

**CITY OF MASON
COUNCIL MEETING
JUNE 11, 2018**

The meeting was called to order at 7:05 p.m. Chaplain Tom Moll opened the meeting in prayer. All those present recited the Pledge of Allegiance.

ATTENDANCE

The following members of Council were present: Barbara Berry-Spaeth, Ashley Chance, Kathy Grossmann, Michael Gilb, and T. J. Honerlaw. Diana K. Nelson and Victor Kidd were absent.

APPROVAL OF MINUTES

A motion to approve the May 14, 2018 Council Meeting and May 18, 2018 Special Council Meeting Minutes was made by Councilmember Chance, seconded by Councilmember Honerlaw. VOTE: ALL YEAS.

CITY MANAGER'S REPORT

The next regularly scheduled Council meeting is Monday, July 9, 2018. A work session will be held on Monday, June 25, 2018 at 5:00 p.m.

Music in Mason is held every Friday in June and July at the Downtown Plaza with two bands performing each night.

A modular skate park was assembled at low cost in the northeast corner of Heritage Oak Park's parking lot to gage interest. The City will set up modular skate sites in Thomas P. Quinn Park and Pine Hill Lakes Park over the course of the summer. Councilmember Honerlaw and Eric discussed the Ohio Recreational Users Immunity and the City not charging for this activity.

Red, Rhythm and Boom is Tuesday, July 3, 2018. Kidzone presale wristbands can be purchased at the Community Center, Municipal Center, Lou Eves Municipal Pool, and Music in Mason events. The event kicks off at 4 p.m. with activities. Stage entertainment begins at 5:45 p.m. with the national anthem and a skydiving exhibit. At 6:00 p.m. Five for Fighting will perform followed by the headlining artist, The Fray at 8:00 p.m. The event concludes with fireworks at 10:00 p.m. All City staff come together for this event including 20 employees on the Incident Command Team. City Offices will be closed July 3 to allow staff to focus on this event and July 4 for Independence Day.

COMMITTEE REPORTS

Councilmember Chance reviewed the Veterans Committee and thanked the community for coming to the Memorial Day activities. Due to weather, the activities were moved inside and will be common practice in the future. He presented ideas to better honor and showcase Mason's veterans. He reported the Downtown Committee has been researching and discussing obstacles

and solutions to revitalize Downtown Mason. He advised discussion for improvements of The Golf Center will be discussed at the June 25 work session.

Vice Mayor Spaeth reported on Public Works Committee updates. The cleaning of premises ordinance was originally written in 1969 and did not allow productive enforcement. Updating the ordinance allows for a thorough process to assist property owners in alleviating concerns. She said Greater Cincinnati Water Works' lead service line replacement program is voluntary and affects about 1,000 homes in Mason. Eric Hansen advised in addition to GCWW's program to help property owners, the City intends to provide assessment abilities and testing services to residents. Vice Mayor Spaeth stated the Safety Committee received a presentation from Judge Robert Peeler in regards to diverting individuals addicted to drugs and assessing individuals who would be appropriate for the drug diversion program. She said the committee is providing every resource possible so Mason continues to be a safe community.

PRESENTATION BY WARREN COUNTY DRUG TASK FORCE – COMMANDER STEVE ARRASMITH

Chief Carter introduced Commander Steve Arrasmith and advised the partnership of the Warren County Drug Task Force offers cost savings support, access to updated technology, and resources including 20 additional officers and four canines. Commander Arrasmith thanked the members of Council, City of Mason, Mason's Police Department, and Mason residents for their continued support and helpful information. The Drug Task Force concept remains the most effective and cost efficient way to target drug trafficking. The High Intensity Drug Trafficking Area (HIDA) federal program works with federal, state, and local law enforcement and provides a small amount of funding. The Warren County Drug Task Force consists of 11 different law enforcement agencies including local jurisdictions, an FBI agent, uniformed state troopers, and the Ohio National Guard providing intelligence analysts. He reviewed the annual financial report. Drug Task Force funding is received from a variety of sources and is inconsistent and unpredictable. The task force is partially funded by a JAG grant, however funds are frozen across the country this year, and a DLE state grant, but there's been a 17% reduction in the grant for 2018. The task force also receives contributions from jurisdictions and Warren County Commissioners. He stated the Warren County Drug Task Force completed 506 drug diversion investigations in 2017. Commander Arrasmith reviewed current drug trends including a 112% increase from 2017 to 2018 in Methamphetamine seizures within the county and noted Warren County is ranked fourth in the State for Heroin fentanyl and Methamphetamine seizures. He stated the Warren County Drug Task Force is appreciative of the relationship with the City of Mason.

ORDINANCE 2018-70 AUTHORIZING CONTRIBUTION OF \$100,000 TO THE WARREN COUNTY DRUG TASK FORCE

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

Eric Hansen stated the City has partnered with the Drug Task Force since its inception. In 2000, the Drug Task Force asked each municipality to contribute \$1 per resident, \$21,000 annually.

From 2009-2014, the City contributed \$22,000 and in 2015, Council voted to increase those funds with additional funds directed to fight opioid abuse. In 2018, the Drug Task Force is asking for additional funds from all participating members to help face the budget deficit this year and in future years. The Commissioners are able to use the contributions from local entities to leverage additional state and federal monies to help fight the drug epidemic. The Safety Committee recommends the City provide funding to maintain the drug diversion program.

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

Council commended the Drug Task Force and discussed the need for the City to stay involved in the crisis and support their efforts. Providing funds to the Warren County Drug Task Force was unanimously agreed as a great investment in the community.

A motion to adopt Ordinance 2018-70 was made by Councilmember Chance, seconded by Councilmember Gilb. VOTE: ALL YEAS.

PRESENTATION BY WARREN COUNTY FOUNDATION – THOMAS SEDDON

Thomas Seddon reviewed the Warren County Foundations mission and support of private and public entities. He discussed the services the foundation offers including funds management, addressing community needs through grants, and bringing county organizations together with mutual interests. The organization awards discretionary grants including providing to the Mason Challenger League and Lifeline Educational Services. He said the foundation also started an impact grant program in 2017 to assist organizations making an impact in the community.

PRESENTATION BY COUNCILMEMBER KATHY GROSSMANN

Councilmember Grossmann reported additional information to create a solution in helping the public gain more knowledge in land acquisitions. She reviewed options to adjust the standards of best practices, creating a legal pathway through a Charter Amendment catalyst, and giving the public a chance to engage with Council when available. She suggested new Charter language be added to 3.07-K which includes providing the history of the property. She stated she wants to improve public policy and encourage Council to make an informed decision on behalf of the public.

RECOGNITION OF VISITORS

Sherry Taylor, president and CEO of the Mason Deerfield Chamber of Commerce, presented a policy change request making Downtown revitalization a priority and said the current zoning restrictions are cumbersome. She reviewed the history of the downtown area and improvements/investments that have been made. Sherry said a stronger market assists the City's goal for downtown to flourish, business owners achieving more business and employees, and property owners enhancing their property investment. She praised the current public and private sectors assisting each other to create a pedestrian friendly downtown setting.

Stuart Cowan of 104 East North Street expressed concern about the direction Council seems to be going and stated full disclosure with public spending is paramount to resident trust. He commended Councilmember Grossmann for her efforts in adjusting the Charter.

Kimberly Ward of 5505 Mason Road raised concern with Councilmembers not supporting each other publicly and representing Mason in a poor manner. Councilmember Grossmann apologized for the social media exchange between her and Mayor. Council reiterated their responsibility to work together for Mason's community and the need for their continued respect for each other.

Kelly Kohls of 4255 Nicholson Road, Clarksville, Ohio advised the decisions being made for the community impact all residents and residents do want to add input in regards to decisions.

Steve Jones of 913 Leslie Court stated the residents choose Council to represent them, not lead them. He recommended solutions to assist in informing the public to be able to council their Councilors.

Char Pelfrey of 5499 Mason Road commended Council's support of Music in Mason and stated the Downtown Plaza is still not inviting. She requested the City pursue a survey of utilities at the Downtown Plaza. She said the actions across Council have been disappointing as a resident and previous Councilmember. Char also stated she supports Councilmember Grossmann's transparency initiative.

Anton Weissmann of P.O. Box 396, Franklin, Ohio suggested adding downtown business owners to the Planning Commission Committee and applauded Councilmember Grossmann for her policy change request. He noticed real estate Ohio Law compliance concerns with her draft and suggested they be addressed.

ORDINANCE 2018-79 FIRST READING DIRECTING THE WARREN COUNTY BOARD OF ELECTIONS TO SUBMIT TO THE ELECTORS OF THE CITY OF MASON, OHIO, A CHARTER AMENDMENT TO SECTION 3.07-K REGARDING THE ACQUISITION OF REAL ESTATE IN THE CITY OF MASON

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

Council Meeting recess began at 9:10 p.m.

Council Meeting reconvened at 9:12 p.m.

Jeff Forbes advised Ordinance 2018-79 was recently added to the agenda and has not had time to thoroughly review the ordinance, but will before the next Council Meeting.

Councilmember Honerlaw said the ordinance Councilmember Grossmann is recommending will be a good addition to City government.

RESOLUTION 2018-13 ADOPTING THE BUDGET OF THE CITY OF MASON FOR THE YEAR JANUARY 1, 2019 THROUGH DECEMBER 31, 2019

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

The Public Hearing was opened at 9:35 p.m.

Eric Hansen stated this is not the actual budget for the City of Mason. It is part of the Tax Budget process the State of Ohio requires to justify receipt of local government funds through the state. The Tax Budget is the mechanism through which Council can annually adjust the property tax rate. While operating expenses needed are growing, City staff feels that 4.4 mills can be maintained for 2019. The 4.4 millage is below the 5-mills allowed by Charter, below the previous 5-mill levy amount, and less than neighboring municipal jurisdictions.

The Public Hearing was closed at 9:36 p.m.

A motion to adopt Resolution 2018-13 was made by Councilmember Chance, seconded by Councilmember Gilb. VOTE: ALL YEAS.

RESOLUTION 2018-14 PROCLAIMING JULY AS NATIONAL PARKS AND RECREATION MONTH

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

Eric Hansen said July is the month the National Recreation and Park Association (NRPA) recognizes the importance of our nation's parks and recreation facilities. The City of Mason has invested significant financial resources to improve and enhance recreational facilities and programs for Mason residents including Mason Community Center, Lou Eves Municipal Pool, and 300 acres of parks. The City has leveraged economic development potential with a culture of wellness. A special movie night at The Golf Center on Sunday, July 22 at 6:30 p.m. will celebrate residents and National Parks and Rec month.

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

A motion to adopt Resolution 2018-14 was made by Councilmember Chance, seconded by Councilmember Grossmann. VOTE: ALL YEAS.

ORDINANCE 2018-62 AMENDING THE ZONING CODE AND ZONING MAP OF THE CITY OF MASON, OHIO TO PROVIDE FOR THE REZONING OF APPROXIMATELY 3.7 ACRES FROM R-4 TO R-PUD WITH APPROVAL OF THE CONCEPT PLANNED UNIT DEVELOPMENT PLAN LOCATED AT 6958 BUTLER WARREN ROAD & 1480 WESTERN ROW ROAD (BEDI COTTAGES)

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

The Public Hearing was opened at 9:42 p.m.

Kurt Seiler stated this ordinance is in regards to two pieces of land at the intersection of Butler Warren Road and Western Row Road with a combined total of 3.7 acres. This concept plan and rezoning has nine single family homes with one access point on Western Row Road. Additional design work will be done; this plan is to lay out the density and possible placement of the access point. The plan will include a 30-50 foot set back due to the vast amount of flood plain and the open space is less than the required 20% due to the flood plain. Planning Commission recommended approval of the rezoning concept plan subject to moving the detention basin out of the flood plain, adding a sidewalk along Western Row Road, adding a left turn lane on Butler Warren Road, and including a landscaping buffer along the interior property lines where there is a 30 foot set back.

Richard Levin of 8353 Ashley Hall Court, West Chester, Ohio raised concern about a long term solution to flooding and plans for proper drainage. Kurt Seiler advised 800 acres drains with little to no impact to downstream properties and this ordinance begins the process and the ability to review drainage concerns or options.

Steve Jones of 913 Leslie Court inquired about the impact the roundabout has on this property. Kurt stated a preliminary layout for the roundabout needs to be completed and right of way from this property would be taken into consideration.

Jay Bedi of 4729 Raynor Court advised they purchased the corner lot with plans to build and changing the set back from 40 to 30 feet provides the ability to build appropriately. They want to work with the City to assist in the changes for the roundabout.

Randall Plikerd, architect for the preliminary plan, recommended other options besides PUD to allow for pocket neighborhoods, higher density on smaller parcels for affordable housing.

Councilmember Gilb confirmed this ordinance approves the plans for rezoning, but is not a survey document.

Councilmember Grossmann thanked Mr. Levin for attending Council to address his concerns.

The Public Hearing was closed at 9:56 p.m.

A motion to adopt Ordinance 2018-62 was made by Councilmember Chance, seconded by Councilmember Gilb. VOTE: ALL YEAS.

ORDINANCE 2018-47 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE F.D. LAWRENCE ELECTRIC CO. FOR THE PURCHASE OF FIFTEEN (15) DECORATIVE STREET LIGHTS AND ASSOCIATED MATERIALS IN THE AMOUNT OF \$54,762

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

Kurt Seiler discussed Ordinance 2018-47, Ordinance 2018-48, and Ordinance 2018-49 together. He stated the City currently has 2,000 lights throughout the City and 700 of those are maintained by City staff. These ordinances were originally tabled to review LED lighting options for the remaining lights on Hanover Drive. Fixtures the City uses are designed for high pressure sodium and use of current LED lighting would lead to early failure and are not financially prudent. Ordinance 2018-47 is for the cost of materials, Ordinance 2018-48 is for ESI Electric to install street light wiring, and Ordinance 2018-49 is to install the underground conduit.

Councilmember Honerlaw presented concerns with spending \$100,000 for 15 decorative lights on Hanover Drive. Kurt advised the cost is to replace an aging system and includes the poles, lights, conduit between the poles, lighting control center and contactors, foundation, and installation. These are the last 15 lights to be changed out in the City.

A motion to adopt Ordinance 2018-47 was made by Councilmember Honerlaw, seconded by Councilmember Chance. VOTE: ALL YEAS.

ORDINANCE 2018-48 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ESI, INC. PROVIDING FOR THE INSTALLATION AND THE NECESSARY ELECTRICAL CONNECTIONS FOR THE 2018 STREET LIGHT REPLACEMENT PROGRAM IN THE AMOUNT NOT TO EXCEED \$31,586

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

A motion to adopt Ordinance 2018-48 was made by Councilmember Gilb, seconded by Councilmember Chance. VOTE: ALL YEAS.

ORDINANCE 2018-49 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH RMW EXCAVATION AND DIRECTIONAL DRILLING INC. FOR THE INSTALLATION OF ELECTRICAL CONDUIT FOR THE 2018 STREET LIGHT REPLACEMENT PROGRAM IN THE AMOUNT OF \$24,800

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

A motion to adopt Ordinance 2018-49 was made by Councilmember Chance, seconded by Councilmember Gilb. VOTE: ALL YEAS.

ORDINANCE 2018-66 FIRST READING CREATING A DESIGNATED OUTDOOR REFRESHMENT AREA AND ESTABLISHING REQUIREMENTS TO ENSURE PUBLIC HEALTH AND SAFETY WITHIN SUCH AREA

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

Eric Hansen set the Public Hearing date for August 13, 2018.

ORDINANCE 2018-67 FIRST READING AMENDING SECTION 521.10 OF THE CITY OF MASON CODIFIED ORDINANCES REGARDING CLEANING OF PREMISES

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

Eric Hansen advised the Second Reading will be July 9, 2018.

ORDINANCE 2018-68 APPROVAL OF THE FINAL PLAT FOR CROOKED TREE PRESERVE SUBDIVISION PHASE 1D

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

Kurt Seiler said this property is zoned R-3, Single Family Residential and contains 12 single-family lots and one 7.3 acre open space lot. This plat will dedicate the right of way, utilities, and storm and sewer easements necessary. Planning Commission recommended approval of the final plat contingent upon the submittal of the performance bond and subdivider's contract.

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

A motion to adopt Ordinance 2018-68 was made by Councilmember Grossmann, seconded by Councilmember Chance. VOTE: ALL YEAS.

ORDINANCE 2018-69 APPROVAL OF THE RECORD PLAT FOR KHAN NOOR SUBDIVISION

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

Kurt Seiler said this lot will be divided into two lots. Lot 1, an industrial zoned lot, will be 5.26 acres in size and Lot 2, a residential lot, will be 5.62 acres in size. The plat is based upon the

Khan Noor PUD which was previously approved. Planning Commission recommended approval of the record plat subject to changing the plat title to the Khan Noor Subdivision.

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

A motion to adopt Ordinance 2018-69 was made by Councilmember Gilb, seconded by Councilmember Honerlaw. VOTE: ALL YEAS.

ORDINANCE 2018-71 AUTHORIZING THE CITY MANAGER TO PREPARE AND SUBMIT APPLICATIONS TO PARTICIPATE IN THE OHIO PUBLIC WORKS COMMISSION STATE CAPITAL IMPROVEMENT AND / OR LOCAL TRANSPORTATION IMPROVEMENT PROGRAM(S) AND TO EXECUTE CONTRACTS AS REQUIRED

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

Eric Hansen said this ordinance authorizes the City's continued participation in the Issue 1 Program and to pursue application. The State of Ohio provides financing for public infrastructure which offsets the funds for City improvements. This is a pre-application for calendar year 2020. The first funds authorized will be for the Butler Warren Road and Western Row Road Roundabout Project and the second project is for SR 741 improvements between Weldon Drive and Spyglass Hill.

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

A motion to adopt Ordinance 2018-71 was made by Councilmember Grossmann, seconded by Councilmember Honerlaw. VOTE: ALL YEAS.

ORDINANCE 2018-72 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH R.E. MIDDLETON, LLC, IN THE AMOUNT OF \$75,000, FOR THE 2018 SIDEWALK REPLACEMENT PROGRAM

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

Kurt Seiler said annually since 2007, the City has budgeted funds toward a program to replace the worst sidewalks in the City, with residential streets given priority. The project will include the replacement of sidewalk along Western Row Road between Olympia Drive and US 42 and Windward Drive. A portion of Anthony Lane will be replaced if funds allow. Similar to previous years, \$75,000 is recommended with \$25,000 to be split between materials for City staff spot repairs and replacing trip hazards. Four quotes were requested with two quotes received based upon a square-foot price for the removal, replacement, and restoration of sidewalk as funds allow

and two did not submit bids due to their current workload. This year R.E. Middleton, LLC provided the lowest per-square-foot price for the project.

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

Councilmember Honerlaw and Kurt discussed \$75,000 is provided to R.E. Middleton and an additional \$25,000, broken up into smaller payment increments, to City staff for purchase of supplies needed.

A motion to adopt Ordinance 2018-72 was made by Councilmember Chance, seconded by Councilmember Grossmann. VOTE: ALL YEAS.

ORDINANCE 2018-73 REQUESTING THE STATE OF OHIO DIRECTOR OF TRANSPORTATION TO MODIFY THE SPEED LIMIT ON SR 741 BEGINNING AT BINION WAY AND ENDING AT COX-SMITH ROAD

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

Kurt Seiler stated the existing speed limit on SR 741 is 50 mph and drops to 40 mph just north of Bethany Road, which then returns to 50 mph from that point south to Cox-Smith Road. At Cox-Smith Road, the speed limit then changes to 45 mph to Courseview Drive and finally returns to 40 mph from Courseview Drive to I-71. This ordinance requests Ohio Department of Transportation (ODOT) to approve reduced speed making it consistent north of Bethany Road to Cox-Smith Road and extending the existing 45 mph zone from Cox-Smith Road to north of Binion Way. A speed study, required by ODOT, was completed and accident data for the last three years was reviewed. He said speeds were checked to verify the free flow speeds currently being traveled by traffic in the area. The speed study revealed that the existing speeds for northbound and southbound traffic warrant a consistent 45 mph posted speed.

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

Councilmember Gilb and Kurt discussed the City not having the authorization to change the speed limit, but can recommend speed adjustments to ODOT.

A motion to adopt Ordinance 2018-73 was made by Councilmember Gilb, seconded by Councilmember Honerlaw. VOTE: ALL YEAS.

ORDINANCE 2018-74 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH R.E. MIDDLETON, LLC FOR CONCRETE WORK AT FIRE STATION 52 IN THE AMOUNT OF \$76,920

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

Kurt Seiler said the 2018 Budget included a total of \$108,000 for work to replace a portion of the concrete slab in front of the apparatus bay due to deterioration caused by constant use by heavy fleet equipment. The existing slab of concrete is a 6" thick slab with a wire mesh that the contractor will replace with an 8" thick slab and ½" rebar instead of the wire mesh similar to what was completed in 2014. R.E. Middleton provided the only bid with pricing of \$1 per square foot which is lower than the 2014 price.

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

A motion to adopt Ordinance 2018-74 was made by Councilmember Chance, seconded by Councilmember Honerlaw. VOTE: ALL YEAS.

ORDINANCE 2018-75 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CHAPEL ELECTRIC COMPANY, LLC FOR THE PURCHASE OF A/V EQUIPMENT FOR COUNCIL CHAMBERS AND MEETING ROOMS IN THE AMOUNT OF \$193,000

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

Eric Hansen said the current equipment in Municipal Center meeting rooms and Council Chambers was installed with the construction of the Municipal Center in 2002 and has not been upgraded since. Meeting rooms throughout the Municipal Center receive significant use by the City, business partners, and community organizations. While furnishings and carpet in the rooms were replaced a few years ago the technology was not upgraded. Some of the equipment is no longer in operating order. ICRC is currently updating all of their cameras and film equipment for Council Chambers and they anticipate the update to be complete by September 2018. Updating the City's system at this time would bring the technology up to current HD standards, consolidate various functions in all spaces to a single remote, and provide compatibility with ICRC's system. The 2018 Budget allotted \$210,000 for these improvements, the cost for these improvements will amount to \$193,000.

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

Councilmember Honerlaw inquired of the cost being the lowest bid or the bid for what the City's needs are. Eric stated the City utilized the state purchasing program, which allows the City the benefit of the lowest bid and ability to customize the bid to the brand or style.

Vice Mayor Spaeth and Councilmember Chance praised the upgrade to televisions in Council Chambers for presentations and documents for the guests in attendance.

A motion to adopt Ordinance 2018-75 was made by Councilmember Chance, seconded by Councilmember Grossmann. VOTE: ALL YEAS.

ORDINANCE 2018-76 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH DELL, INC. FOR THE PURCHASE OF 175 DESKTOP COMPUTERS IN THE AMOUNT OF \$140,000

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

Eric Hansen said the IT Department currently maintains 220 desktop computers that were purchased in 2007. These desktops run with an outdated Windows 7 operating system. The City researched virtual desktop replacements; however the cost would range \$300,000-\$400,000 and needs replacement every four years. Purchasing new desktop computers with the Windows 10 operating system provides the hardware needed and a life expectancy of eight years. The 2018 Budget included \$250,000 for this capital improvement; the amount through the state purchasing program is \$140,000.

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

A motion to adopt Ordinance 2018-76 was made by Councilmember Chance, seconded by Councilmember Gilb. VOTE: ALL YEAS.

ORDINANCE 2018-77 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CTS CONSTRUCTION, INC. FOR FIBER CABLE CONSTRUCTION, PULLING AND TERMINATION SERVICES IN THE AMOUNT OF \$25,000

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

Kurt Seiler reviewed Ordinance 2018-77 and Ordinance 2018-78 together. The Citywide signal and fiber project consists of installing over 26 miles of fiber throughout the City to be able to reach the City's outlying sites including the Fire Station, Water Reclamation Plant, and Service Station. Ordinance 2018-77 allows CTS Construction, Inc. to bring the fiber inside the buildings and Ordinance 2018-78 is for purchasing the equipment needed for switches, access points, and licensing for the networking equipment on the end of each fiber to have connectivity to outlying sites. This will increase speed to outlying sites and save \$5,000 in monthly costs for the City's current service providers for internet service. This project utilizes the state's purchasing program.

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

A motion to adopt Ordinance 2018-77 was made by Councilmember Honerlaw, seconded by Councilmember Grossmann. VOTE: ALL YEAS.

ORDINANCE 2018-78 AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CDW-G FOR THE PURCHASE OF NETWORK SWITCHES,

WIRELESS ACCESS POINTS, LICENSING, AND OTHER NECESSARY NETWORKING EQUIPMENT IN THE AMOUNT OF \$152,000

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

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

A motion to adopt Ordinance 2018-78 was made by Councilmember Chance, seconded by Councilmember Gilb. VOTE: ALL YEAS.

OLD AND NEW BUSINESS

Councilmember Grossmann submitted a statement she read in regards to the May 18, 2018 Special Council Meeting as well as the statement she wanted to read on May 18, 2018. She referred to adhering to Robert's Rules of Order for debate and the public deserving open and honest debate. Councilmember Grossmann and Jeff Forbes discussed his legal opinion of her inquiry on May 18, 2018 of the Mayor personally benefiting from the seller for the pending land acquisition. He stated his opinion of no personal benefit was based on all the information he had at that time through documents and discussion with relevant participants.

Councilmember Honerlaw invited the public to attend the June 25, 2018 Council work session at 5:00 p.m. to discuss The Golf Center.

Councilmember Gilb encouraged following Robert's Rules of Order to keep politics out of debate and focus on the issues at hand. He encouraged Council to recognize everyone has opinions.

Vice Mayor Spaeth thanked City staff for the time put into City events.

RECOGNITION OF VISITORS - none

EXECUTIVE SESSION: LAND ACQUISITION AND EMPLOYMENT/COMPENSATION OF PUBLIC EMPLOYEES

A motion to adjourn into Executive Session for the purpose of discussing land acquisition and employment/compensation of public employees was made by Councilmember Gilb, seconded by Councilmember Honerlaw. VOTE: ALL YEAS. TIME: 10:48 p.m.

A motion to reconvene into Regular Session was made by Councilmember Honerlaw, seconded by Councilmember Grossmann. VOTE: ALL YEAS. TIME: 11:16 p.m.

A motion to increase the City Manager's base pay by 2.5% with a \$12,500 bonus was made by Councilmember Gilb, seconded by Councilmember Chance. VOTE: ALL YEAS.

ADJOURN

A motion to adjourn was made by Councilmember Chance, seconded by Councilmember Honerlaw. VOTE: ALL YEAS. TIME: 11:18 p.m.

June 11, 2018
Kathy Grossman

On May 18, this Council held a special meeting to discuss the repeal of Ordinance 2018-61 due to concerns raised about our compliance with the law during executive session, and the discussion and voting on that ordinance. I am grateful to the Mayor for scheduling that meeting after he was told that three other council members would call the meeting pursuant to the Mason Charter if he did not do so. Mayor Kidd said he "voluntarily called that meeting, but the catalyst for the meeting was my request that it be called and statement that three others would call it if he did not.

The May 18 meeting was properly called. It is mandatory that all council members attend council meetings. We must modify our schedules to make meetings. It is not an excuse that we have other matters that we may prefer to attend like a child's book reading which can be rescheduled. I have modified innumerable events with my children for Mason business. That is what we all signed on for by becoming council members.

During the May 18th meeting, the rules our body follows, Robert's Rules of Order, were repeatedly violated. Under Robert's Rules, once a motion is made and seconded, each member has a right to speak to that motion without any limitation of time or interruptions unless our council as a whole has adopted limitations on debate. Everyone must be permitted to comment on a motion, and debate may only be stopped by a motion that is passed by a 2/3rd vote. I was interrupted in the midst of my comments on the motion to repeal the property transaction in question after one minute and without a vote of our council to close debate. That was a blatant rule violation. A member interrupted me to claim a violation of executive session. That was not true and was also a rule violation.

The chair of the meeting is to enforce the rules. She or he does not make the rules and may not change them unilaterally much less violate them. But that is what happened on May 18. Robert's Rules were repeatedly violated by certain members and by the chairman of the meeting. This is not acceptable. The point of having the floor during debate is to inform one another on our respective positions fairly so that we may make informed decisions. I was rudely interrupted multiple times. More time was spent interrupting me, arguing with me and making excuses than my statement would have taken. I could have read it three times over. The chair, who is to be a neutral arbiter of the meetings, not only permitted repeated rules violations, but was the chief violator of the very rules she was supposed to fairly apply and enforce. She limited debate contrary to the rules and forced a vote before I was finished speaking and without giving anyone else a chance to speak: all blatant rules violations.

This studied attempt to stifle relevant discussion appeared to be planned in advance. Was this all orchestrated by the one member who recused himself? He should not have had any part in this matter. He was permitted to make a lengthy presentation of 7 minutes at the beginning of the meeting as a protagonist and an apologist for a position he was advocating. That was also a rules violation as the chair may not argue, debate or advocate. Moreover, as he had recused himself, he should not have been there at all.

Repeal Commentary and Questions for May 18, 2018

Advisory opinions have been issued stating that what has occurred in the contract negotiations for our most recent property acquisition, Ordinance 2018-61, may be in violation of Ohio Ethics Law and quite possibly a deprivation of Honest Services to the public, among other violations, leaving us vulnerable to the transaction being unwound through Section 733.59 of the Ohio Revised Code authorizing a Taxpayer's Lawsuit for misuse of public funds. Unfortunately, I believe there is also potential criminal liability for members of this council under Ohio and federal law, causing great harm and embarrassment to the City of Mason and to themselves. I am begging my colleagues to take this statement seriously and hear my concerns. I am heartsick about this. My concerns are not about myself but for my colleagues.

As elected officials, we have a fiduciary obligation to provide honest services to the public. It is my opinion that members of this council ***"foresaw or reasonably should have foreseen"*** the economic detriment this transaction would and could create for the public's well-being.

For almost a year, we had on and off again discussions in executive session, in which all council members participated. Prior to April 23, 2018, at no time did a council member abstain. There was no self-reporting in any detail of previous or pending transactions or other business relationships among council members or with the seller to my knowledge.

I am gravely concerned that our process has been tainted by the presence of one or more council members who should have disclosed relevant, material information to guide our conduct in executive session with regard to this transaction. Their duty to disclose relevant information at the onset of our discussions last summer was critical and in my opinion most likely would have changed the outcome of the negotiated terms and timing, if not the passage of the deal altogether, especially considering we have no defined residential, commercial or public use of the properties to my knowledge and no current plan for a public use. We are simply engaged in property speculation, which in itself troubles me.

It is not only our duty to disclose ***"material information"*** at the time of discussions and negotiations, it is required that we ***"demonstrate"*** any relationships elected officials may have with sellers or contractors. Those relationships ***cannot interfere with our ability to represent the citizens of Mason with "independent judgement"***.

We cannot just "will ourselves" to be neutral in a situation like this; *the law says we have to demonstrate it. If one cannot demonstrate it, one has to abstain from all discussions, negotiations and council action, including placing no influence on other council members, staff or contractor/seller.*

We also do not have the right to conspire with others to help suppress material information by looking the other way, or worse, sabotaging dialogue in meetings with council members who DO want to know material, relevant information.

In April, I made two presentations in open session on the need for developing Standards of Best Practice for local government in the acquisition of real estate. My presentations were not yet where I wanted them to be, but I went ahead with them in the hope that I could inform and motivate my colleagues to rethink what we were doing with this transaction, as by then, I knew that council action was imminent, and I was deeply concerned with the legality of what was happening.

While the public cannot see the spirit of the discussions we had in executive session in the month of April, it is clear from the recordings in our open session that there was a coordinated effort made by some on this council to reject reasonable concerns and the facilitation of relevant dialogue. Their responses were rich with sarcasm and misleading counterpoints, as if having more understanding and transparency in our procedures would somehow insult staff or handcuff and destroy economic development--the very idea. Unfortunately, we can also see that type of conduct, which is meant to discredit, intimidate and shut down dialogue, in other areas on the public record.

This unfortunate conduct is highlighted even more over a piece of property that has little value, for a top price, and no stated public purpose or plan.

I am terribly disappointed in several of my colleagues for their refusal to vet these issues prior to voting to and approving the city manager to enter a purchase contract. Prior to voting, we had not even read the contract with the seller. In this case, there is enough on the public record to raise many red flags that must be addressed. These red flags are not easily knowable without thorough self-disclosure in the group setting to demonstrate the ability to use independent judgement in our discussions and negotiations.

I have relevant questions that demand clear demonstrations of each council member's ability to make judgements independent of their relationships with the seller, each other and/or personal interests. A public records search reveals what I believe to be a recent *relevant* transaction with our seller. In December of 2015 our seller purchased a land installment contract for property at 2752 S US Route 42, commonly known as the Theatre 42 from an entity called Living Leaf Community Church ("Living Leaf"). At that time, the buyer gave a down-payment of \$150,000 to Living Leaf Community Church and took over the land installment contract valued at \$230, 718.12. In addition, additional consideration was set forth by a note payable by seller to Living Leaf for \$498,281.88 plus interest payable between January 1, 2020-December 31 2024, but payment in part or in full may be made at any time prior to those dates without penalty.

It is still unclear to me who exactly received and will receive the proceeds from that sale, as it has never been disclosed to me. However, I do know that Mayor Kidd is still involved in Living Leaf. I also know that on June 20, 2017, our current seller, Ramesh Malhotra, appeared before the Warren County Commission to request a zoning change for the property at 2752 US Rt 42, as it was not properly zoned for its then current use for a theatre. In that meeting, RM indicated that Mayor Kidd and his business partner were the beneficial owners of or recipients

of the proceeds of the Theater 42 installment contract sale. He also suggested that one possible reason for the purchase was to help with some unspecified tax issue.

This, in my view, was **relevant, material information** that was **critical** to be disclosed and discussed candidly. I am curious about what other council members knew about this and if they bothered to look any of this up. I certainly did not get a full explanation of any of this at any time.

We needed to know what is really going on with Living Leaf. Is it a front for Victor Kidd and his business partner? The public records relating to Living Leaf are very confusing and have no obvious explanation. Why was Living Leaf created as a separate church in its own name in January 2011? Living Leaf originally was a trade name owned by Mason Church of the Nazarene and that church operated under that trade name. Then Living Leaf was created as a separate church and Mason Church of the Nazarene was dissolved and went out of existence in April 2014. At some point the church site on Route 42 was rented to Theatre 42. The last time it appears that a church had an activity on that site was in the Fall of 2012. Victor Kidd and an associate of his appear to have been the beneficial owners of the Ford land installment contract when it was transferred to Ramesh Maholtra, and it appears that Victor personally benefited from the original \$150,000 down payment and will benefit from the future payment of the almost \$500,000 note. Those facts are the foundation of the conflicts Victor Kidd has related to the transaction between Mason and Maholtra.

I am heartsick that we have come to this point. I have not had the countenance to stand idly by while my colleagues endanger this city and potentially ruin their own lives over these tiny insignificant pieces of property that for years no developer has shown an interest in developing, including the current owner who is a developer, especially considering there is no known clearly defined plan known to all of council or to the public.

It is far safer and better to endure the embarrassment we face today by repealing Ordinance 2018-61, than to face the potential consequences ahead, which could be very, very severe. Elected officials have been and are being prosecuted for far less. Please, please, work with me, Council, to right this wrong and to work in the best interest of the public.

Added:

On May 18, When Mason Law Director Jeff Forbes gave his qualified opinion, he had not investigated and did not "know" if Victor Kidd personally benefited by the transfer of the Theatre 42 property to Maholtra.

Repeal Questions

Jeff,

Assuming a council member had a conflict and never should have been involved with bringing the property to the city, participating in discussions or negotiations in executive session, would

the transaction, Ordinance 2018-161, have to be unwound or could it be challenged in a taxpayer suit?

Jeff:

Did you ask and get answers to any of the following questions?

Mayor:

Have you and/or anyone that you have a financial relationship with *received any of the proceeds from the sale* of the Theater 42 Property Installment Land Contract to Ramesh Malhotra or to any entity of which he is the owner or member?

There is an outstanding filed note that is to be paid over the next few years from the RM entity that purchased the Theater 42 Property. *WILL you and/or anyone that you have a financial relationship with RECEIVE any of the proceeds* from the sale of the Theater 42 Property Installment Land Contract to Ramesh Malhotra or to any entity of which he is the owner or member?

What specifically did you do to *demonstrate* to staff and council that there is no personal interest in this public contract?

Are you aware that any negotiations, any discussion, any involvement by you with this transaction could have been an ethics violation?

Have you discussed with RM a use of the Theater 42 Property?

Have you discussed with RM a use of the current property sold to us by RM?