. The requested PUD Zoning is consistent with the goals and policies of the Comprehensive Plan provided that the more intense commercial uses permitted in the B-1, B-2 and B-3 districts are prohibited.

Richard explained Planning Commission and Staff recommend that application to rezone (1) 8.54 acres from R-6 Landominium Residential District to Business PUD; and (2) 2.58 acres from B-3 Road Service District to Business PUD be approved based on the following conditions:

1. The proposed zoning amendment is generally consistent with the goals and policies of the City of Mason's Comprehensive Plan provided that the following uses are excluded:
 - a. Restaurants with drive through facilities
 - b. Convenience food stores
 - c. Garden supply
 - d. General merchandise and grocery
 - e. Adult oriented businesses
 - f. Fraternal and social organizations
 - g. Commercial indoor or outdoor recreation
 - h. Vehicle sales
 - i. Automobile repair and body shops
 - j. Vehicle Storage
2. Without having a prospective tenant, and not being able to predict the future use of the site beyond the general uses allowed in the zoning district, the applicant requests Planning Commission and City Council to withhold action on the Concept Plan. Concept Plan approval shall be continued at the discretion of the applicant but before a site plan is submitted for Planning Commission review and approval.
3. The access onto Tylersville Road is permitted only if the applicant builds medians on Tylersville Road to eliminate left turns into and out of the site

Mayor Beck opened the public hearing at 8:13 p.m. Hearing no comments either for or against this project, the hearing was closed at 8:14 p.m.

A general discussion took place among Councilmembers regarding the proposed curb cut on Tylersville Road. Several were opposed to it and thought this would be the only time to eliminate it. Richard Fair stated if Council eliminates items #2 and #3, this would appear before Council again. Councilmember Grossmann moved to eliminate items #2 and #3. Councilmember Kidd seconded the motion. VOTE: ALL YEAS A motion to add "gas stations" to item #1 was made by Councilmember Osborne, seconded by Councilmember Kidd. VOTE: ALL YEAS

A motion to adopt Ordinance 2004-95 with contingencies was made by Councilmember Grossmann, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-96 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 6.5 ACRES LOCATED AT 4291 STATE ROUTE 741 FROM I-2 TO BUSINESS PUD

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

Richard Fair explained to Council, Mr. Larry Hayes of Suburban Oil is requesting rezoning 6.5 acres of land zoned I-2 Industrial District to Business PUD at 4291 State Route 741, north of US 42. He said the requested Business PUD zoning is consistent with the Future Land Use Map of the Comprehensive Plan, which designates the property as "Regional Commercial." Also, the subject property is strategically located at a primary gateway into the City. Many residents living in the region will take SR 741 to travel to I-71, the Beach Water Park, Kings Island, and many other sites. Richard stated Business PUD zoning will enable the city to place use restrictions and architectural design standards on the property. Richard also stated Planning Commission is recommending that the application to rezone 6.5 acres of land zoned I-2 Industrial District to Business PUD be approved for several reasons. He said the proposed zone change is consistent with the Future Land Use Map of the Comprehensive Plan, the uses permitted in the proposed zoning district are consistent with surrounding uses, and the shape and size of the property are reasonable to meet the dimensional regulations of the requested zoning district. Access is an additional concern because the property is close to the US 42 intersection. The PUD will give the City more control over this major concern.

Mayor Beck opened the public hearing at 8:35 p.m. Hearing no comments for or against this legislation, the hearing was closed at 8:36 p.m.

A motion to adopt Ordinance 2004-96 was made by Councilmember McCurley, seconded by Councilmember Grossmann. VOTE: ALL YEAS

ORDINANCE 2004- 97 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY

76.96 ACRES LOCATED ON THE WEST SIDE OF STATE ROUTE 741, NORTH OF BETHANY ROAD AND SOUTH OF BUNNELL ROAD FROM I-1 TO RESIDENTIAL PUD.

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

Richard Fair explained to Council, C. Francis Barrett of Barrett & Weber, representing River III, LLC of Mason, is requesting Concept Plan and rezoning approval of 76.96 acres of land zoned I-1 Light Industrial to Residential PUD at the west side of State Route 741, north of Bethany Road and south of Bunnell Road to develop a 78 lot single-family residential subdivision. Steve Wallace, the owner of River III, developed Avalon Farms on the east side of SR. 741, north of the City-owned property Industrial PUD. Richard stated Planning Commission recommends denial of this rezoning for the following reasons:

1. A Residential PUD zoning district is not consistent with the City of Mason Comprehensive Plan which designates the subject property as "Business Park" Property. Planned as "Business Park", it is designated for large employment centers with "clean industry" and/or "high tech" uses located adjacent to primary thoroughfares.
2. Land planned as "Business Park" supports a long-standing city policy of locating industrial and/or office developments adjacent to primary thoroughfares. Such policy provides a wide range of lot sizes at convenient locations to meet the diverse needs of different size and types of office and industrial companies. Further it diversifies the local economy and makes Mason competitive in the state and regional market
3. The requested Residential PUD zoning may set an undesirable precedent. Such precedent may require the City to approve similar rezoning requests that are contrary to the City's adopted Comprehensive Plan. This situation is not in the best interest of property owners and residents and the City in general
4. Land planned as "Business Park" extends to the north and south of the subject property. An established residential land use pattern at the subject property will effectively divide land planned as "Business Park" in the SR 741 corridor. This division will potentially create an undesirable mix of residential and industrial uses. Such division and land use mix may make planned "Business Park" development in the State Route 741 corridor more difficult in the future.
5. Planning Commission did not believe that the presented site conditions preclude industrial development. The submitted Concept PUD demonstrates that the subject property can be developed taking the presented site conditions into account.
6. The presented site conditions existed when the current property owner rezoned the subject property to I-1 Light Industrial District from R-1 Single Family Residential District.

Richard stated these comments were sent to C. Francis Barrett in a letter dated July 21, 2004 from Brad Schwab, Interim City Planner. He also stated staff has several comments regarding the Concept Plan but that was not part of the Planning Commissions reason for recommending denial. He said if this project proceeds, staff's comments on the Concept Plan should be addressed in the future.

Mr. C. Francis Barrett of Barrett & Weber, representing the property owners, addressed Council

and stated while they understand the concerns of the City, they feel the property under discussion cannot be developed industrial. He stated extensive marketing has been done on this property and has achieved no results. He also said site restraints exist due to poor soil conditions. He stated a study had been done by Alt & Witzig and submitted to the City for review. He also stated there are drainage problems on the site that can only be resolved by developing it. Mr. Barrett said if it could be developed industrial, it would be because it is the best and highest use for this land. Another constraint on this property he said was the sewer easement which revealed the first indication there was a soil problem. He said the City installed the sewer and had to resort to a zigzag design to avoid the poor soil condition. He also stated Mr. Fair did not address the character of the area which is surrounded on many sides by residential development. He said the property in the township abutting the site is zoned residential as well as the subdivisions in the City of Mason to the east and to the southwest. Thus the proposed use is constant with the character of the area, which they feel is the overriding factor. He concluded by stating if it could be developed industrial, it would be but they feel every avenue has been exhausted and this is not an option.

Mr. J. Davidson, owner of the property addressed Council and read a letter providing the history of the property and his past efforts with the City of Mason and Neyer Properties. Mr. Steve Wallace of River III Development addressed Council and stated this property can be developed residential and that would be consistent with developments in the area. He sited other subdivisions in Mason that include overhead electric utility lines. Mr. Daniel Neyer, President of Neyer Properties, addressed Council and stated he has marketed the site since 1996 and it has been difficult because the market is soft and the accessibility of the site to the expressway. He also said affordability is the factor that most influences this property. He stated the soil conditions are adequate for the load bearing weight of residential units but not industrial. He said industrial requirements are at least ten times greater for weight bearing capacity than residential. He stated the financial requirement to make this site attractive for industrial users far exceeds what you could sell the land for. He concluded by stating they feel they have exhausted every avenue to market the land industrial.

Councilmember Grossmann asked when they found out about the soil conditions. Mr. Neyer stated in 1998 when the sewer was installed. Councilmember Grossmann asked why this rezoning wasn't pursued then. Mr. Neyer said they did further studies on the soil and discussed options with the owner. Councilmember McCurley stated approximately 12 acres have been developed industrial and the City has purchased property in the east side of SR 741 in this vicinity zoned industrial. A general discussion among Council members took place with Councilmember Bradburn asking how many soil boring were taken. Mr. Barrett stated that information is available from the report completed by Alt & Witzig. This information was not available therefore Councilmember Bradburn moved to continue the public hearing until the first meeting in September allowing time for a complete review of this report. Councilmember Grossmann seconded the motion. VOTE: ALL YEAS

ORDINANCE 2004-102 AMENDING THE CODE OF ORDINANCES OF THE CITY OF MASON, OHIO, SECTION 331.37 DRIVING UPON SIDEWALKS, STREET LAWNS OR CURBS, AND SECTION 351.03 PROHIBITED STANDING OR PARKING PLACES

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

Eric Hansen explained this past spring a concern was raised with vehicles in residential areas parking on the lawn area between the sidewalk and the street. Parking in this area was forbidden and citations issued under City Ordinance 351.03:

"No person shall stand or park a vehicle . . . in any of the following places: 1) On a sidewalk, curb or street lawn area . . ."

Eric stated concerns were raised regarding this matter and in an effort to clarify the meaning, the Safety Committee has recommended a definition of street lawn be included in the code. He stated the intention of Code is to prevent vehicles from parking and creating off-street obstacles within the City's right-of-way. He also stated the Law Director and the Police Department reviewed this definition and agree it is appropriate.

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

A motion to adopt Ordinance 2004-102 was made by Councilmember Osborne, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-103 APPROVAL OF THE FINAL PLAT FOR ROSEMONT MANOR PUD

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

Richard Fair explained to Council Richard Evans of Henderson and Bodwell, LLP, representing Robert C. Rhein Interests, Inc. is requesting approval of the final plat for Rosemont Manor Subdivision. He said this subdivision is located between Greenbrier Lakes Condominiums and Tyler Station Section 2. and contains a total of forty-six lots on 22.7349 acres. Forty-four of the lots are residential and the remaining two lots are common area parcels, which contain the floodplain and stormwater facilities. Richard stated this plat will dedicate the right of way, utility, sanitary and water easements needed for this subdivision. He also said Planning Commission recommends approval of the final plat contingent on the following:

1. Show the existing and proposed floodplain on the final plat. Until the Letter of Map Revision (LOMR) is approved by FEMA, the existing floodplain limits will be in effect. Lots 1, 2 and 34 are non-buildable lots until the LOMR is approved.
2. Include a floodplain maintenance agreement in the Covenants and Restrictions and record the Covenants and Restrictions with the final plat.
3. Provide a subdivider's contract and performance bond.

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

A motion to adopt Ordinance 2004-103 was made by Councilmember McCurley, seconded by Councilmember Osborne. VOTE: ALL YEAS

ORDINANCE 2004-104 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BARRETT PAVING FOR TYLERSVILLE CROSSING IMPROVEMENT PROJECT AND DECLARING AN EMERGENCY

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

Richard Fair explained to Council Tylersville Crossing is the first commercial/office mixed-use development to benefit from the creation of the Commerce West TIF District. Richard stated 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 who will serve as the construction manager and oversee the construction of the public improvements. The City of Mason Engineering Department will still provide inspection services throughout construction. Richard said the public improvements for the Tylersville Crossing Developing include the following:

- Construct Gateway Blvd. and Tower Drive.
- Installation of a new traffic signal and left turn lanes on Tylersville Road at intersection of Gateway Blvd.
- Construct an 8" waterline loop through the development.
- Construct raised medians on Tylersville Road.
- Install street lighting on Gateway Blvd. and Tower Drive.
- Improve the drainage system

He further stated bids were opened on August 2, 2004 with three (3) bids received. The best and lowest bidder was Barrett Paving for the amount of \$928,832.61. He explained the TIF amount towards the project is \$850,000 and Cincinnati United Contractors is responsible for payment of any excess amount.

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

A motion to adopt Ordinance 2004-104 was made by Councilmember McCurley, seconded by Councilmember Bradburn. VOTE: ALL YEAS

ORDINANCE 2004-105 ESTABLISHING THE SALARY ADMINISTRATION PLAN, PROVIDING FOR CONSIDERATION OF INCREASES IN COMPENSATION ON AN ANNUAL BASIS, AND GRANTING A COST-OF-LIVING INCREASE AND DECLARING AN EMERGENCY

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

Eric Hansen explained to Council ordinances 2004-105, 106 and 107 all deal with modifying the City's compensation rates. He said the Employee Relations Committee has met and recommended several changes. While recognizing this will take some time to accomplish, some immediate changes were identified. Ordinance 2004-105 provides a 3% inflationary adjustment to current full-time

employee compensation effective July 1, 2004. Ordinance 2004-106 doubles the life insurance coverage provided to non-union City employees and Ordinance 2004-107 is a housekeeping item that updates the City's hiring range schedule.

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

A motion to adopt Ordinance 2004-105 was made by Councilmember Osborne, seconded by Councilmember McCurley. VOTE: ALL YEAS

ORDINANCE 2004-106 AMENDING MASON ADMINISTRATIVE CODE SECTION 165.05 PROVIDING LIFE INSURANCE BENEFITS TO THE CITY MANAGER, CITY ADMINISTRATORS AND NON-REPRESENTED, FULL-TIME EMPLOYEES

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

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

A motion to adopt Ordinance 2004-106 was made by Councilmember Kidd, seconded by Councilmember Bradburn. VOTE: ALL YEAS

ORDINANCE 2004-107 REPEALING ORDINANCE NO. 2000-119 OF THE CITY OF MASON, OHIO, AND ESTABLISHING THE POSITIONS AND RATES OF COMPENSATION FOR EMPLOYEES OF THE CITY OF MASON, OHIO.

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

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

A motion to adopt Ordinance 2004-107 was made by Councilmember Osborne, seconded by Councilmember Kidd. VOTE: ALL YEAS

ORDINANCE 2004-108 DECLARING THE NECESSITY OF SUBMITTING TO THE ELECTORS OF THE CITY OF MASON THE QUESTION OF PRESERVING THE MUNICIPALITY'S RIGHT TO IMPOSE A MUNICIPAL INCOME TAX ON A SHAREHOLDER'S DISTRIBUTIVE SHARE OF THE NET PROFITS OF AN S CORPORATION AND DECLARING AN EMERGENCY

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

Scot Lahrmer explained to Council Mason's Income Tax Ordinance, which was adopted September 28, 1970, authorizes the City to tax the shareholder's full distributive share if it is related to net profits allocated to Ohio by an S corporation. House Bill 127, enacted in 2003,

stipulated that for municipalities to continue to tax the full distributive share after December 31, 2004, voters must approve ballot language to that effect by November 2, 2004. Scot stated at the July 19 Council worksession, the Finance Committee recommended preparation of an Ordinance submitting the question to the electors for consideration at the August 9 Council meeting. Adoption of Ordinance 2004-108 places the question of whether Mason's earnings tax should continue to be applied to S Corporations on the ballot. If Council chooses not to adopt Ordinance 2004-108, or if electors defeat the ballot issue, potential earnings tax revenues will decline by the amount collected from S corporation arrangements.

A motion to suspend the rule to allow for adoption after the first reading was made by Councilmember McCurley, seconded by Councilmember Osborne. VOTE: 5 YEAS, 1 NAY (Grossmann)

Councilmember Grossmann stated he does not support placing this on the ballot because he feels this is an inappropriate tax. He said most people don't pay this tax. He said S corporations sometimes put their money back into the business thus it is not actually income they are receiving. He opposes the majority deciding to tax a small group. Councilmember Osborne stated some income goes to investors, which are the equivalent to dividends. He stated funds are sometimes taken out of the business and don't go directly back into it. He also said if this is allowed to occur, then you can expect to see LLC and C Corporations asking for it in the future. A discussion took place among Councilmembers discussing the benefits and detriments of this tax. Mayor Beck stated the concern is what is the impact on our general revenue fund. Scot Lahrmer explained the memo prepared by Finance Director, Jennifer Heft. He said a random survey was completed on 1000 returns out of 15,000. Approximately 15% were pulled. He said part of the problem is line 17 on the form does not include just the information needed to analyze this income. He said if you assume this is a true picture, it can be assumed the impact on income will be approximately \$202,000. He stated because the Tax Office does not collect data specific to S corporations, the information is very limited and does not reflect the impact that the proposed S corporation issue would have if those individuals who receive S corporation income had been exempted from Mason's earnings tax. He said you must be cautious in drawing conclusions from the data. A proposal to modify the language was discussed and Ken Schneider stated to alter it may raise a concern that it may not be sufficient to accomplish, at the state level, what the City is attempting to do. A motion to close the argument was made by Councilmember Bradburn, seconded by Councilmember Grossmann. VOTE: ALL YEAS

A motion to adopt Ordinance 2004-108 was made by Councilmember Osborne, seconded by Councilmember Kidd. VOTE: 5 YEAS, 1 Nay (Grossmann)

CITY MANAGER'S REPORT

A joint meeting of City Council and the Northeast Cincinnati Chamber of Commerce is being scheduled for Monday, August 30 beginning at 5:00 p.m. in the Community Room. Dinner will be provided.

Immediately following the Council/Chamber meeting (at approximately 6:30 p.m.), we will hold a Council Work Session to discuss Capital Improvement Projects.

Scot announced he would be out of the office for vacation and attending the International City Management Association conference from Monday, October 11 through Thursday, October 21. He stated a motion is needed to appoint Eric Hansen acting City Manager in his absence. The motion to do so was made by Councilmember McCurley, seconded by Councilmember Bradburn. VOTE: ALL YEAS

A procedural change has been implemented with this weeks Council packet by including the colored copy of legislation that has been introduced at a prior meeting but will require action at this meeting.

Residents may sign up to receive e-newsletters by going to the city's web site at www.imaginemason.org and selecting Forms and Publications, then Newsletter Subscribe, and filling out the form. Staffs has already subscribed on behalf of council members. Scot stated this is also a way to subscribe to meeting agendas as they have been added to the city's web site.

COMMITTEE REPORTS --None

COUNCIL OLD AND NEW BUSINESS

Councilmember McCurley noted a special Planning Commission meeting is scheduled for August 17, 2004 to discuss the proposed mall on Kings Mills Road. The developer will make a presentation. He also noted the Warren County Municipal League will hold a meeting on August 18, 2004 at the Houston Restaurant.

Councilmember Grossmann reported he and Ken Schneider had met with former Supreme Court Judge Wright to discuss matters concerning the Mason Municipal Court. He said Justice Wright has stated he was hired by the Court to be an advisor for the court. Ken Schneider said he was aware Justice Wright served on the board of review on grievances and it may be a potential conflict of interest. He said he had contacted the Disciplinary Council and they are reviewing the matter but assured Ken it will have no impact on their unbiased review of the matter. Ken also stated Judge Parker has requested \$10,000 to pay Justice Wright for his services as an advisor. Mayor Beck clarified the fee is probably coming from a court fund.

Mayor Beck mentioned the Cop Cards that are now available. He also mentioned the Parks Department will meet on August 12, 2004 at 7:00 p.m. to review the future plans for the City's parkland. He also mentioned he had attended the Chick-Fil-A and Polo Grill grand openings. He also mentioned the Western Southern Tennis Masters Series was a great success and thanked everyone involved.

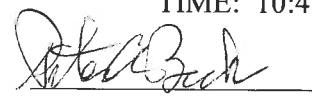
RECOGNITION OF VISITORS None

ADJOURN

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

TIME: 10:47 p.m.


Clerk of Council


Mayor