

**CITY OF MASON  
COUNCIL MEETING  
SEPTEMBER 12, 2011**

The meeting was called to order at 7:10 p.m. Chaplain Rick Huff 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, Tony Bradburn, Charlene Pelfrey, David Nichols, and Don Prince. Rich Cox was absent.

**APPROVAL OF MINUTES**

A motion to approve the August 8, 2011 Council Meeting Minutes was made by Vice Mayor Nichols, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

A motion to approve the August 17, 2011 Special Council Meeting Minutes was made by Vice Mayor Nichols, seconded by Councilmember Bradburn. VOTE: 5 YEAS, 1 ABSTAIN (Shimrock).

**RECOGNITION OF 2012 CALENDAR PHOTO CONTEST WINNERS**

Mayor Prince and Jennifer Heft congratulated each winner and presented them with a framed copy of their photograph and calendar. The contest winners are as follows:

Mike Greenstone "Spring Clouds" – cover photo  
Brad Nielson "Winter Ornament" – January  
John Moore "A Snowy Muddy Creek" – February  
Jim Simpson "Winding Trail" – March  
Jackie Chunko – April  
Ellen Nealis "Birdhouse Nestled in a Tree" – May  
Patti Workman "Butterfly Paradise" – June  
Joe Chunko (not present) "Mason Arts Festival" – July  
Justin Sodano (not present) "Water Landing" – August  
Alexandra Hill (not present) "Fall's Favorite Colors" – September  
Stoyan Lokar "Perigree Moon Over Mason" – October  
Barbara Lokar "Fall Daze" – November  
Sarah Smith (not present) "First Snowfall" - December

**RECOGNITION OF PATRIOT FAIR COMMITTEE**

Denise Waterman of the American Spirit Education Alliance encouraged participation in the first annual Patriot Fair on October 29, 2011 from 9:00 – 6:00. The fair will be held at the Mason Municipal Center, Memorial park and the surrounding grounds with many activities celebrating the constitution, entertainment, exhibits, and contests. The Mason Liberty Tree dedication is scheduled for 11:00 a.m.

A motion to support the Patriot Fair with in-kind contributions as outlined in the Council memo was made by Councilmember Pelfrey, seconded by Councilmember Gilb. VOTE: 5 YEAS. (Shimrock absent for vote)

**RECOGNITION OF VISITORS** none

**ORDINANCE 2011-13 APPROVAL OF A CONDITIONAL USE PERMIT TO ALLOW A GAS STATION AND CONVENIENCE STORE ON A B-2 ZONED PROPERTY LOCATED AT THE NORTHWEST CORNER OF BETHANY ROAD AND MASON-MONTGOMERY ROAD (BETHANY GREEN CIRCLE)**

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

Council considered postponing this Ordinance to a time when all Councilmembers could be present and decided to go forward tonight. Councilmember Gilb discussed amending the Ordinance so that each conditional use could be considered separately. With direction from the Law Director, Jeff Forbes, Councilmember Gilb made a motion to amend the Ordinance to approve the Convenience Store and deny the Gas Station. There was no second. Council added a condition for hours of operation from 6:00 a.m. to 11:00 p.m. Council decided to discuss and package additional conditions together including the hours of operation for a vote. Council discussed the addition of other conditions which consider these topics: appearance, visual buffer, noise, lighting, traffic, smells/fumes, storm water, and general. Working from a list compiled by Mayor Prince, Council discussed and made some changes. Vice Mayor stated that this list takes into consideration resident feedback and exceeds Planning Commission's recommendations. Councilmember Shimrock stated that she would vote "no" on adding conditions to the Ordinance since both parties have not had the opportunity to consider these changes. With regards to appearance, decorative stone was added as an acceptable material. Council discussed what type of plantings would provide a visual buffer, added fencing on the berm as allowed by City Code and irrigation to the landscape screening. Regarding the noise condition, an outdoor speaker system for *non-emergency use* is prohibited. No changes were made to the lighting section of the list. The first sentence of the traffic section, referring to the future round-a-bout, was deleted since it is not a condition. After discussing enhanced vapor recovery technology as a way to provide additional protection to residents, Council decided to vote on this condition separately. The smells/fumes section of the list was not modified during this part of Council discussion. No changes were made to the storm water section of the list. It was decided to add the last two sections of the list, which covers other and general issues, to whereas clauses in the Ordinance. The list, as discussed, is attached to these minutes.

A motion to add the list of conditions as discussed was made by Councilmember Bradburn, seconded by Councilmember Gilb. VOTE: 5 YEAS, 1 NAY (Shimrock).

A motion to amend the additional condition under the smells/fumes category to include installation of enhanced vapor recovery equipment as mandated by California standards was made by Councilmember Gilb, seconded by Councilmember Bradburn. VOTE: 4 YEAS, 2 NAYS (Shimrock, Prince).

A motion to adopt Ordinance 2011-13 as amended was made by Councilmember Shimrock, seconded by Councilmember Pelfrey. VOTE: 4 YEAS, 2 NAYS (Bradburn, Gilb).

**ORDINANCE 2011-70 PUBLIC HEARING/2<sup>ND</sup> READING: AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO, TO PROVIDE FOR THE REZONING OF APPROXIMATELY 5.171 ACRES LOCATED AT 4503 NORTH ROUTE 42 FROM I-1 TO B-3 (4503 NORTH ROUTE 42 PROPERTY)**

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

Brian Lazor explained that this Ordinance requests the approval to rezone approximately 5.171 acres of land located at 4503 N. Route 42 which is on the north side of US-42 east of Heritage Oak Park. The request is to rezone the property from I-1 (Light Industrial) to B-3 (Road Service Commercial). He explained that the I-1 district generally includes uses such as manufacturing, light industrial, offices and warehouses whereas the B-3 district permits a wider variety of uses including restaurants, offices, retail, automobile service and hotels. He explained that originally about two acres were requested to be rezoned and Planning Commission suggested that the entire property be rezoned B-3. While the Comprehensive Plan calls for this lot to be Light Industrial/Industrial Park, Planning Commission determined that the proposed zoning would be compatible with other business uses located along the US 42 corridor and across the street. Planning Commission recommends approval of the rezoning.

The Public Hearing was opened at 8:43 p.m.

Mohammad Ehteshami of 6329 Tarton Fields Lane, part owner of the property, stated that this property was a run down warehouse in need of improvement when purchased several years ago. Since that time, the owners have invested \$1.2 million in improvements and have tried for two years to rent or lease the space for industrial use without success. Recently several potential businesses have expressed an interest in renting the building and this rezoning would increase the chances of this happening.

The Public Hearing was closed at 8:46 p.m.

Vice Mayor Nichols stated that Planning Commission has discussed this rezoning and made a unanimous decision in favor of the zoning change. The commissioners are happy with this opportunity.

A motion to adopt Ordinance 2011-70 was made by Vice Mayor Nichols, seconded by Councilmember Gilb. VOTE: ALL YEAS.

**RESOLUTION 2011-14 ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR**

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

Jennifer Heft stated that on July 11<sup>th</sup> Council held a Public Hearing to authorize the 2012 Tax Budget as required by the State of Ohio to justify receipt of local government money. She stated that the City took a conservative approach when estimating revenue by including nothing in the budget for State Local Government fund, property tax reimbursement or the estate tax. Once Council approved the Tax Budget it was certified to the County Auditor and the Warren County Budget Commission enacted the tax rates necessary to be levied within and without the ten mill tax limit. She explained that the ten mill limit is a

constitutional limit on the amount of property taxes levied and bonded debt incurred by local government. Mason has approximately \$24.6 million of outstanding general obligation bonds. The Warren County Budget Commission has certified Mason's property tax rates and Mason, by resolution, is required to accept these rates.

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

A motion to adopt Resolution 2011-14 was made by Councilmember Bradburn, seconded by Councilmember Pelfrey. VOTE: ALL YEAS.

**ORDINANCE 2011-77 1<sup>ST</sup> READING: APPROVAL OF A CONDITIONAL USE PERMIT TO ALLOW A UTILITY STATION ON AN R-6 ZONED PROPERTY LOCATED AT 111 KINGS MILLS ROAD (TIME WARNER)**

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

Eric Hansen set October 24, 2011 as the Public Hearing date.

**ORDINANCE 2011-78 REDUCING THE NUMBER OF LIEUTENANT POSITIONS TO SIX AND AUTHORIZING THE ESTABLISHMENT OF THREE ADDITIONAL DEPUTY CHIEF POSITIONS IN THE CITY OF MASON FIRE DEPARTMENT AND ESTABLISHING COMPENSATION**

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

Eric Hansen explained the next two ordinances which relate to the Fire Department. He stated that in 2006 and 2007 there were three operational and response time studies conducted and since that time the Safety Committee has invested considerable time working to implement the recommendations of these studies incrementally over time. Recommendations were primarily with the depth and quality of supervision within the department. He stated that since 2008, three Lieutenant positions have remained vacant. Ordinance 2011 - 78 completes the organizational structure without authorizing additional positions by essentially retitling the vacant Lieutenant positions to Deputy Chief and allowing for further organizational development. There is currently no schedule for recruiting or filling these positions. The reclassification provides the flexibility for the Department to continue to mature as conditions warrant.

Eric explained Ordinance 2011-79 by stating that the City maintains four ambulances: 2 as primary, 1 as backup and 1 as a reserve unit to handle calls for emergency service. Of the four, the 1997 International, currently operating as the reserve Medic 54, has reached the end of its useful service. This Ordinance would authorize the purchase of one 2012 Braun Type I, 166" Modular Body Medic vehicle. The new squad would be placed in service as one of two front line response squads, allowing the current 2003 Horton, Medic 51, to be utilized as a primary back up thereby extending the length of service of that vehicle. Eric explained that in an effort to save costs, the department has for the past 2 medics moved away from the larger "medium" duty chassis, at a cost saving of about \$30,000. The cost of operating these smaller units is being evaluated for economy and dependability. He stated that by utilizing the State of Ohio purchasing contract, the price for one 2012 Braun Medic is \$200,024. Additionally, three

departments from the Northeast Fire Collaborative have worked together to purchase a common design Medic, and the Manufacturer has offered an additional \$6,000 multi unit discount (3 or more vehicles) below the state purchase price. An emergency clause has been added to Ordinance 2011 – 79 in order for the City to secure the current bid price, which is 2011 pricing (effective September 1- 2012 pricing has gone into effect for other customers), and take advantage of multi unit pricing with the Northeast Fire Collaborative. Eric stated that a total savings of nearly \$12,000 will result. Expected delivery is February 2012, depending on chassis delivery from Ford. The 2011 budget included \$230,000 for purchase of a new medic. The proposed discounted cost is \$188,387.

Eric stated that at the meeting on August 10 the Safety Committee reviewed the recommendation for position reclassification as well as the purchase of the Medic unit and is recommending Ordinance 2011 – 78 and Ordinance 2011 - 79 for adoption. Significantly, at that meeting the Committee committed to investigating funding options for fire services in the City and has committed and expects to present a fire levy or other funding alternative to the voters in November 2012.

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

A motion to adopt Ordinance 2011-78 was made by Vice Mayor Nichols, seconded by Councilmember Shimrock. VOTE: ALL YEAS.

Mayor Prince reported that Mason Fire Department's collaboration with Deerfield Township Fire Department to provide first responders into each other's jurisdictions resulted last month in a life saving event. Mason crews were first on the scene of a pool incident in the Northwest quadrant of Deerfield Township that resulted in saving the life of a child.

**ORDINANCE 2011-79 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH LIFE STAR RESCUE INC. FOR THE PURCHASE OF A 2012 BRAUN TYPE I 166 INCH MODULAR BODY MEDIC VEHICLE FOR USE BY THE CITY OF MASON FIRE DEPARTMENT AND DECLARING AN EMERGENCY**

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

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

Councilmember Bradburn responded to Vice Mayor Nichols' question regarding the life expectancy of this type of equipment. He stated that typically 12 years can be expected, but with many runs going to West Chester Hospital, which is closer, more time may be expected due to reduced mileage.

A motion to adopt Ordinance 2011-79 was made by Councilmember Bradburn, seconded by Vice Mayor Nichols. VOTE: ALL YEAS.

**ORDINANCE 2011-80 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH TRANE CORPORATION CONSTRUCTION IN AN AMOUNT NOT TO EXCEED \$39,000 FOR INSTALLATION OF A HVAC UNIT IN THE MASON COMMUNITY CENTER TENANT SPACE AND DECLARING AN EMERGENCY**

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

Eric Hansen explained that this Ordinance continues preparation at the Community Center of the unfinished space for a tenant. He explained the financial background of the Community Center expansion which includes \$3 million in savings from design estimates and a remaining balance of nearly \$500,000 in construction associated allocations. In addition, the City will now be enjoying the benefit of nearly \$140,000 in lease revenues after financing commitments are made. He explained that for the leasable space at the Community Center, staff has developed a plan for the build out of the space which addresses the core requirements for leasable space and provides flexibility for future development. At the meeting in August, Council approved Ordinance 2011 – 74 authorizing the installation of a concrete slab in the tenant space-the first step in the process to develop the space to “white box” build out for leasable space. Next, staff obtained pricing from contractors for HVAC. Ordinance 2011 – 80 authorizes a contract for \$39,000 with Trane Corporation Construction for supplying the roof top HVAC unit and installation. Eric explained that an emergency clause is necessary because of the lead time for delivery and the time needed to allow for the roof penetration and setting of the unit to be completed prior to the risk of colder temperatures damaging the plumbing within the space.

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

A motion to adopt Ordinance 2011-80 was made by Councilmember Bradburn, seconded by Councilmember Shimrock. VOTE: ALL YEAS.

### **CITY MANAGER’S REPORT**

▶ The Leukemia & Lymphoma Society will be hosting their Light the Night Walk on September 15 from 5-9 pm at the Municipal Building west lawn and patio area. Up to 1500 people are expected to attend. The event funds lifesaving research and support for people battling cancer. Anyone can take part - children, adults and seniors are all welcome.

▶ American Legion Post 194 in Mason is partnering with Rolling Thunder Ohio Chapter 9 and the City of Mason to honor the National POW/MIA Recognition Day on Friday, September 16, 2011. The event will be held from 6 to 7 p.m. at Mason Municipal Center, 6000 Mason-Montgomery Road in Mason. The program includes comments by State Representative Peter Beck and Mason Mayor Don Prince, both veterans. A Missing Man Ceremony will honor the American men and women from each of the five branches of the armed services and the civilians who chose to support the cause of freedom and are still missing.

▶ The Mason-Deerfield Arts Alliance will present the Mason Arts Festival on Sunday, September 18 at the Mason Municipal Center from 11:00 a.m. to 5:00 p.m. There will be parking in the City’s lots and the event is free to the public. Bring the family out, rain or shine, and enjoy over 100 local and regional fine artists; a gallery indoors at the Municipal Center atrium featuring over 50 works of art, performing arts throughout the day, and free kids art activities.

► Duke Energy will host an educational event on October 4, 2011 from 5 to 8 p.m. at their state-of-the-art Envision Center in Erlanger, Kentucky. All Council members are invited to attend and a bus will depart from the Municipal Center at 4 p.m. Please call Joan Bernard at 229-8510 with your RSVP.

► A motion to not request a hearing for a Liquor Permit for West Shore Pizza at 6176 Tylersville Road was made by Vice Mayor Nichols, seconded by Councilmember Bradburn. VOTE: ALL YEAS.

### **COMMITTEE REPORTS**

Councilmember Bradburn reported that at last month's Warren County Municipal League meeting Representative Pete Beck and Representative Shannon Jones were in attendance. He stated that by July 2013 local government funds will be non-existent and that the City of Mason is proactive in anticipation of these lost funds. He also reported that the Finance Committee will be starting on the budget process and he recommends the appointment of David Nichols as the head of this committee in order to provide continuity.

Councilmember Pelfrey reported that the Downtown Committee is planning to meet soon.

Vice Mayor Nichols reported that the Economic Development Committee continues to work with companies regarding possible expansion.

Mayor Prince announced that the L-3 Communications expansion will add approximately 150 employees.

### **OLD AND NEW BUSINESS**

Councilmember Gilb reported that Nick Miller commented on the need for additional recycling receptacles at the Heritage and Bicycle Festival.

Councilmember Pelfrey stated that she met with seniors at the Senior Center today. They expressed their desire for a bulletin board and a locked supply cabinet for their own use.

### **RECOGNITION OF VISITORS** none

### **EXECUTIVE SESSION: PROPERTY ACQUISITION**

A motion to adjourn into Executive Session for the purpose of discussing Property Acquisition was made by Councilmember Bradburn, seconded by Vice Mayor Nichols. VOTE: ALL YEAS.

TIME: 9:20 p.m..

A motion to reconvene into Regular Session was made by Councilmember Gilb, seconded by Councilmember Pelfrey. VOTE: ALL YEAS. TIME: 9:54 p.m.

A motion to add Ordinance 2011-81 to the agenda was made by Councilmember Gilb, seconded by Vice Mayor Nichols. VOTE: ALL YEAS.

**ORDINANCE 2011-81 AMENDING SECTION 133.05 OF THE CODE OF ORDINANCES OF THE CITY OF MASON, OHIO, REGARDING CITY MANAGER PURCHASING AUTHORITY, AND DECLARING AN EMERGENCY**

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

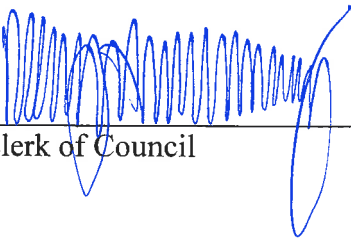
A motion to suspend the rule and allow for adoption after the first reading was made by Councilmember Bradburn, seconded by Councilmember Gilb. VOTE: ALL YEAS.

A motion to adopt Ordinance 2011-81 was made by Councilmember Gilb, seconded by Councilmember Shimrock. VOTE: ALL YEAS.

**ADJOURN**

A motion to adjourn was made by Councilmember Bradburn, seconded by Vice Mayor Nichols. VOTE: ALL YEAS.

TIME: 9:56 p.m.

  
Clerk of Council

  
Mayor



**Attachment to the minutes:** During Council discussion, this list (as referred to in the minutes) was utilized as a way to consider placement of additional conditions to Ordinance 2011-13. Areas in red font are additions to the list made during discussion and items struck through are items removed. The final version of this list is found within the amended version of Ordinance 2011-13.

Proposed Amendment to **Ord. 2011-13**  
Bethany Green Conditions

- Appearance    Require the façade of the building to be brick or stone on all sides, no siding of any type. Require all canopy columns to be finished in either brick or **decorative** stone. Limit signage to 1 “ground mounted” sign. No building or canopy mounted signage. The trash dumpster shall be housed in a brick or stone walled enclosure.
- Visual Buffer    The developer will provide **irrigated** landscape screening in the form of a raised berm **with a fence approved by City Code**, deciduous and evergreen trees, and shrubs of a size and density to provide an essentially opaque screen between the business and the residences on the western property line. The south and east facing property sides of the property shall be landscaped to provide as much visual buffer as practical to the neighboring homes.
- Noise            The installation and/or use of outdoor speaker systems **for non-emergency use** is prohibited. Existing residential noise limits will remain in force on all residential property. Routine dumpster service is limited to between the hours of 9:00 AM and 6:00 PM.
- Lighting        Prohibit direct light from any source on the premises from shining beyond the property line at ground level. During hours of non-operation the overall lighting of the site must be reduced to reasonable levels as needed to provide for security and safety on the premises.
- Traffic          ~~Existing traffic congestion during rush hours will be alleviated by the planned future “Round a Bout”.~~— The Bethany Green developer shall bear the expense of providing additional roadway improvements as determined by the city to be necessary as the result of this project, including the possibility of additional turn lanes. The city shall determine turn lane requirements and whether such improvements are needed at this time, or as part of the future planned improvements.
- Smell/Fumes    Existing Ohio and Federal EPA regulations relating to refueling operations will be enforced. All trash, garbage and refuse shall be held in a closed dumpster and the business owner shall contract with trash service to insure that the dumpster is emptied daily on days when the business is operating. **Developer shall also install enhanced vapor recovery equipment as mandated by California standards.**
- Storm water    Surface water runoff will be handled in accordance with existing Federal and Ohio EPA guidelines and the Mason Storm Water Utility.

**Attachment, continued**

*(The following items will be rewritten and put into the "Whereas clause" section of the Ordinance)*

- Other            The developer shall consult with adjoining homeowners to agree upon as much as practical the means of mitigating potential impacts to their homes of vehicle headlights, as vehicles enter or leave the business property.
  
- General        The developer shall make a good faith effort to work with adjoining homeowners to resolve each of these areas of concern.