

**LOVELAND CITY COUNCIL  
REGULAR MEETING MINUTES  
Tuesday, May 25, 2010**

**Call to Order &  
Pledge of Allegiance**

Mayor Weisgerber called the meeting of the Loveland City Council to order at 8:00 p.m. The Pledge of Allegiance was recited.

**Roll Call**

Council Members Present: Mayor Robert Weisgerber, Vice Mayor David Bednar, Linda Cox, Paul Elliott, Mark Fitzgerald, Todd Osborne and Brenton Zuch.

**Recognition of Members  
of the Audience**

Also Present: City Manager Thomas Carroll, Solicitor Frank Klaine, Clerk of Council Misty Cheshire, Finance Director Harry Steger, Police Chief Tim Sabransky and Police Specialist Ray Shockey.

**Persons Appearing**

No one was scheduled to speak to City Council.

**Before Council  
Open Forum  
Reserves of Loveland**

Brett Griffith, 1813 Tangelwood Drive, Loveland resident and Chief Financial Officer at Loveland City Schools expressed concerns about a potential Tax Increment Finance (TIF) district for the Reserves of Loveland because the TIF would directly affect the school district's revenues. Mr. Griffith asked why the failures of a private enterprise were being placed on the shoulders of public entities and taxpayers.

Mr. Zuch thanked Mr. Griffith for sharing his opinion but believed it was unfair to expect homeowners to pay thousands of dollars because a developer went belly-up. He noted that the City has a tight budget and could not dip into the General Fund to make these improvements.

Mr. Griffith stated that he hoped the School District would be made whole and held harmless if a TIF is established.

Mr. Fitzgerald noted that this issue will be discussed later in the meeting under Memorandum 35. He suggested Council allow comments to be made during open forum and delay discussions until this item comes up on the agenda.

**Kings Volkswagen**

Scott Stockwell, 10575 Loveland Madeira Road, General Manager of Kings Volkswagen stated that Kings VW appreciated Council's decision to review the zoning of the business corridor. A zoning change to authorize new automobile sales in the corridor would allow Kings VW to expand and provide more jobs in the community.

Mr. Elliott asked how many jobs would be added by the expansion. Mr. Stockwell estimated that initially two to three jobs would be added.

**Approval of Minutes**

Mrs. Cox moved to approve the minutes of the May 11, 2010, City Council Meeting, seconded by Mr. Elliott. Roll Call: Cox, Yes; Elliott, Yes; Fitzgerald, Yes; Osborne, Yes; Weisgerber, Yes; Zuch, Yes; Bednar, Yes. The motion unanimously carried.

**City Manager's Reports  
& Memorandums  
Memorandum 34  
Proposed Zoning Text  
Change for Business  
Corridor**

This report provided background information about a staff recommendation to adopt a zoning text amendment to authorize new automobile sales in the Business Corridor district of Loveland Madeira Road.

Mr. Elliott asked if the City knew the size of business corridor. Mr. Carroll stated that he didn't know the acreage and referred to the zoning map that was attached to the memorandum.

Mr. Fitzgerald stated that it was impossible to consider all possible uses when approving a zoning classification. Without a zoning text change the old Speedway station, now owned by Kings VW, could be used for auto repair, which is a lesser use than what is being proposed. Mr. Fitzgerald stated that the amendment was a good solution for the business in hand and was indicative of how a zoning code has to be a fluid document. He favored the zoning text amendment.

Vice Mayor Bednar asked if Kings VW's existing grandfathered use could be expanded to the newly purchased parcel without a zoning text amendment. Mr. Klaine stated that the grandfathered use could not be expanded to a separate parcel.

Mr. Zuch agreed that zoning is not carved in stone and there are times when it is necessary to change zoning in order to support businesses and provide benefits to the community.

Mrs. Cox also supported the zoning change. She stated that the property is an eyesore as it sits and she welcomed the expansion for that reason.

Mayor Weisgerber stated that when the business corridor was created in the 1990's the intent of the zoning was to provide flexibility for this area, which is adjacent to Symmes Township. He noted that this process will be lengthy and will allow ample opportunities to solicit input from residents.

Mr. Osborne moved to refer this matter to the Planning and Zoning Commission and requested a recommendation back from the Commission as to whether the City should adopt, amend or reject the proposed ordinance to amend Loveland Code of Ordinances Section 1107.01 amending the definition for "automotive sales area" and Chapter 1156 "table of permitted uses," seconded by Mr. Elliott. Roll Call: Elliott, Yes; Fitzgerald, Yes; Osborne, Yes; Weisgerber, Yes; Zuch, Yes; Bednar, Yes; Cox, Yes. The motion carried 7-0.

Memorandum 35  
Reserves of Loveland

This report provided background information about the Reserves of Loveland. Staff recommended the City create a Tax Increment Financing district to fund any remaining public improvements in the subdivision in light of the developer's abdication of his responsibilities.

Mr. Zuch supported the TIF district because it would generate revenue without punishing existing homeowners. Mr. Zuch noted that there have been discussions about taking the \$67,000 from Fifth Third as a donation for shelter improvement in Nisbet Park rather than applying the funds to the improvements in the Reserves of Loveland. He supported using the funds for improving the shelter in Nisbet Park.

Mr. Elliott stated that if \$67,000 was provided from Fifth Third Bank toward the improvements, the City would be short about \$50,000. Mr. Elliott favored the assessment option described in the memorandum to raise those funds.

Mr. Carroll noted that the memorandum outlined three scenarios. One was a rapid development of three new homes in the subdivision per year that would generate approximately \$54,000 in two years with a TIF. Slower development would lengthen the time period of the TIF district. Mayor Weisgerber added that the timeframe of the TIF would be dependent upon increased property values.

Mr. Elliott noted that the table included scenarios that could generate over \$600,000, which isn't needed. Mr. Carroll noted that the scenarios were calculated over a ten year period to show how quickly funds can be generated. He

stated that he didn't intend to collect \$600,000. He noted that the legislation could include language which requires the City to terminate the TIF once enough funds are raised to complete the required improvements. Any residual would be distributed to the entities that had foregone revenue over the duration of the TIF.

Mayor Weisgerber noted that prolonged development would generate less revenues and delay construction, which would likely result in increased construction prices.

Mr. Steger noted that the minimum number of years required for instituting a TIF is ten years, which is reflected in the memorandum. However, the TIF can be dissolved any time prior to maturity. Therefore, once sufficient revenues have been received to complete the improvements the TIF can be dissolved and collections will cease. Mr. Elliott suggested that information be written into the legislation.

Mr. Fitzgerald stated that the waters had been muddied by linking park developments to the Reserves of Loveland. A memorandum that was provided to Council in March offered the option to institute a special assessment against the benefiting properties. If the assessment can be structured at \$250 per year, it would not be an overly huge burden for the properties in the \$500,000 range. This approach is straightforward while a TIF redirects funds away from taxing jurisdictions for the benefit of the subdivision.

Mr. Osborne was concerned about the phrase "up to \$67,000" which didn't guarantee how much the City would receive from Fifth Third Bank. Mr. Carroll stated that Fifth Third has verbally committed to that amount and he and Mr. Klaine have been working with Fifth Third Bank to get a letter of credit.

Mr. Osborne stated that TIF's have been successfully used in other communities for residential development. He supported the TIF and the donation of funds from Fifth Third toward shelter improvements in Nisbet Park. Vice Mayor Bednar also supported the TIF.

Mrs. Cox asked if it was legal to only assess the vacant properties in the subdivision. Mr. Klaine replied that all of the properties would have to be assessed.

Mr. Zuch stated that fairness didn't end in tax brackets. He stated that it was unfair to place the burden on the existing property owners. He noted that the Recreation Board supported the donation from Fifth Third Bank for shelter improvements, which should have a bearing on Council's decision.

Mr. Fitzgerald stated that there had been discussion about creating a TIF that would generate \$115,000 to complete the improvements. With the \$76,000 from Fifth Third Bank the gap would be narrowed to \$50,000. Council must decide which method is fair. Is it fair to use a TIF and disburse the cost over a vast number of people, which impacts other tax jurisdictions or is it fairer to place the burden on the principle beneficiaries?

Mr. Elliott asked what would happen if the City waited and did nothing. Mr. Klaine asked if Mr. Elliott wanted the City to walk away for the money being offered by Fifth Third Bank. Mr. Elliott replied that if the Bank owes the City \$67,000 it should be collected. Mr. Klaine stated that Fifth Third's donation would only be made if the City agreed to complete the improvements. In that case, Mr. Elliott stated that he would not accept the \$67,000 from the Bank.

Mr. Elliott stated that he wasn't convinced that Fifth Third didn't have an obligation to complete the improvements. Mr. Klaine explained that the Fifth Third Bank's only obligation is for the letter of credit. The Bank doesn't own the underlying street and in lieu of foreclosure they took back deeds to the lots. The street is owned by Paxton Landholding LLC, which is out of business and doesn't have funds to make the improvements.

Mr. Osborne moved to direct staff to prepare a Tax Increment Finance (TIF) ordinance to ensure work can be completed in the Reserves of Loveland in a timely fashion and to capture the increment expected from the two new homes likely to be constructed following the recent lot closings, seconded by Mr. Zuch.

Mr. Elliott stated that he would be voting no. He stated that when a TIF diverts tax dollars, entities will seek levies to generate additional taxes. Mr. Zuch stated that \$50,000 in tax revenue is a pittance to large governmental entities while the same amount for property owners is a burden. He added that it would be foolish to pass on \$67,000 from Fifth Third Bank or to spend tax dollars to litigate for an additional \$50,000.

Vice Mayor Bednar asked the City Manager to explain "incremental increase." Mr. Carroll stated that all homeowners have an assessed value. If a resident pays \$10,000 in taxes a year, of those taxes about 65-70% is distributed to Loveland School District, 20 to 25% to Clermont County and the remaining would be distributed to the City of Loveland. If a TIF is created taxes will not increase unless there is an increase in the property valuation. For example, if a home is built on a vacant lot and generate \$10,000/year in property taxes, \$7,500 of the valuation or "increment" would go into a special fund for public improvements that would be reserved by the City. He added that the City would be legally obligated to spend those funds on the TIF improvements. The remaining \$2,500 would be distributed proportionally as if there were no TIF in existence.

Mr. Elliott stated that \$50,000 wasn't a pittance to a school district or governmental entity but would be a pittance to a large institution like Fifth Third Bank.

Mrs. Cox asked if Council would need to earmark how the funds from Fifth Third would be used. Mr. Carroll stated that at this time Council needed to provide authority for Mr. Klaine and staff to reach a settlement with Fifth Third Bank. He stated that it was premature for Council to direct the use of the funds prior to a settlement being reached.

A roll call vote was taken on the motion: Fitzgerald, No; Osborne, Yes; Weisgerber, Yes; Zuch, Yes; Bednar, Yes; Cox, No; Elliott, No. The motion carried by a vote of 4-3.

Mrs. Cox moved to seek remuneration from the developer, Fifth Third Bank, seconded by Mr. Osborne.

Mr. Fitzgerald asked if the City could be sure that Fifth Third would honor their commitment for the letter of credit that was allowed to lapse. Mr. Carroll replied that Fifth Third has verbally agreed to pay between \$67,000 and \$74,000 to fulfill their obligation. Fifth Third also wants to see the subdivision improved. Mr. Fitzgerald stated that it was reassuring to know that the City would only have to fill a \$50,000 gap to complete the improvements.

A roll call vote was taken on the motion: Osborne, Yes; Weisgerber, Yes; Zuch, Yes; Bednar, Yes; Cox, Yes; Elliott, No; Fitzgerald, Yes. The motion carried 6-1.

Mrs. Cox felt it was important to discuss whether the funds from Fifth Third Bank would go toward the shelter or the improvements. She believed that the language should be included in the legislation. She requested that Vice Mayor Bednar, Chairman of the Recreation Board, share the Board's reaction to the potential of receiving the donation from Fifth Third Bank.

Vice Mayor Bednar reported that at the last Recreation Board meeting the Board discussed the potential of installing solar panels at Betty Ray. They would like to see a green initiative but do not want to lose soccer fields at Betty Ray. However, they would support the panels at Betty Ray or another location if fields were not reduced. The Board also discussed a potential donation from Fifth Third Bank for the replacement of the shelter in Nisbet Park. The Board voted 4-0 to accept the donation from Fifth Third Bank to redevelop the shelter pad with a new larger shelter.

Mayor Weisgerber stated that more discussion would have to occur with Fifth Third Bank before Council can direct staff how to utilize the funds.

Mrs. Cox stated that she couldn't agree to use money from Fifth Third for a shelter if the funds could be used to complete the improvements in the Reserves of Loveland.

Mr. Zuch noted that the bathrooms in Nisbet Park had been renovated.

Memorandum 36  
Councilmanic Worksheet

This memorandum provided status updates on the White Pillars-Pewter Court retention basin emergency spillway issue.

Mr. Fitzgerald moved to schedule the next update on the White Pillars-Pewter Court retention basin emergency spillway issue for November 23, 2010, or earlier if new information would arise, seconded by Mrs. Cox.

Mrs. Cox noted that Mr. Hoover provided a letter to all Council Members requesting more time to review the matter. Mr. Zuch thanked staff for working with Mr. Hoover.

A roll call vote was taken on the motion: Weisgerber, Yes; Zuch, Yes; Bednar, Yes; Cox, Yes; Elliott, Yes; Fitzgerald, Yes; Osborne, Yes. The motion carried 7-0.

Committee Reports &  
Communications

Mrs. Cox stated that she would be sending an email to Council regarding comments made by a member of the Planning and Zoning Commission regarding recommendations for the acceptance of letters of credit or a cash bonds.

Mr. Zuch announced that residents would be receiving a letter from Duke Energy Retail Sales offering them an 18% discount or a locked in rate of \$0.639 per kWh through December 2011, which could generate a savings of about \$25.00 per month.

Review of Councilmanic  
Worksheet

The next update on the White Pillars-Pewter Court Retention Basin Emergency Spillway issue will be given on November 23, 2010.

Mayor Weisgerber suggested an item be added to the Councilmanic Worksheet: An improved process with regard to how the City will handle irrevocable letters of credit and bonds from Planning and Zoning Commission. The first update on this item will occur on June 25, 2010.

**Old Business**

## Public Works Lunch

Mr. Zuch reported that a lunch was provided to the Public Works Department last week for Public Works Appreciation Week. Scott Gordon from The Works donated pizzas, Mrs. Cox provided an ice cream cake, and Mr. Fitzgerald donated bottled water. Mr. Zuch also provided a certificate of appreciation to the Department. He stated that the Public Works Department was the face of the City and were always very professional. Mrs. Cox stated that the City is blessed with a good Public Works Department filled with good people.

**New Business**

Mrs. Cox announced that the next Concert in the Park is schedule for June 13<sup>th</sup>, Second Wind would be performing. She noted that the last concert, Loveland Show Choir, was very well received.

Vice Mayor Bednar requested an update on the Memorial Day Parade and Ceremony. Mrs. Cheshire announced that the event will be held on Monday, May 31<sup>st</sup>. The parade will begin at 9 a.m. and will disperse at Veteran's Memorial Park. Followed by a ceremony and visitations to various cemeteries in the area. The American Legion will also host a picnic at 2 p.m., which is open to the public. Mrs. Cox asked that the ICRC playback schedule be added to the website.

**Executive Session**

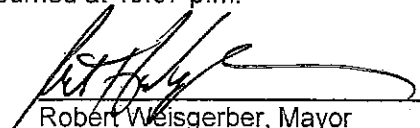
Mrs. Cox moved to adjourn to Executive Session under Ohio Revised Code Section 121.22 (G)(1) to discuss personnel, seconded by Vice Mayor Bednar. Roll Call: Zuch, Yes; Bednar, Yes; Cox, Yes; Elliott, Yes; Fitzgerald, Yes; Osborne, Yes; Weisgerber, Yes. The motion carried 7-0. Council adjourned to Executive Session at 9:45 p.m.


**Reconvene**

Mrs. Cox moved to reconvene in regular session, seconded by Vice Mayor Bednar. The motion carried by unanimous consent. The meeting reconvened at 10:07 p.m.

**Adjournment**

There being no further business, Mr. Osborne moved to adjourn the meeting, seconded by Mrs. Cox. The motion carried by unanimous consent. Mayor Weisgerber declared the meeting adjourned at 10:07 p.m.

  
Robert Weisgerber, Mayor

  
Misty Cheshire, Clerk of Council