

**MINUTES OF THE REGULAR  
MEETING OF LOVELAND CITY COUNCIL  
Tuesday, April 8, 2008**

Mayor Weisgerber called the meeting of the Loveland City Council to order at 8:05 p.m. The Pledge of Allegiance was recited.

Members Present: Mr. Daly, Mr. Elliott, Mr. Fitzgerald, Mr. Osborne, Mr. Schickel, Mayor Weisgerber

Also Present: Mr. Carroll, City Manager; Mr. Wright, Assistant City Manager; Mr. Taphorn, Finance Director; Mr. Klaine, Solicitor; Mrs. Cox, Clerk of Council; Deputy Chief Sabransky, Police Specialist Shockey

Mr. Schickel moved to excuse Vice Mayor Bednar; seconded by Mr. Osborne. The motion was approved by unanimous consent.

Mayor Weisgerber recognized Mr. Volkman, Loveland High School government and social studies teacher who is presented tonight with students that will be participating in the Student Government meeting on April 22. Ms. Leeper was also recognized.

The Mayor entertained a motion to approve the minutes of the March 25, 2008 Council meeting; so moved by Mr. Fitzgerald and seconded by Mr. Schickel. The motion was approved by unanimous consent.

**PERSONS APPEARING BEFORE COUNCIL**

Mayor Weisgerber explained Council presents several awards throughout the year and tonight he will present the Business Enhancement Award. This award is presented to a business that is located in the Historic Downtown, Loveland Madeira Road, or the Commerce Park and who has demonstrated an increase in business or the number of employees or has enhanced the aesthetics of their property. Council selected Dr. Jeffrey Kemmet as the 2008 recipient. Dr. Kemmet is the owner of the Loveland Chiropractic Offices, which currently consists of seven staff members and two doctors. Dr. Kemmet serves as a staff member of the Jewish Kenwood and Clermont Mercy Hospitals and maintains memberships in the local and national Chiropractic Association. He also serves as a diplomat to the National Board of Chiropractic Examiners. In addition to continuing his professional development, Dr. Kemmet met the challenge of expanding his business by undertaking a diligent property search to relocate his business within the City and on September 9, 2007, Loveland Chiropractic Offices dedicated their new building at 215 Loveland Madeira Road. Mayor Weisgerber expressed his appreciation for their business and presented Dr. Kemmet a plaque. A perpetual plaque listing all the Business Enhancement Award recipients is displayed in the City Hall foyer.

**OPEN FORUM**

Mr. Terry Stouder, Veterans' Memorial Committee Member, reminded Council it's the time of year to again start thinking and planning for the Memorial Day program. He invited all Council Members and the City Manager and Assistant City Manager to attend this year's Memorial Day program on Monday, May 26. The parade will begin at the school buildings on Loveland Madeira Road at 9:00 a.m. and immediately following the parade, a ceremony will be held at the Veterans' Memorial. Cemeteries in Maineville and on Union Cemetery and Kerr Cemetery Roads will be visited at the conclusion of the ceremony. Mr. Stouder expressed hope all Council Members would participate. The Mayor thanked Mr. Stouder for the level of energy he puts into this program, which he feels has really complimented the community.

Mr. David Volkman, representing Loveland High, explained he is present tonight to introduce the students who will be participating in the annual City Council for a Day Program (Student Government Night). He thanked Council for partnering with the High School on this outstanding program so the students can learn in depth something they probably don't do justice to in their curriculum. This program dates back over 30 years with Loveland High School seniors pairing up with City Council and Staff Members. The students look forward to the experience Council has to offer them better understand the process of local government. He then introduced each of the students who will be participating in the April 22 Council meeting. Mayor Weisgerber stated he appreciates this program

because it helps Council Members remember what they're doing and why they're doing it. It also allows them to get down to the basics as they have fun working with the students.

### **CITY MANAGER'S REPORTS**

Memorandum No. 31 gives a status update of efforts to implement Council's 2008 goals. Mr. Fitzgerald pointed out there have been eight telephone enquiries as a result of the Cincinnati Enquirer article on the curatorship of the White Pillars house. He commended Mr. Carroll for his innovative efforts in this regard and stated he will continue to support ideas to achieve creative means to reuse this property. He believes this is even more timely with the City taking possession of the Christman property last week. He encouraged all efforts towards a resolution.

Referencing the liquor license report (Memorandum No. 33), Mr. Osborne read a list of permit premises where calls were made for police services over the last year. All businesses had three or less calls with the exception of Zappz, who had 13 calls. He referenced an incident that occurred over Easter weekend where allegedly a patron was thrown through the front window. He reminded Council that this issue was reviewed last year and Zappz was asked to behave; this year it is recommended that staff monitor all establishments and communicate concerns to the owners. Mr. Osborne stated the Liquor Control Division needs to hear from Council that this behavior is unwarranted. He asked what happened on Easter weekend, as the front window is still boarded up, and questioned if the permit holders are refusing to serve people who should not be drinking. Deputy Chief Sabransky explained the incident at Zappz was a relatively isolated incident that involved only a couple of people. The person who broke the window had already left the premises by the time officers arrived. It was not a parking lot brawl and there wasn't a mass of people, nor did the participants want any police service because of their obvious involvement. There was no report since it was over before officers arrived. While this doesn't occur every week, it is an obvious concern for their Division and for the community. Mr. Carroll reminded Council that every year the City's liquor licenses automatically renew on June 1 and Council has the right to request a hearing before the Board, but it must be done on or before May 2. It's staff's opinion that any incident is serious, but at this time they don't feel the situation warrants Council taking what is a relatively strong statement in requesting a public hearing, though that's a policy option for Council. Council must take action if they want to request a public hearing at either this meeting, or on April 22 or at a special meeting held prior to May 2. Discussion ensued on the location of the public hearing and the consensus was it would be held in Columbus. Mr. Klaine explained the City would have to present evidence why the liquor license and its renewal would be detrimental to the City; the hearing would be open to the public. Mr. Osborne commented that if 13 incidents occurred in a residential zone, he doesn't believe the neighborhood, City, or Police would tolerate it and he wonders if there's a mechanism Council can impose on the commercial entities who have a responsibility so that Council has a say as far as their behavior. The Mayor stated he doesn't disagree with Mr. Osborne's point, though he's unsure about going to the Liquor Control Division at this time, and questioned what other choices the City may have. Mr. Carroll responded that the Police Division can continue to work with this business to a greater extent, though he cautioned against creating a sense at any business that they'll be penalized for contacting the Police, as they should feel free to do so without worrying punitive action will be taken against them. He's not aware of any intermediate steps, but staff can continue to work with Zappz to communicate the seriousness of Council's concerns. Deputy Chief Sabransky added that they can continue to encourage managers, or whoever is working, to call for police assistance and that in itself will discourage the inappropriate behavior.

Pursuant to Section 4.02(4) of the City Charter, the City Manager is responsible for submitting an annual report. Memorandum No. 34 serves as the 2007 report regarding the City's finances and administrative activities. The report is also posted on the City website. Mr. Elliott thought one large activity was the effort to have a community recreation center and pool tied in with a YMCA partnership and a small income tax increase. With the report pointing out the proposal, objectives, location and capital operating program, he felt there were sort of successes regarding the process; if the goal was to have a community center and/or pool, then that wasn't successful. He questioned what's next along this line and pointed out that at Council's 2008 goal setting session it appeared that Council did not have the political will at the moment to revisit the issue, though it appeared there was so much energy from 2005-2007 to have the project go forward. Though it failed at the ballot box, it doesn't make the need or the desire from the public go away. He was also thinking about all the setbacks with the Downtown Redevelopment for many years and yet that continues to go forward so he draws that parallel and feels perhaps there are alternatives to the YMCA partnership, the income tax increase

and the \$12,000,000 project. He feels Council revisiting this project is owed to the community. Mr. Carroll pointed out Council's 2007 goal was to put a recreation proposal before the voters and doing that was a success. He believes the spring proposal was good and it was narrowly defeated; the plan was revised based on public input, and that was far less successful at the ballot box, though he believed the plan was better after revised, but it was still not deemed supportable by the community. He believes the direction he's received from Council is this issue is not going to be brought forward. While many variations could be brought forth, there are none within the City's current revenue so there is no alternative other than to put the issue on the shelf or to come up with another plan that involves a different revenue stream. If Council has any suggestions on what should be cut from the budget or where to shift funds if their interest is to put forth a different proposal, he's open to research any proposal, though he hasn't heard direction from Council to do that. Mr. Daly stated he doesn't know that political will has anything to do with this, as nobody wants a community pool any more than he does as the father of three children. His will is to have a community pool and recreation center and is why he put his personal time into bringing the proposals forward; he would double those efforts if he saw a proposal that would hold muster with the voters. He's heard Mr. Elliott say he wants to see this happen, but he's also watched him be challenged to come up with suggestions to build something, as opposed to the last time when all he did was fight the proposal. He's glad Mr. Elliott is supportive of this idea now and he'd fully support any idea he'd bring to the table that could actually be something to move forward; he believes the majority of, if not the full, Council holds a very similar view on this topic. Mr. Fitzgerald reminded Council this matter was put to a vote and the voters spoke clearly with a "no" vote. Subsequently Council set their 2008 goals and pursuing a municipally sponsored and funded recreation center wasn't selected as a goal. If Council wants to reintroduce this, so be it, though he wouldn't be inclined to support the resuscitation of the endeavor because the electorate spoke very clearly and Council has other 2008 goals that need to be addressed and he wouldn't be inclined to alter those goals. The Mayor stated there is much interest in having a community pool. He's very happy and impressed with the process that was utilized. Other communities' processes were reviewed to put together what they felt was the best proposal for the community, but the message that was sent is one that Council has taken to heart, and that is, taxpayer fatigue. That was not only expressed with this proposal, but also with the recent school levy. From a goals standpoint, he feels Council should be focusing on a lot of other issues with regards to taxpayer fatigue. He questioned how they can make taxpayers' dollars that the City receives go further and get the best services from those dollars. With regard to utility rates, he questioned what will be seen; for rates the City controls, the rates have been kept below the consumer price index of inflation, but those utility rates not controlled by the City have been increasing extensively beyond those rates. He believes Council needs to put their energy towards controlling rates and rate increases, again listening to what the taxpayers said at the poll, not just on the rec center, but in general on funds and fees. If Council or the public has suggestions on a rec center or pool, Council would love to hear it, but it is not one of their current goals, though there may be an opportunity in the future to look at this again.

Referencing Memorandum No. 33 and tonight's earlier conversation on requesting a public hearing before the Liquor Control Division, Mr. Schickel felt he doesn't have sufficient information to take this to the Liquor Division and inconvenience nearby neighbors and businesses to travel to Columbus to do so. He felt Council could hold a public hearing to gather information to determine if there's neighborhood concern. The Mayor explained if Council so desires, that hearing can be held, but noted a resolution must either be approved at their April 22 (Student Government) meeting or at a special meeting held before May 2. Mr. Schickel felt there may be some worth in this suggestion, particularly if there is community concern about a business, rather than spending time and effort to go to Columbus; however, he doesn't feel Council could do so with this deadline. Mr. Osborne felt even if Council doesn't object to the State now, they would have the right anytime during the year to notify the Liquor Control Division and perhaps the regional agent could investigate at that time. He suggested Council may want to pass legislation setting standards for proper behavior, as well as looking into State statutes that could be followed, and hold property owners responsible for their tenant's actions. He also suggested referring this to the Law and Ordinance Committee in conjunction with the public hearing. Mr. Elliott felt procedures were in place and agreed with Captain Sabransky as far as monitoring and receiving frequent calls to control the situation, as he would tend to take a more hands-off approach and let the Police handle this. He stated that sometimes, some places may just be a trouble spot and if this is that and if it's limited to just one establishment, it may be a blessing in disguise.

**COMMITTEE REPORTS**

Mr. Fitzgerald reported that he and Mr. Schickel, as Council's representatives to the Board of Education, met with Dr. Boys last week for the purpose of having open dialogue and communication. He expects, with the failure of the school levy, some modification to be forthcoming, and noted that the Chamber of Commerce is hosting a luncheon to bring Council, School officials, and the community-at-large together. Mr. Fitzgerald stated he and Mr. Schickel take their responsibility seriously and will gladly be the liaisons between Council and School officials and expressed appreciation for the Chamber initiating this program, which he hopes is well attended and is the start of some meaningful dialogue that benefits everybody.

**COMMUNICATIONS**

Mayor Weisgerber announced Hamilton County Solid Waste District reopened their drop-off recycling sites for yard waste on March 29 and for computers on March 31. Information is available on the City website and City of Loveland residents in Clermont and Warren Counties are eligible, but they need to show proof of residency, either a driver's license or utility bill. Discussion ensued on overwriting and shredding of computer hard drives; the Mayor suggested removing the hard drives before recycling a computer.

Mr. Carroll pointed out Communication No. 5 is a survey conducted by the City of Oakwood, OH to compare utility rates. He noted Loveland is ranked the 5<sup>th</sup> lowest on water rates out of the 68 communities surveyed, which he feels is a compliment to the City for managing its water system effectively out of consideration for the ratepayers. Loveland's sewer costs are unfortunately in the top 10% of the most expensive rates. Averaging sewer and water rates, Loveland would probably be in the middle. Cincinnati Water Works, who was not included in the Oakwood study, completed a comparison and Loveland was \$7.00 - \$8.00 less expensive per quarter than Cincinnati, who is known as a low cost provider. The Mayor asked Mr. Carroll about progress on creating a utility flier so residents have a better understanding of the charges and where the rate is originated. Mr. Carroll stated there will be an insert in the newsletter, which should be delivered to residents within a week or two. Referencing the sewer rates, Mr. Carroll and Mayor Weisgerber felt Loveland was the only city that contracts with MSD for sewer. Discussions continued on MSD's sewer rates and Mr. Carroll explained the rates are set in accordance with their global consent decree; however, Council has directed him to look seriously at the 1985 MSD agreement and how that serves the City. Mr. Fitzgerald pointed out the March 24 edition of Nation's Cities Weekly, a publication of National League of Cities, has an article on aging infrastructure that points out that state and local governments finance 75% of the nation's infrastructure. Quoting from the article, he stated that in 1960, 11.2% of Federal non-defense spending went for infrastructure (sewer, bridges, roads, etc.); today it is 3.5%. In 1987, the United States spent 1.17% of its gross domestic product on infrastructure; in 2007, it is down to .057%. While the Federal level does a magnificent job of establishing laws and regulations, local government is challenged to pay for it. He noted that at their last meeting, Council authorized a resolution be sent to congressional representatives to encourage legislation to increase Federal participation, as he feels the burden local government bears is disproportionate to the means which it has and there's no simple answer until there's more Federal involvement. Mr. Daly commented there are interesting parallels to school funding with the state when one compares state mandates and the lack of funding that comes with it and how losing a levy can be really hurtful.

**COUNCILMANIC WORKSHEET**

The Worksheet was updated. The next report on Wireless Internet Access for Public Access was scheduled for August 12. Mr. Carroll pointed out the business model they're finding is that most cities who are implementing WiFi do so because it makes sense for their own municipal operations, not as a business enterprise, and he feels the City should wait to see what materializes. He feels as technologies improve and as business models become refined, a city like Loveland could explore and possibly implement a wireless fidelity network. Discussion ensued on individual businesses having WiFi service. The Mayor explained there's nothing within the City Zoning Code that requires permitting or restrictions. Mr. Carroll felt an outside element might require review by the Planning and Zoning Commission, but most businesses that have the service do so as an amenity for their customers and the Council Chambers' wireless fidelity has hardware that's relatively nonintrusive.

**OLD BUSINESS – ORDINANCES**

Mr. Osborne introduced for second reading ORDINANCE AUTHORIZING THE CITY MANAGER OF THE CITY OF LOVELAND TO ENTER INTO AGREEMENTS TO PURCHASE PROPERTY

LOCATED IN THE CITY OF LOVELAND, OHIO FROM THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) AND DECLARING AN EMERGENCY. ROLL CALL: Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Daly, yes; Elliott, yes. Ordinance was approved and assigned the number 2008-23.

Mr. Osborne introduced for second reading AN ORDINANCE TO APPROVE CURRENT REPLACEMENT PAGES TO THE LOVELAND CODIFIED ORDINANCE. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Daly, yes; Elliott, yes; Fitzgerald, yes. Ordinance was approved and assigned the number 2008-24.

Mr. Osborne introduced for second reading ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 183.10(e) INVESTIGATIVE POWERS OF THE TAX ADMINISTRATOR AND SECTION 183.16(a) EXEMPTIONS. The Mayor pointed out Council discussed amending this at their last meeting. Proposed changes are shown in a redline copy of the ordinance attached to Memorandum No. 32 as follows: Section 1, subsection (e), second paragraph, inserted in first sentence, "or agent or contractor providing services to the Finance Department"; second sentence, delete, "No statistical or administrative data shall be disseminated or disclosed to members of the general public"; and Section 2, subsection (a), add at the end of the first sentence, "or other volunteer programs established by the United States." The Mayor questioned whether the addition to Section 2, subsection (a), should be included as he believes the Tax Department will have trouble with interpretation. He then entertained a motion to amend this ordinance per Memorandum No. 32 as indicated in Section 1 only, and not amend Section 2; so moved by Mr. Daly and seconded by Mr. Schickel. Referencing Section 2, the Mayor explained there are exemptions for filing income tax returns in the City if the individual is serving in the U.S. military, including the National Guard and the Peace Corps. He feels the problem with the proposed amendment is defining what are those other volunteer programs and how does the Tax Department know which programs they are. Mr. Carroll pointed out the reference to the Peace Corp was added (in the ordinance presented to Council on March 25) per a request of a resident who had served with that organization and was required to file a City tax return; her brother had served in Iraq and didn't have to file. He felt the other volunteer programs shouldn't be added until residents bring that request forward, at which time Council can take that under consideration. The Mayor clarified the phrase "or other volunteer programs established by the United States" was not in the March 25 ordinance and tonight's motion does not include that language. In Section 1, subsection (e), first paragraph, the language does not prohibit Administration from getting statistical data; however, the second sentence of paragraph two was in conflict with that language so it is recommended this sentence be deleted. Mr. Klaine explained the first paragraph, as currently written, clearly provides for the orderly administration of the City; it is felt the second sentence as proposed on March 25 is in conflict with that. Mr. Fitzgerald commented that citizens and taxpayers need to know Council respects and will not divulge their confidential information of a personal financial nature and questioned if that is sufficiently inclusive if someone comes across confidential information while working on economic development, budgeting or other searches. Mr. Klaine pointed out that all personal information is covered in a general caveat to keep confidentiality in the first sentence of subsection (e); the second paragraph specifically references employees, agents or contractors that provide services. The Mayor added that penalties for disclosure of personal information are strengthened relative to what's currently in the Code of Ordinances and would include immediate dismissal from City service if convicted. Mr. Klaine explained the current fine is \$500; this increases it to \$1,000 or imprisoned of not more than six months, or both; this is consistent with being a misdemeanor of the first degree. ROLL CALL (TO AMEND): Weisgerber, yes; Daly, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes. Motion to amend carried. ROLL CALL (ON AMENDED ORDINANCE): Schickel, yes; Weisgerber, yes; Daly, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes. Ordinance was approved and assigned the number 2008-25.

#### **OTHER OLD BUSINESS**

Mr. Carroll reminded Council of the Chamber sponsored meeting on April 29, as referenced by Mr. Fitzgerald earlier this evening. Information is on the Chamber's and City's websites. Dialogue will be focused on the community, school financing, and the desire to reconcile excellent schools and affordability in the community.

#### **NEW BUSINESS – ORDINANCES AND RESOLUTIONS**

Mr. Osborne introduced A RESOLUTION SUPPORTING THE YELLOW RIBBON SUPPORT CENTER, THE MAUPIN FAMILY AND ALL UNITED STATES MILITARY PERSONNEL. ROLL CALL:

Daly, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes. Resolution was approved and assigned the number 2008-26.

**OTHER NEW BUSINESS**

Mr. Fitzgerald suggested Council extend its sympathies to the families of Mrs. June Canada and Mrs. Sidney Honekamp, both of whom passed away this weekend. The Canada family has owned and operated a business in Loveland for many years and Mrs. Honekamp worked many years at the Loveland Chamber of Commerce.

Mayor Weisgerber reported the 2008 spring brush pickup schedule is posted on the City website and in the winter newsletter. Residents having trash pickup on Wednesday will have their brush picked up this week; areas that have trash pickup on Thursday will have brush pickup the week of April 14, and areas with trash pickup scheduled for Friday will have brush picked up the week of April 21.

The Mayor entertained a motion to go into executive session under Ohio Revised Code Section 121.22(G)1, Personnel, and Section 121.22(G)(3), Pending or Imminent Litigation; so moved by Mr. Osborne and seconded by Mr. Daly. ROLL CALL: Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Daly, yes. Motion was approved and Council went into executive session at 9:27 p.m.

The Mayor entertained a motion to reconvene the regular session; so moved by Mr. Elliott and seconded by Mr. Schickel. The motion was approved by unanimous consent and the meeting reconvened at 10:20 p.m.

The Mayor entertained a motion to adjourn; so moved by Mr. Elliott and seconded by Mr. Osborne. The motion was approved by unanimous consent and the meeting adjourned at 10:20 p.m.

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Mayor

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Clerk of Council