

**CITY OF MASON  
COUNCIL MEETING  
MARCH 14, 2011**

The meeting was called to order at 7:02 p.m. Pastor Tom Moll opened the meeting in prayer. All those present recited the Pledge of Allegiance.

**ATTENDANCE**

The following members of Council were present: Michael Gilb, Christine Shimrock, Rich Cox, Tony Bradburn, Charlene Pelfrey, David Nichols, Don Prince.

**APPROVAL OF MINUTES**

A motion to approve the February 28, 2011 Council Meeting Minutes was made by Councilmember Bradburn, seconded by Vice Mayor Nichols. VOTE: ALL YEAS.

**RESOLUTION 2011-2 OFFERING CONDOLENCES TO THE PEOPLE OF JAPAN**

Mayor Prince added this Resolution to the agenda. He then read the Resolution which was followed by a moment of silence. During Council discussion, Vice Mayor Nichols shared contact information for three organizations providing assistance to the people of Japan. These organizations (americares.org, redcross.org, and usaid.gov) have been recommended by the Japanese Embassy in Washington D.C.

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

A motion to adopt Resolution 2011-2 was made by Councilmember Shimrock, seconded by Councilmember Gilb. VOTE: ALL YEAS.

**RECOGNITION OF VISITORS**

Andre Dunkirk of 5130 Spire Oaks Dr. expressed his concern with the proposed gas station at the corner of Bethany and Mason-Montgomery Roads. He had questions regarding the public hearing date (March 28) set during Mason City School's spring break. Councilmember Pelfrey suggested that the Public Hearing could be continued to the next Council meeting in April if there are residents unable to speak at the March 28 public hearing. Mr. Dunkirk's questions regarding the public hearing process were also answered.

**ORDINANCE 2011-21 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE OHIO DEPARTMENT OF TRANSPORTATION FOR RESURFACING STATE ROUTE 741 (KINGS MILLS ROAD) FROM EAST OF PARKSIDE DRIVE TO BETHANY ROAD**

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

Eric Hansen stated that as part of the Ohio Department of Transportation Urban Paving Program, SR-741 is scheduled for resurfacing in ODOT calendar year 2012. This program has an 80/20 funding split, with ODOT paying 80% and the City paying 20% of the construction costs. He explained that ODOT requires the City to approve preliminary legislation authorizing the City to enter into a contract with ODOT. Through the contract, the City agrees to cooperate with ODOT to prepare the drawings, acquire right-of-way (which is not needed for this project), to pay for the non-federal share of the construction costs and for 100% of items not paid for by ODOT, and 100% to upgrade all handicap curb ramps. Eric said that until final quantities are approved by ODOT, it is difficult to estimate the City's share of the project. However, \$350,000 was included in the 2011 Budget for this project. Later this year ODOT will request final legislation in which the City will enter into an agreement with ODOT that provides funding for the City's estimated portion of the project. Currently ODOT plans to bid the project February 23, 2012 with construction expected to begin in spring 2012.

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

A motion to adopt Ordinance 2011-21 was made by Councilmember Pelfrey, seconded by Councilmember Bradburn. VOTE: ALL YEAS.

**ORDINANCE 2011-22 AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER #5 TO THE EXISTING CONTRACT BETWEEN THE CITY OF MASON AND STEPHEN GROSS & SONS, INC. IN THE AMOUNT OF \$180,000 FOR THE CITY OF MASON COMMUNITY CENTER ADDITION AND ALTERATIONS**

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

Richard Fair explained the next two Ordinances together. He stated that in November of 2010 the City tried to finalize the change orders for the Community Center. At that time two allocations from the Mason Community Center Project remained outstanding because Stephen Gross, the General Trades Contractor, was arbitrating decisions made by the City, Architect and Construction Manager that was part of their outstanding payment claims. This pending arbitration case has also held up the final contingency funding for Turner Construction, the Construction Manager. It is anticipated that the arbitration hearing will be set for later this year. Stephen Gross has completed their work and has asked to receive final payment, including retainage, without waiting for the decision from an arbitration hearing. Richard stated that the City's legal counsel is recommending moving forward with the payment for the work performed. Ordinance 2011 – 22 authorizes a change order amount of \$180,000, which is the total maximum amount

needed for both the work that has been completed by Stephen Gross and an estimated worst-case scenario of what may be necessary as part of an unfavorable decision in the arbitration hearing. Richard then explained that Ordinance 2011-23 is the final construction contingency payment to Turner Construction. He said that included in the GMP was a shared Construction Contingency incentive amount of \$657,197 which was based upon 5% of the total contract amount. Upon completion of the project Turner receives 25% of the balance of the Construction Contingency funds and the City receives 75%. \$632,185 is the current contingency balance. The amount that we pay Stephen Gross comes from this construction contingency balance. Therefore until there is a decision in the arbitration case we do not know how much we need to pay Turner Construction. Stephen Gross has asked for final payment which is at least \$80,000. Again, both these Ordinances are asking for the total maximum amounts payable, the actual payment amount will depend upon the decision in the arbitration case with Stephen Gross.

Richard continued by stating that if the maximum amounts authorized under these ordinances are distributed there remains a balance in the Construction Contingency account of \$474,139. There are some workmanship issues that staff continue to investigate (i.e. temperature, tile, sound proofing) that may require the use of some of these contingency funds to resolve. Richard concluded by stating that these should be the last two change orders finalizing the project which is still 5.8% lower than the estimated amount. This project benefitted tremendously by good market timing, broad teamwork and creative solutions that focus on the bottom line – traits that will fuel the expanded Community Center's success.

During Council discussion, Councilmember Gilb questioned the perception created by passing these Ordinances prior to arbitration. Michael Gilb made a motion that Council table these Ordinances until Legal Counsel could respond later in the meeting, seconded by Vice Mayor Nichols. VOTE: ALL YEAS. Ken Schneider excused himself from the proceedings and when he returned, it was recommended that Ordinance 2011-22 be amended to pay only what is owed at this time which is \$80,000. It was also recommended to defeat Ordinance 2011-23. Richard Fair explained that two additional ordinances will be drawn up to complete payment after a decision has been made in the arbitration case.

A motion to amend the Ordinance so that the City pays only what it owes at this time, \$80,000, and allow for adoption after the first reading was made by Councilmember Gilb, seconded by Vice Mayor Nichols. VOTE: ALL YEAS.

A motion to adopt Ordinance 2011-22, as amended, was made by Councilmember Gilb, seconded by Vice Mayor Nichols. VOTE: ALL YEAS.

**ORDINANCE 2011-23 AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER #2 TO THE EXISTING CONTRACT BETWEEN THE CITY OF MASON AND TURNER CONSTRUCTION COMPANY IN THE AMOUNT OF \$158,047 FOR THE CITY OF MASON COMMUNITY CENTER ADDITION AND ALTERATIONS**

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

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

A motion to adopt Ordinance 2011-23 was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: ALL NAYS.

**ORDINANCE 2011-24 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH COMET'S PIZZA FOR CONCESSIONS SERVICES**

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

Jennifer Heft discussed Ordinance 2011-24 and Ordinance 2011-25 together. She explained that in 2006, the Parks and Recreation Department privatized concession services at two of its facilities. As additional park facilities were constructed concession contracts were expanded to provide for those areas. She explained that the concession contracts are typically for one year with four additional one-year renewal options and all expire this year providing an opportunity to develop a Request for Proposal (RFP) for all of the parks concession locations: Lou Eves Municipal Pool, Corwin M. Nixon Park, Heritage Oak Park, and Mason Sports Park. Jennifer stated that four proposals were received. After reviewing the proposals and checking references staff is recommending a one-year contract with Mustards Last Stand for concessions services at Corwin Nixon Park and Heritage Oak Park, and a contract with Comets Pizza for concessions services at Lou Eves Municipal Pool and Mason Sports Park. She said that the contract does include a clause allowing the City to renew up to four additional years and that the recommended proposals have a competitively priced menu and a competitive fee to the City.

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

Vice Mayor Nichols inquired as to how these were advertised. Jennifer Heft stated that they were advertised in the Pulse Journal for three weeks and also any vendors that have contacted the City in the past expressing interest were contacted.

A motion to adopt Ordinance 2011-24 was made by Councilmember Cox, seconded by Councilmember Gilb. VOTE: ALL YEAS.

**ORDINANCE 2011-25 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MUSTARD'S LAST STAND FOR CONCESSIONS SERVICES**

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

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

A motion to adopt Ordinance 2011-25 was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

**CITY MANAGER'S REPORT**

▶ The Area Progress Council is sponsoring its annual State of the County luncheon on Wednesday, March 16 beginning at noon at the Shaker Run Golf Club.

▶ Eric Hansen is planning to be out of town the week of March 26 – April 1. A motion appointing Jennifer Heft as Acting City Manager during this time is appropriate. A motion to appoint Jennifer Heft as acting City Manager from March 26 – April 1 was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

▶ The Mason Community Center will host A Taste of Mason on Wednesday, March 16 from 11:30 a.m. to 1:00 p.m. and again from 5:00 p.m. to 6:30 p.m. Various local food vendors will be selling their food items and will be set up in the Community Center lobby and along Main Street.

▶ The *CenterPoint* publication was distributed last week in the *Our Town* magazine indicating Premier Registration beginning March 18 and Open registration beginning March 21. Premier registration for Swim lessons begins March 21 and Open registration for Swim Lessons is March 22. Those interested in registering for programs can go online at [www.imaginemason.org](http://www.imaginemason.org), by phone, or by visiting the Community Center.

▶ A motion to not request a hearing for a liquor permit transfer of ownership from Avenue Café to James Third Base was made by Councilmember Bradburn, seconded by Councilmember Cox. VOTE: ALL YEAS.

Mayor Prince asked why liquor permits are not part of the regular agenda. Eric Hansen explained that these permit requests oftentimes come in after the agenda is set and that in the past, since these are not regular City business, they have been addressed in the City Manager's Report area of the agenda.

▶ Census figures released indicate the population in the City of Mason is 30,712 which is about a 40% increase since 2000.

## **COMMITTEE REPORTS**

Councilmember Gilb reported that the Golf Course Committee will be presenting a business model next month for the Golf Course.

## **OLD AND NEW BUSINESS**

Councilmember Pelfrey commented that she finds helpful the hand outs in the Council Packet. She said that the February 2011 Financial Report contained great information, the update on the Mason Community Center was insightful, and that Terry Schulte's Legislative Update confirms the important role that she continues to serve.

Councilmember Cox announced that he served as a judge at the Girl Scout Bake-Off competition held at Mason Middle School. He said that the girls created some amazing cakes. He also announced the birth of his first grandchild, Quinn Joseph.

Vice Mayor Nichols said that the disaster in Japan should remind Mason residents to prepare a plan for their family to use during storm season with a safe place and supplies.

Council had a general discussion on the impact the upcoming State Budget will have on the City.

Mayor Prince discussed the latest award for the Northeast Fire Collaborative (NEFC). Through joint purchasing, NEFC departments have saved 30% on gear, 25% on disposable supplies, and 50% on ladder testing. The City will continue looking for these sorts of saving opportunities by working with other communities.

Councilmember Gilb mentioned that the Golf Course Committee is drafting a letter to be delivered to RMS in late March that the City will not be renewing the current management contract with RMS.

## **RECOGNITION OF VISITORS** none

## **EXECUTIVE SESSION: PROPERTY ACQUISITION AND PERSONNEL**

The Mayor added personnel to the executive session. There was no objection by council.

A motion to adjourn into Executive Session for the purpose of discussing property acquisition and personnel was made by Councilmember Pelfrey, seconded by Vice Mayor Nichols. VOTE: ALL YEAS. TIME: 8:00 p.m.

A motion to reconvene into Regular Session was made by Vice Mayor Nichols, seconded by Councilmember Cox. VOTE: ALL YEAS. TIME: 9:10 p.m.

Motion to add Ordinance 2011-26 to the agenda was made by Councilmember Pelfrey, seconded by Councilmember Shimrock. VOTE: ALL YEAS.

**ORDINANCE 2011-26 MODIFYING THE CONTRACT FOR LEGAL SERVICES, ESTABLISHING THE POSITION OF EXECUTIVE LEGAL COUNSEL, APPOINTING KENNETH J. SCHNEIDER TO THAT POSITION, APPOINTING JEFFREY D. FORBES AS LAW DIRECTOR, AND DECLARING AN EMERGENCY**

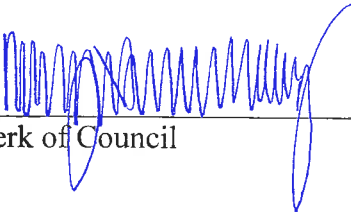
A motion to read by title only was made by Vice Mayor Nichols, seconded by Councilmember Shirmrock. VOTE: ALL YEAS.


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

A motion to adopt Ordinance 2011-26 was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

**ADJOURN**

A motion to adjourn was made by Vice Mayor Nichols, seconded by Councilmember Shimrock. VOTE: ALL YEAS. TIME: 9:11 p.m.

  
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Clerk of Council

  
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Mayor