

**CITY OF MASON  
COUNCIL MEETING  
August 13, 2007**

Mayor Pelfrey called the meeting to order at 7:07 p.m. Father Harry Meyer opened the meeting with a prayer. Mason resident and injured Army Specialist, Jason Majors was introduced and lead those present in the pledge of allegiance.

**ATTENDANCE**

The following members of Council were present: Victor Kidd, Tony Bradburn, Matt Kline, Todd Wurzbacher, Tom Grossmann and Charlene Pelfrey. Steve Osborne was absent.

**APPROVAL OF MINUTES**

A motion to approve the minutes of the July 16, 2007 meeting was made by Councilmember Bradburn, seconded by Councilmember Kline. VOTE: ALL YEAS

**PRESENTATION OF PROCLMATION TO TELEDYNE-TEKMAR**

Paige Rothstein addressed Council and stated the local firm of Teledyne Tekmar has recently received the prestigious Governor's Excellence in Exporting Award. She said this is better known as the E-Award and presented to the companies of the vital role that exporting plays in supporting the State's economy. She noted this year 31 awards were presented to businesses of all sizes across the state. She explained Teledyne Tekmar is a leading manufacturer of analytical instruments for chemical laboratories. These instruments are used to provide innovative solutions for laboratories testing samples in the environmental, pharmaceutical, forensic, food and beverage and industrial chemical industries. Charlie Fulmer, General Manager and Kevin Dubas, International Support Specialist, were present to display this award. Mayor Pelfrey presented them with a proclamation recognizing their success.

**PRESENTATION BY WILLIAM BARNHILL**

Mayor Pelfrey stated this would be tabled until the September 10<sup>th</sup> meeting.

**RECOGNITION OF VISITORS**

Rick Inskip of Butler Warren Road addressed Council and referred to the letter sent by the ACLU legal counsel. He stated he expected no threats when they circulate their petitions.

Rich Cox of 657 Reading Road addressed Council and asked why Ordinance 2007-117 is being considered as an emergency. He stated it needs to be discussed more and should have a second reading. Law Director, Ken Schneider, stated there is a timeframe Council must meet for submitting this issue to the voters or it would create the need for a special election. The cost of a special election would be passed on to the City. Passing the legislation under the emergency

clause falls within the required time frame for the general election. He further explained once petitions are filed with the Board of Elections, the election must take place 30 days after filing. Rich Cox replied it could still wait until the next general election. He said this is a charter amendment and it is a major deal and should require much discussion. Mayor Pelfrey explained to Mr. Cox, when Council is presented with signed petitions, the City has no other option but to place it on the ballot. Vice Mayor Grossmann provided a brief history of when this item has been discussed. He stated Council addressed the topic in November and December 2003; referred it to the Finance Committee in December 2003, which periodically reviewed its findings with council over the last few years; and addressed the topic again this year in February, March and July. He added members of Council made it clear their preference was to have it appear on the ballot at the November general election in 2007 when more residents are likely to vote. Rich Cox then asked if it had to be passed by five affirmative votes. Vice Mayor Grossmann replied yes. Councilmember Kline clarified it must be passed before September 6 and certified to the Board of Elections by September 7, 2007. Vice Mayor Grossmann agreed, but stated that he has contacted the Board of Elections and was told it must be certified 75 days prior to the election or by August 23, 2007. Vice Mayor Grossmann said he told the Board of Elections of the applicable 60 day rule. The Board indicated that they were looking into this, but told Vice Mayor Grossmann that their attorney was on vacation and would not be able to research this again until he returned.

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

Mayor Pelfrey reported on her activities over the last month. She also reported on the results of the Downtown Mason Survey. She said 76% of those surveyed support the revitalization efforts; 52% are not discouraged to shop in the downtown area and 72% said the City has done an effective job of communicating the details. Mayor Pelfrey also reported on the status of the road improvement on Mason Montgomery Road as the beginning date for the Mason school approaches. She said the City is working with Duke to relocate electric poles in the area and the school is working to determine the best routes. She thanked the Downtown Business Block Captains for their assistance with this project.

### **COMMITTEE REPORTS**

Councilmember Bradburn reported the Committee working on the Emerald Ash Borer threat met and presented the law director with some questions. He is to report back to the committee in August. Councilmember Bradburn said one company they were considering using has stated they are not willing to go onto private property.

Councilmember Bradburn reported the Safety Committee has met with Deerfield Township about sharing service areas. He said staffing needs to be reviewed and Mike Kelley will continue to work on it and report back to the committee.

Councilmember Kidd encouraged residents to continue to use downtown businesses while we are going through this construction period.

Councilmember Kline reminded everyone the Heritage Festival is August 25, 2007 with the parade at 10:00 a.m. He said this year it will be in the high school parking lot but next year it will be moved back to the downtown area. Councilmember Kidd and Vice Mayor Grossmann volunteered to use their cars for the parade.

Vice Mayor Grossmann provided an update on the Mason Municipal Court. He said the Judge has responded to the Supreme Court Committee's report. Vice Mayor Grossmann stated nothing will probably happen before the election.

### **CITY MANAGER'S REPORT**

Eric Hansen reported on the following items:

The Lindner Family Tennis Center will be the site of the Western & Southern Financial Group Masters Men's Tennis series beginning on Friday, August 10 and ending with the finals on Sunday, August 19.

Ken Heis, Head Swim Coach for the City of Mason, was named Ohio Swimming Senior Coach of the Year. The City will receive a \$1000 donation from Ohio Swimming. The Manta Rays were awarded \$2150 grant for winning a Silver Medal Club award.

The Warren County Municipal League will meet at the Great Wolf Lodge on Wednesday, August 15, 2007.

The Heritage Parade will be Saturday, August 25, 2007 at 10:00 a.m.

A request for a liquor permit has been received for 711 Reading Road, Speedway Super America LLC. Councilmember Bradburn moved to not require a hearing with Councilmember Kidd seconding the motion. VOTE: ALL YEAS

### **RESOLUTION 2007-13 AUTHORIZING THE CITY MANAGER TO FILE A DRUG ABUSE RESISTANCE EDUCATION (DARE) GRANTS PROGRAM APPLICATION AND TO ENTER INTO AN AGREEMENT WITH THE OHIO ATTORNEY GENERAL, MARC DANN, TO CONTINUE A DARE PROGRAM**

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

Jennifer Heft explained to Council, in the fall of 1994, the City of Mason, along with Mason City Schools and St. Susanna, implemented a DARE program. Since that time, over 7,280 students have successfully completed the DARE program. The continuation of the DARE program, along with the School Resource Officer position, gives the Police Department a continuing link to the students as they move through the school system. Since the program's inception, the City has been successful in securing a total of over \$300,000 to support this program. This legislation will formally support the application of the 2007 grant.

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

A motion to adopt Resolution 2007-13 was made by Councilmember Kline, seconded by Councilmember Kidd. VOTE: ALL YEAS

**ORDINANCE 2007-107 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BRAY-ARNSPERGER EXCAVATING, INC. IN THE AMOUNT OF \$432,622.50, FOR THE CONSTRUCTION OF THE MASON SKATE PARK PROJECT**

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

Eric Hansen explained to Council the purpose of this legislation is to award a construction contract to the lowest and best bidder for the Mason Skate Park.

Mayor Pelfrey asked this legislation be tabled to allow for discussions to continue with the township trustees.

A motion to table this legislation was made by Councilmember Kline, seconded by Vice Mayor Grossmann. VOTE: ALL YEAS

**ORDINANCE 2007-114 AUTHORIZING THE CITY MANAGER TO ANNUALLY EXECUTE A CONSENT TO USE ROADWAY AGREEMENT FOR A TEMPORARY EASEMENT ACROSS THE GOLF COURSE PROPERTY**

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

Eric Hansen explained to Council, beginning August 31 and continuing thru September 2 Mason will play host to The AVP Cincinnati Open-Pro Beach Volleyball Championship Series. The top 150 men's and women's pro beach volleyball players will converge on Mason in this series' finale event. The event is held at the Lindner Family Tennis Center. Representatives of the Volleyball Tournament have requested the use of the roadway owned by the City running through the Golf Center at Kings Island for use during the AVP Volleyball Tournament.

Eric stated the easement grants use of the roadway for the four (4) day period beginning August 30, 2007 and ending September 2, 2007. Use of the roadway is limited from 7:00 a.m.-12:00 a.m. (midnight) daily, during this period. The Tournament will assign its own personnel to ensure all three (3) access gates are opened, closed and locked each day. Any additional expenses incurred by Mason for use of the roadway prior to, during and after the event will be reimbursed to Mason. Eric said only vehicles with a gross vehicle weight under 15,000 pounds are permitted on the roadway. In addition, the Tournament will agree to provide adequate insurance coverage and indemnify the City from and against all claims, demands, actions, penalties, liabilities or damages. Eric stated historically, Grizzly Golf Center, Inc. the previous owners of the Golf Center at Kings Island have granted this temporary easement agreement to

Reach Event Marketing for the volleyball event. RMI, the managers of the Golf Center have verified this easement should not negatively impact the Course.

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

A motion to adopt Ordinance 2007-114 was made by Councilmember Wurzbacher, seconded by Councilmember Bradburn. VOTE: ALL YEAS

**ORDINANCE 2007-115 AUTHORIZING THE FINANCE DIRECTOR TO ALLOCATE INVESTMENT INCOME TO VARIOUS FUNDS**

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

Eric Hansen explained to Council, on a monthly basis, the Finance Director, allocates interest received on investments to various funds based on an allocation practice that was established many years ago. He stated the City's current practice for the allocation of interest earnings is based on state law requirements and common practice for municipalities. The following funds are recommended to receive investment income:

- Any fund for which individual investments or bank accounts have been established that are separate from the City's pooled investments. Typically these separate accounts are related to outstanding debt or contract retainage.
- All funds that by State law require the investment allocation. These funds include the Street Maintenance & Repair and the State Highway Funds. These funds receive a majority of their revenue from the motor vehicle license and gasoline tax.
- Funds used to account for grants that require the investment income earned from unused grant monies to be used for the grant activity or returned to the grantor. Most federal grants have this requirement.
- Funds as determined by the Finance Director to properly account for activities of the City. These funds are primarily enterprise funds, in which user charges pay for the cost of providing the service. Examples would include, Sewer, Waste Collection, Storm Water, Community Center, and the Golf Course.

Eric further explained as part of the City's annual 2006 audit, the City auditors, Clark, Schaefer, Hackett & Company, are recommending the City codify the allocation of investment income.

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

A motion to adopt Ordinance 2007-115 was made by Councilmember Kidd, seconded by Councilmember Wurzbacher. VOTE: ALL YEAS

**ORDINANCE 2007-116 AUTHORIZING THE CITY MANAGER TO APPROVE A CHANGE ORDER, IN THE AMOUNT OF \$47,358.00, TO INCREASE THE CONTRACT WITH BRAY ARENSPERGER EXCAVATING COMPANY FOR THE CONSTRUCTION OF MASON SPORTS PARK**

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

Eric Hansen explained to Council, a year ago the Mason Sports Park project was being prepared for bid. In order to help keep the project's cost in line with budgeted figures despite rising oil and material costs, the project was designed as a lump sum bid with a base bid and four alternates. The intention of the alternates was to allow flexibility in selecting or dismissing some desired amenities based on budgeted figures and bid amounts while still presenting a bid package that would attract competitive bids. Removal of the proposed irrigation for baseball field #5 and the football fields from the bid was recommended as part of this process. Eric stated this proved to be a successful process as once bids were opened, base bids for three prime contractors, including alternates, were well below the engineer's estimate as well as below the 2006 Budget estimate of \$6 million. Consequently, on October 9, 2006, staff recommended and Council approved Ordinances 2006 - 117, 2006 - 118, and 2006 - 119 authorizing the City Manager to enter into contracts with three prime contractors for the construction of Mason Sports Park project. Nearly \$100,000 in change orders, largely resulting from poor soil conditions, have been necessary to keep the project moving forward.

Eric reported the project is now well underway and the fields, fencing, and concession/restroom structures are being put in place. The irrigation contractor has been on site installing the irrigation in the upper park area. The contractor has offered the City a very attractive price of about \$47,000 to add irrigation to the lower park area (Baseball field #5 and the football field - a total of 176,000 square feet or approximately 25 cents a square foot). Irrigation for the four baseball fields in the upper park area (334,000 square feet) were included in the original bid at a cost of \$160,000 or approximately 50 cents a square foot.

Installing irrigation at an attractive price is an opportunity to keep the fields in consistently good condition without relying on weather or the expense of labor hours. It will also help reduce the amount of dust raised when prepping the ball fields for play. Unlike, the current change orders, the proposed irrigation change order is not necessary to move the project forward, but may prove to be a wise investment in reducing future maintenance costs.

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

A motion to adopt Ordinance 2007-116 was made by Councilmember Kidd, seconded by Councilmember Wurzbacher. VOTE: ALL YEAS

**ORDINANCE 2007-117 DIRECTING THE WARREN COUNTY BOARD OF ELECTIONS TO SUBMIT TO THE ELECTORS OF THE CITY OF MASON, OHIO AT THE NOVEMBER 6, 2007 GENERAL ELECTION, A CHARTER AMENDMENT TO SECTION 10.04 LIMITATIONS ON INCOME TAX AND DECLARING AN EMERGENCY**

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

Eric Hansen explained to Council, this legislation is separate from the earlier Ordinance 2007-25 submitted to Council on February 12 and then addressed again at the July 16, 2007 meeting.

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

Vice Mayor Grossmann stated it is at his request this ordinance was placed on tonight's agenda. He stated over 400 signatures have been submitted to the Clerk of Council plus he had an additional 200 signatures to submit tonight. He said a number of other individuals are circulating petitions and they will be turned in next week. He stated he contacted the Board of Elections and they have stated this must be submitted to them for placement on the ballot by August 23 or 75 days before the election. He stated he disagrees with this requirement and believes that it must be submitted at least 60 days prior to the election. However, to satisfy the stated position of the Board of Elections, Vice Mayor Grossmann said it should be passed at tonight's meeting. He said should it not pass, he and others will collect enough signatures to place it on the ballot but the City may have to pay for a special election if the petitions are not turned in as required for the November 6, 2007 general election. Vice Mayor Grossmann said he is trying to comply with other Councilmembers' wishes to have this appear on the ballot at a general election when more people vote. He said it is not an issue of whether it will be on the ballot but whether it will be on the November 6, 2007 ballot. Vice Mayor Grossmann stated there had been months of discussion on this matter and he is submitting to Council for passage.

Councilmember Kidd said he feels this is a textbook case on how not to change the charter. He said he does not feel this subject has been fully vetted. There has been no worksession on this topic. He added it is not right how this has been advanced. He stated he understands Vice Mayor Grossmann's comments regarding a fairness issue but the City has over \$10,000,000.00 in debt. He added we have done nothing collectively as a Council to fully discuss this matter. He stated unexpected things come up that we cannot determine and we are still growing. He stated he is perplexed and embarrassed on how this has unfolded because if we vote for it, it will appear we favor it and if we vote against it, it will cost the city a special election.

Vice Mayor Grossmann said he brought the issue up in November 2003 and December 2003. He said it was submitted to the Finance Committee in December 2003 has been studied in the

Finance Committee for almost four years and that periodic reports were submitted to Council addressing all of their questions about the issue. The current proposal will be phased in over four years. He said it will only affect around 2% of the general fund budget in any one year. He noted we have averaged an increase of over 10% in our income tax revenue each year. Vice Mayor Grossmann emphasized that the money taxpayers save by not being double taxed is not lost. It is kept by the people who earned it. If our residents have more money, he concluded, they will be likely to spend or invest much of it in our local businesses to the benefit of those businesses. He said over 70% of the jurisdictions offer a full credit and a tax policy accepted by the vast majority of jurisdictions in south-western Ohio is not irresponsible. Vice Mayor Grossmann noted that almost every major jurisdiction gives a complete credit for two reasons. First, major jurisdictions want complete reciprocal credits because this does not discourage non-resident taxpayers from working in areas where they do not reside. Mason receives substantial income from non-resident taxpayers. This is also why practically every state and country provides for complete reciprocal credits. Vice Mayor Grossmann also stated that there will be over two months in which Council and the public can continue to discuss this matter and a work-session is planned for the end of August. He said we will be voting on this one way or another. He said by acting tonight Council was simply ensuring that the issue would appear on the November general election ballot as opposed to a special election. Vice Mayor Grossmann noted that both Councilmembers Kidd and Kline had told him and the press that they had only voted against the ordinances earlier this year to put the issue on the May primary ballot because they wanted it on the November general election ballot and that both had publicly noted that they would vote to put the matter on the November ballot. Vice Mayor Grossmann stated that when this issue came up again at the Council's July 2007 meeting, at which time he moved to table the issue because of the on-going petition drive, Councilmembers Kidd and Kline said they would have voted to put the measure on the November ballot at that time had it not been tabled.

Councilmember Kline stated tonight is not the night to debate the proposed amendment. He said the process is the problem. He said it should have two separate readings. If it has to meet a certain date, than let's hold a special meeting. He said if this passes, the petitions are not the issue. He said he has been asking for two readings on all legislation that has a major impact on the City since he was first elected.

Vice Mayor Grossmann said Council hardly ever held two readings, that this matter had been before Council on three occasions this year already and that the language of the proposed amendment could not and would not be changed because the ordinance to place the issue on the ballot used the language from the petitions being circulated to place the issue on the ballot.

Councilmember Bradburn said this legislation is simply putting it on the ballot. It has been discussed and vetted. He said council should let the voters decide. He called the question. Vice Mayor Grossmann seconded that motion. VOTE: ALL YEAS

A motion to adopt Ordinance 2007-117 was made by Vice Mayor Grossmann, seconded by Councilmember Wurzbacher. VOTE: ALL YEAS

Mayor Pelfrey said there will be a worksession the week of August 27, 2007.



**RECOGNITION OF VISITORS**

Rick Inskip of Butler Warren Road addressed Council and stated he would like the same consideration shown to him as Council has shown to its own members. He said he wanted to have an emergency ordinance passed tonight to guarantee his issue would appear on the ballot.

Rich Cox of 657 Reading Road stated he is appalled by Council's actions tonight. He stated all the petitions should be submitted and this ordinance should have two readings. He said this not the way it is supposed to be done.

**EXECUTIVE SESSION**

Councilmember Bradburn moved to adjourn into executive session for the purpose of discussing land acquisition. Councilmember Kidd seconded the motion. VOTE: ALL YEAS

Councilmember Bradburn moved to reconvene into regular session. Vice Mayor Grossmann seconded the motion. VOTE: ALL YEAS

Councilmember Wurzbacher moved to add Ordinance 2007-118 to the agenda. Councilmember Kidd seconded the motion. VOTE: ALL YEAS

**ORDINANCE 207-118 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT TO SELL THE CITY OF MASON'S PROPERTY AT 500 DAVID LANE TO DANIEL AND JODY THIEKEN**

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

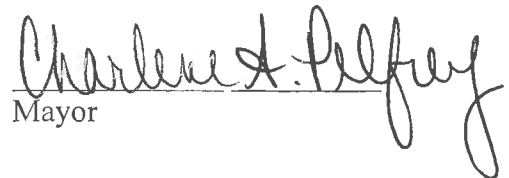
A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember Wurzbacher, seconded by Councilmember Bradburn. VOTE: ALL YEAS

A motion to adopt Ordinance 2007-118 was made by Councilmember Bradburn, seconded by Councilmember Wurzbacher. VOTE: ALL YEAS

**ADJOURN**

Councilmember Wurzbacher moved to adjourn the meeting, seconded by Vice Mayor Grossmann. VOTE: ALL YEAS  
TIME: 9:05 p.m.

  
Clerk of Council

  
Mayor