

**MINUTES OF THE REGULAR  
MEETING OF LOVELAND CITY COUNCIL  
Tuesday, May 27, 2008**

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

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

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

Mayor Weisgerber pointed out an updated copy of the May 13, 2008 Council minutes were placed at Council's seat. Mrs. Cox explained two changes were made on page 3: the time the public hearing commenced was changed to 8:39 p.m. and in the first paragraph, the street name "Victor" was changed to "Victory." Mr. Fitzgerald moved for approval; seconded by Mr. Osborne. Mr. Elliott asked Mr. Klaine for clarification on the State Sunshine Law allowing private discussions of certain matters in executive session, as he feels it does not demand or prevent public discussion of those matters. It seems to him that the interpretation of what was said (at the May 13 Council meeting) when Mr. Osborne called for a point of order indicated that Mr. Klaine concurred with that and he (Mr. Elliott) cannot find the rationale for that in the Sunshine Law. Mr. Klaine explained there's no question about Mr. Osborne's point of order that a Council Member cannot disclose executive session matter because Council goes into executive session so discussion is kept confidential. Council does not bring out their deliberations from executive session, but they can discuss what is before them at the time of a particular meeting, but what was discussed in executive session stays in executive session. He recalls that Mr. Elliott wanted to bring out particular points he made in executive session and he doesn't think that was the particular problem. He would prefer to review the taped conversation so that he could be prepared to give a better answer. Mr. Elliott stated his point is that all discussion and debates can never be repeated and he doesn't believe that's what the Sunshine Law is about. Mr. Klaine explained that if Council directs him to issue an opinion at their next meeting, he'd be happy to do so; Mr. Elliott stated he would like that. ROLL CALL: Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Bednar, yes. Minutes submitted to Council this evening were approved. Vice Mayor Bednar moved to approve the minutes of the May 13, 2008 Council public hearing; seconded by Mr. Schickel. The motion was approved by unanimous consent.

**PERSONS APPEARING BEFORE COUNCIL**

Mayor Weisgerber announced that Mr. Fitzgerald will make a special presentation at this time. Mr. Fitzgerald stated he's honored to make this presentation and asked that Ms. Debbie Dugan join him at the podium. Before he read the Mayor's proclamation, Mr. Fitzgerald explained he's known Ms. Dugan around 22 years, and over her last 30 years of service to the City, she has become a face, if not the face, of Loveland City Hall. For years, many, including him, have had the good fortune of seeing Ms. Dugan's smiling face and friendly demeanor and to him, she is an icon. Ms. Dugan has provided wonderful service to the City and he knows others at City Hall will miss her. Mr. Fitzgerald then read a mayoral proclamation declaring May 30, the day of her retirement from the City, as Debbie Dugan Day in the City of Loveland and asking that City Council, staff, and residents join him in wishing her many years of good health and happiness in her retirement. Ms. Dugan stated it doesn't seem like it's been 30 years. Over those years she's had the distinct honor and privilege of working under the Administration's of the likes of Mr. Barfels and Mr. Fitzgerald where she learned so much that the time has flown by. She believes she's the thirteenth person in the last five years that's either resigned or retired. When she started with the City, there weren't as many employees or residents, but they came to work for the City to be public servants. They tried to treat all the residents and other employees alike and with respect, and it didn't make any difference where they lived or who they knew. She hopes that's what she's been able to do all her years here and looks forward to what the next phase of her life has to bring. Ms. Dugan wished all her friends she's made over these years good luck and best wishes.

**OPEN FORUM**

Mr. Harry Lofland, 816 Glendon, stated he has expressed to Mr. Carroll, Mrs. Cox and others his desire to throw his hat into the ring for Mr. Daly's vacated Council seat. He explained he was a candidate for Council previously, but he wasn't the last couple of elections because he was employed at the Fire Department's Communication Center and felt that might be somewhat of a conflict; however, he never lost interest. Mr. Lofland stated he was employed by the Loveland Police Department from 1972 until 1999, then served two years as their Y2K consultant. He's also volunteered five to six years as a fireman and was employed a couple years at the Communication Center. He agreed with Ms. Dugan about working for the City because you cared about the people and he still does. He's lived in the City since about 1968, grew up and went to school in the area, and has children and grandchildren here. Mr. Lofland stated that if he meets Council's requirements to be on Council, he'd be honored to be considered for that position. Mr. Schickel asked Mr. Lofland what he sees as Council's big challenges over the next couple of years. Mr. Lofland stated responsible development with cost containment, as he's concerned about the economics and what's going on. There are lively discussions with many area people at his present job and many express they are hurting and concerned about taxes, services, and infrastructure. He believes what's needed is: continued development and being able to secure the tax base without necessarily having to directly take anymore from the people; helping the business community develop; finishing the Master Plan; and controlling utility rates. He added that people expect services to be provided to them promptly, courteously and to have their dollars minded while doing it.

Mr. Brent Zuch, 1718 Pheasant Hills Drive, stated he doesn't have a formal presentation tonight, but he'd like to start by saying he grew up here, a great place to grow up and it still is and he'd like to see that continue for his children. After graduating from high school, he served in the Navy, including a couple Persian Gulf tours, and received a good conduct medal when discharged. He has a degree in political science from Miami University, where he met his wife, Lynn. She received her Masters degree in city planning at Ohio State and currently works for the firm the City utilizes for engineering services. Mrs. Zuch previously worked on the Loveland Madeira Road streetscape plan and the gateway project. While living in Columbus, he ran and was involved in some campaigns, took a position with the General Assembly and the Staff Education Committee. He was involved in starting an agency, served as senior staff on an agency and has helped school districts pass levies so they could get state funding for new and refurbished buildings. Regarding state employment, he helped write legislation amendments, managed constituent affairs, and similar things that Council would do. Though Columbus is a fine town, after his wife completed school, they decided to move back to Loveland where they eventually purchased an original log cabin in Pheasant Hills and so they could be in a town he loves and where he wants to raise their kids. They also care about the City's historic buildings as noted by their investment in their two homes. Approximately four years ago he was asked to serve on the City's Finance Committee, a valuable experience for him to serve with good Committee members. He feels that Committee has recommended responsible spending and embraced smart growth that has resulted in not having to increase taxes or reduce their services, something many similar size cities are experiencing. The City has to look for opportunities to enhance their tax base and he'd like to see more businesses added to some of the fine ones that are currently in the City. Encouraging economic development, such as attracting new businesses, will be to the benefit of residents and may result in minimizing any future taxation, perhaps decreasing it, and increase goods and services availability, something he'd like to be part of. He feels the Finance Committee has moved their focus on more long term planning, debating such items as: cost for utilities and the possibility of buying into energy; health care, which he has worked with in a managerial position he held; and the importance of sewage costs, though the City has done a good job maintaining their water costs. Mr. Zuch stated he would be happy to work with Council or meet with any citizens to receive their input on issues, as he's proud of his ability to work with people of different opinions to come to a solution.

**CITY MANAGER'S REPORTS**

A resolution is on tonight's agenda to authorize submitting an application to the Ohio Public Works Commission (OPWC) for emergency State Capital Improvement Program (SCIP) funds for the Second Street hillside project, as explained in Memorandum No. 46.

The Planning and Zoning Commission recommended at their May 19 meeting that Council accept the public improvements for the Cedar Woods Subdivision and authorize the release of the maintenance bonds for the associated street and infrastructure.

Memorandum No. 48 explains the City Manager's recommendations to consolidate the General Fund, Income Tax Fund and Parks and Leisure Fund for the 2009 budget and capital improvement program and beyond. The realignment of the fund structure is an attempt to simplify and reduce the number of inter-fund transfers and make it easier to follow where funds come from and where they are spent. Mr. Carroll explained the City structure has several general government funds, which gives Council the discretion to spend those funds in various ways as long as it's within the law. The City has had an income tax since 1964 and funds received from that are utilized for general government services and are accounted for in the General Fund. Other City funds are kept separate as required by law, such as water account revenues that are deposited into the Water Fund and can only be spent on water services; these funds would not be affected by this recommended change. The Finance Committee has utilized a margin analysis to ensure current expenditures don't exceed current year revenues so fund balances are not drawn on repeatedly; this change would simplify the preparation of that process. Information currently available would not be lost, as there would be the same line items, but they'd be located and accounted for in a different fund. Moving forward with this now allows ample time for the Finance Committee and Solicitor to review the recommendations and allow Mr. Taphorn and Mr. Steger to notify the State Auditor of the change before utilizing this proposal when working on the 2009 budget. Mr. Taphorn felt this system would be simplified, especially going forward, as it becomes more difficult to make comparisons historically because of the existing fund structure. There should be no reason not to move forward with this if Council so desires and State Auditors should allow it if the Solicitor doesn't find any effective legislation that would prohibit it. Mr. Carroll asked for Council's direction. Vice Mayor Bednar moved that Mr. Carroll refer this to the next Finance Committee meeting for their discussion; seconded by Mr. Osborne. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Motion carried. Mr. Schickel felt it would be helpful if Council shared their thoughts on this; he feels this is a good simplification and he has no objection to it.

Mayor Weisgerber pointed out an ordinance on tonight's agenda authorizes an amendment to the City's investment policy that would allow the City to invest in certificates of deposit outside the Cincinnati area provided the investments are made within the State of Ohio (Memorandum No. 49). The intent is to allow the City to pursue higher returns without additional risks.

Memorandum No. 50 explains two intergovernmental agreements and resolutions authorizing those agreements between the City and Hamilton County. Agreements are to permit the City's participation in the next Community Development Block Grant (CDBG) funding cycle and authorize joining with Hamilton County in making improvements to Union Cemetery Road. Mr. Carroll recognized Mrs. Klopfenstein, City Engineer, for her efforts on these two projects, from which funding will increase the City's road rehab program to \$524,000. If Council approves the resolutions and the City is awarded these grant funds, Mrs. Klopfenstein will have brought in \$118,000 that was not budgeted for 2008. Mr. Fitzgerald pointed out there is not a resolution on the agenda for the CDBG grant. Mr. Wright stated the resolution was prepared, but it doesn't need to be submitted to Hamilton County until June 12. Discussion ensued on adding the resolution to tonight's agenda; however, the consensus was to present it at the next meeting since time permits doing so.

Discussion ensued on recommended revisions to the hawking, peddling and soliciting ordinance to authorize replacing Small Stacks with the new Loveland Festival as an official City sponsored event. Mr. Carroll explained the proposed ordinance amends existing laws which allows the City to waive a required fee if the event is sponsored by the City. In this case, the City would allow the Loveland Area Chamber of Commerce to collect all fees from the Loveland Festival, a new event they are hosting on September 27. Vendors would be required to pay a \$50 hawking fee to the City if they're not part of this or another City sponsored event. His conversations with the Chamber have been that the City would support their event, in terms of Police, Fire and Public Works' services, to help them with their fundraiser, though he only anticipates sponsoring this for a couple of years; the Chamber would then pay fees as other fundraising events are required to do, such as the Rat Race. He pointed out funding to support several events has been part of the budget process and as City Manager, he has decided to fund this project within in-kind services, which is within the City Manager's authority to do. Mr. Fitzgerald stated he's confident the events listed (in the ordinance before Council) are fine and he'll support this legislation. However, he feels Administration, Council, or perhaps a committee, should review City sponsored events overall to set some general standards to ensure the following: the events are fun; the City's image is enhanced; the City realizes an economic benefit; and to minimize the disruption to the daily activities of those in the area of the event, including those who set up and

conduct the events. He feels this will pose a challenge and place accountability on groups and individuals who propose events and charges them with having certain protocols, such as insurance, financing, scheduling, etc., that would benefit their event and the City. While he doesn't want to discourage events, he feels Council owes it to their community and to those conducting the event to be challenged to be more structured.

### **COMMITTEE REPORTS**

Mr. Fitzgerald commended the White Pillars Homestead Advisory Committee and Mr. Carroll for their challenging endeavor and continuing efforts and asked that they bring a solution back to Council. Mr. Carroll pointed out Mr. Daly was also a member of this Committee and his replacement would be required to be part of this Committee.

### **COUNCILMANIC WORKSHEET**

Mr. Carroll reported the City does not have a date when the Ohio Department of Natural Resources (ODNR) will undertake a permanent repair of the drainage issue near the bike trail. Mr. Elliott pointed out this item has been referred from April 2005 and questioned why there's no resolution. The Mayor explained ODNR has made temporary repairs so there's been some progress, but, as reported by Mr. Carroll, ODNR has not notified the City when the final repair will be done. Mr. Carroll stated the repair has not been affected because it is ODNR's responsibility, not the City's. The City is only serving as a watch dog and facilitator of discussions. Mr. Wright and Mrs. Klopfenstein have had numerous conversations with the developer and ODNR, though he feels the problem comes from ODNR not having an affected ditch and covered culvert and they may not have the ability to fund this repair. If Mr. Elliott wants the City to affect the solution, they could use City funds to do so; however, since it is not the City's responsibility, the bike trail is not a hazard, and City staff continues to monitor the situation and affect an intergovernmental solution, he doesn't have any solution other than what staff is doing to ensure residents and visitors who use the bike trail are safe. Mr. Fitzgerald pointed out the City has funded trail repairs in the past, but there are washed out areas on other sections of the trail and he's not sure if it's not more of an image, than a safety, issue. Vice Mayor Bednar questioned if the City has the right to make an improvement on State property. Mr. Carroll felt it should not be done without consulting ODNR first, but he does not recommend doing the repair. The City has inspected the site and feels it is not a hazard at this time. He estimated the repair would cost between \$10,000 - \$20,000, but staff could price the project if Council wishes; however, a ditch line sloping towards Lyons Avenue will need ongoing maintenance, which is not the City's responsibility, and this would not be a one time fix on the bike trail. Mr. Osborne moved that Council extend this report 90 days to the second meeting in August (August 26); seconded by Vice Mayor Bednar. ROLL CALL: Schickel, yes; Weisgerber, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes. Motion carried. Mr. Schickel stated he would value a price estimate and perhaps some communication with ODNR regarding doing this. Mr. Carroll suggested that would not facilitate a faster resolution on ODNR's part, but staff could certainly get the price estimate and continue their communications with ODNR. He also pointed out the City already does maintenance work along the bike trail in the area of Nisbet Park and the Downtown, but the City is happy to cooperate with ODNR, recognizing the trail is a benefit to the community. He'll also get an estimate on ongoing maintenance. Discussion continued on the areas maintained by the City and the cause of the slippage, which Mr. Carroll stated is a natural spring near Hermitage Pointe, whose developer is also working with the City to fix the problem.

### **OLD BUSINESS – ORDINANCES**

Mr. Osborne introduced for second reading ORDINANCE INCREASING THE COMPENSATION OF CITY MANAGER THOMAS M. CARROLL. Mr. Elliott reiterated from Council's last meeting that he feels a 4% raise and a 1% bonus is a little high, though perhaps in good economic times, one could spread this out. Since it is not a good economy at this time, he doesn't know if this is a good signal to the community or precedent to set and he feels a 3% increase is adequate. Mayor Weisgerber stated Mr. Carroll puts a tremendous amount of time and effort into City business and that effort is more than an average effort and is why he supports more than an average raise. He believes an important concept the City should be entertaining is pay for performance; if someone is doing an excellent job, they should be rewarded for it, and if they're not doing an excellent job, they should not get the same level of raise as those who are. ROLL CALL: Weisgerber, yes; Bednar, yes; Elliott, no; Fitzgerald, yes; Osborne, yes; Schickel, yes. Ordinance was approved and assigned the number 2008-37

Mr. Osborne introduced for second reading DECLARING IMPROVEMENTS TO PARCELS OF REAL PROPERTY LOCATED IN THE CITY OF LOVELAND, OHIO TO BE A PUBLIC PURPOSE UNDER

SECTION 5709.40 OF THE OHIO REVISED CODE, EXEMPTING SUCH IMPROVEMENTS FROM REAL PROPERTY TAXATION, AUTHORIZING THE EXECUTION OF A TAX INCENTIVE AGREEMENT, SERVICE AGREEMENT AND SUCH OTHER DOCUMENTS AS MAY BE NECESSARY, AND ESTABLISHING A TAX INCREMENT EQUIVALENT FUND. Mr. Elliott stated he regrets originally voting for this purchase and apologized for doing so as it seemingly is an incredible amount for a relatively small piece of property. He asked if this ordinance will require that this land become a park or can its use be changed later to residential. Mr. Carroll explained this ordinance will not make this land a park; it creates a tax increment financing (TIF) district that will pay for the acquisition. Council previously received a pro forma that shows the property and the park will be developed. Future Council action will be necessary to make this a park, but as communicated before, staff intends to withhold park planning until the development on the Crane property is going to take place. Since that development is not occurring now, TIF revenue from this property will take longer to realize than the usual two or three years. If Council wishes to sell this property or take other action, they could do so, but most of this property is financed through long term tax exempt bonds and there may be tax penalties if they were to take a different course of action other than what was intended as a public purpose. Mr. Fitzgerald stated, for clarification, that it's possible the park could be sold or use changed in the future and there may or may not be some consequences that would affect the tax exempt borrowing. However, Council is not discussing the ultimate use of the land or the merits of the purchase, but the vehicle to pay the debt so Council meets the obligation they've made when they, either rightly or wrongly, decided to buy the property; the Mayor stated that is correct. Mr. Elliott clarified the TIF district will include the proposed park area and the land that was referenced as the Summit Pointe development. Mr. Carroll concurred the TIF includes the park land and the Connor property, as shown on the map sent to Council. The City purchased the Christman farm (park land) for \$800,000; it was appraised for \$710,000 and since the property was not on the market, they paid a little more than 10% of that value, which he feels this is not an exorbitant price and is a fair business deal. ROLL CALL: Bednar, yes; Elliott, no; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes. Ordinance was approved and assigned the number 2008-38.

#### **OTHER OLD BUSINESS**

Mr. Fitzgerald asked for an update on staff's review of personnel policies and procedure, as referenced on Mr. Klaine's recent invoices. Mr. Klaine explained that Mrs. Bellisemo and Ms. Young, from his office, have been working on this review that has required extensive work, though he's not sure of its status tonight. Mr. Carroll felt the City has received draft policies from Ms. Young and he believes he's holding about 12 of the 35 policies for his review. After his review of all the policies, they will be routed to Department Heads for their input, after which they will be sent to the City's property and liability insurer.

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

Mr. Osborne introduced for first reading AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF DEDICATION OF IMPROVEMENT AND INFRASTRUCTURE IN THE CEDAR WOODS SUBDIVISION. The Mayor noted Council has approved bond reductions via a resolution and questioned if a resolution is appropriate for acceptance of dedication of improvements. Mr. Wright stated past practice has been to accept infrastructure improvements by ordinance.

Mr. Osborne introduced for first reading ORDINANCE AMENDING CHAPTER 731 TO ADDRESS HAWKING AND PEDDLING AT CITY-SPONSORED EVENTS.

Mr. Osborne introduced for first reading ORDINANCE AMENDING CHAPTER 125.02(C)(3) TO ENABLE THE PURCHASE OF CERTIFICATES OF DEPOSIT THROUGHOUT THE STATE OF OHIO.

Mr. Osborne introduced A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR EMERGENCY 2008 STATE CAPITAL IMPROVEMENT PROGRAM FUNDS AND EXECUTION OF PROJECT AGREEMENT WITH THE OHIO PUBLIC WORKS COMMISSION. ROLL CALL: Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Bednar, yes. Resolution was approved and assigned the number 2008-39.

Mr. Osborne introduced A RESOLUTION APPROVING THE RELEASE OF THE PERFORMANCE BOND FOR INFRASTRUCTURE FOR THE CEDAR WOODS SUBDIVISION. ROLL CALL:

Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Bednar, yes; Elliott, yes. Resolution was approved and assigned the number 2008-40.

Mr. Osborne introduced A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOINT AGREEMENT BETWEEN HAMILTON COUNTY AND THE CITY OF LOVELAND FOR CONSTRUCTION OF IMPROVEMENTS TO UNION CEMETERY ROAD. Mr. Carroll explained Union Cemetery Road, from Thistlehill to Montgomery Road and including in front of Loveland Commerce Park and some portions in Hamilton County adjacent to City corporate limits, will be improved using a combination of motor vehicle registration funds the City received from a grant. This intergovernmental agreement will allow the joint management of that project by the City and Hamilton County for the unincorporated portion of Union Cemetery. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Resolution was approved and assigned the number 2008-41.

### **OTHER NEW BUSINESS**

Mr. Osborne asked if any (soliciting) permits for ice cream trucks have been renewed recently. Deputy Chief Sabransky indicated he has not received any applications for renewal. Mr. Osborne expressed his concern since trucks are going through subdivisions. Mr. Carroll stated staff will check on this matter.

Mr. Schickel stated he will not be in attendance at the June 10 Council meeting so he'd like to discuss the open Council seat tonight. He's pleased several qualified people have stepped forward and he's particularly pleased that Mr. Lofland has thrown his hat in the ring, as he's shown his commitment to this City over a long period of time, both as a Police Officer and as a previous candidate for Council. Mr. Schickel then moved that Harry Lofland be appointed to fill the Council seat vacated by Dan Daly; seconded by Mr. Fitzgerald. Mayor Weisgerber indicated he would like to have discussion with Council about the process, but he didn't realize Mr. Schickel would not be at their next meeting. Mr. Schickel stated he believes the process is spelled out in the Charter. Council could set up meetings and interviews, but he feels Council talks to each other and there's been communication between some of the people who have expressed their interest in the position and some Council Members. Basically it's Council's job to nominate and appoint someone and if they can't, then it falls on the Mayor and he's unsure what process would overlay that underlying reality. Mr. Elliott commented that Council knows there are now seven people who have expressed interest in this position and his intent was to thank them and ask if any others are interested, but Mr. Schickel's motion moves that along in some regard. He doesn't believe Council has had the opportunity to actually discuss, or maybe they have, among themselves who would make a better candidate. Mr. Fitzgerald stated he's not personally prepared to make an affirmative vote for anyone this evening and he also didn't know Mr. Schickel would be absent at their next meeting. He feels the process need not be handled like a staff position, since this is an elected position and the candidates all stand before the public, and expressed his appreciation for all candidates stepping forward. While he agreed with the Mayor about having some element of process, he noted that some candidates have sent emails, some sent emails and spoke at a Council meeting, and some have had individual conversations; it might behoove Council to at least invite everybody to attend a meeting for further consideration and if a decision is not made, it will fall to a mayoral appointment. Mr. Schickel feels there's a likelihood with his absence at the next meeting that if Council doesn't vote on candidates tonight, it will fall to the Mayor; he's talked to a number of the candidates and he's ready to vote. Mr. Fitzgerald asked Mr. Klaine if Mr. Lofland fails to secure four votes this evening, does that render him ineligible for consideration between now and the conclusion of the 30 day period? Mr. Klaine didn't think so, as the motion may fail this evening, but may not at a later date. Mayor Weisgerber stated that because not everyone knows all the individuals who have submitted a request to fill this vacant seat, he and Vice Mayor Bednar have discussed Council having a special session on June 9 for the sole purpose of giving all candidates the opportunity to address Council. This will also allow more time for questions and answers and from a process standpoint, he felt this would give everyone an opportunity, but they didn't realize Mr. Schickel would not be at that meeting. Mr. Schickel explained he just realized yesterday that he would be absent, but he also feels an important point is that if someone is not successfully elected tonight, that does not preclude another vote. Mr. Elliott stated the candidates he's aware of are: Mr. Kip Ping, Mr. Dave Bair, Mrs. Judy Leever, Mr. Brent Zuch, Mr. Dennis Berry, Mr. Arnold Bellush, and Mr. Harry Lofland. If Council does not select one of those tonight, they could have a meeting on June 9. Mr. Osborne stated that since minutes exist from 1974, this will be the first time ever that Council has handled an appointment to this body like this. He agrees that the Charter does spell out the

procedure, however, he does agree with the transparency. Some past appointments were questioned so he wants to see that connotation eliminated. This Council is transparent and as a result, he's not ready to vote tonight. Mr. Fitzgerald commented that if Mr. Schickel would so choose to withdraw his motion, he'd withdraw his second; Mr. Schickel stated he would not withdraw the motion. ROLL CALL: Schickel, yes; Weisgerber, no; Bednar, no; Elliott, no; Fitzgerald, no; Osborne, no. Motion failed.

Mr. Elliott moved to nominate Judy Leever to fill Dan Daly's empty seat; seconded by Vice Mayor Bednar. ROLL CALL: Weisgerber, no; Bednar, yes; Elliott, yes; Fitzgerald, no; Osborne, no; Schickel, yes. Motion failed.

Mr. Elliott moved to nominate Arnold Bellush to take Dan Daly's empty seat; seconded by Mr. Schickel. ROLL CALL: Bednar, no; Elliott, yes; Fitzgerald, no; Osborne, no; Schickel, no; Weisgerber, no. Motion failed.

Mr. Elliott moved to nominate Dennis Berry to fill the seat vacated by Dan Daly; seconded by Mr. Schickel. ROLL CALL: Elliott, yes; Fitzgerald, no; Osborne, no; Schickel, no; Weisgerber, no; Bednar, no. Motion failed.

Mr. Schickel moved to nominate Brent Zuch to fill the empty seat; seconded by Vice Mayor Bednar. ROLL CALL: Fitzgerald, no; Osborne, yes; Schickel, yes; Weisgerber, yes; Bednar, yes; Elliott, no. Motion carried. There was a concurrence that oath of office would be administered to Mr. Zuch at Council's next meeting to allow his family the opportunity to be present.

Mr. Elliott stated a citizen has contacted him and City Hall regarding the overgrown weeds and dead bushes at the Time Warner property at the corner of Lebanon Road and West Loveland Avenue. Mr. Carroll stated he's aware of the situation and agrees completely with the citizen. He has communicated the problem to the Building and Zoning Office so they can follow through on the situation and he expects action to be taken shortly.

Mr. Elliott noted the Mayor issued a press release on the law suit filed against the School District regarding the annexation contract. While it may not matter which side of the issue you find yourself on, he feels they need to take real care how they word things. He was just a little taken aback about some of the word choices, though he's not trying to make a personal chastisement. He understands where this is coming from and the City's viewpoint on this, but he thinks they need to take care about the pot calling the kettle black about wasting money, as they shouldn't be pointing the finger too much at the School District along those lines. He noted that one thing that was left out of the press release, an important fact, is that when the City provided the services, they received a nine and one-half acre park and that's been left out of the discussions. His personal desire is to have a speedy, equitable resolution that serves both the residents and the needs of all the area school children on this issue. Mayor Weisgerber clarified there is a contract that was entered into between the School District and the City. That contract was put in place prior to the City providing \$470,000 worth of sewer and water services, which then enabled the school to provide additional amenities, such as a larger facility, etc. That contract contains certain paragraphs and terms and all this focuses around Section 7 of that contract where it clearly lays out the Board will sign annexation petitions. The Board has been asked repeatedly to do that, there have been multiple discussions with the Board President and the Superintendent and they've known since November that this would be coming. Unfortunately, the Board was unable to act in a positive manner; they have repeatedly tabled the request for that annexation. This action and consequently the tax dollars spent on legal fees, whether it's from the City or the School District, would not have been necessary had they signed the petition as the contract stipulates. His statements in the newspapers and press release about wasting taxpayer dollars is focused solely around their unwillingness to sign when requested and is why the words were chosen as they were. Mr. Osborne stated that as a member of this body, he attended the Loveland School Board meeting last Tuesday night and they touted how they wanted to communicate. They could have done so tonight, but they chose to have a special meeting opposite this meeting. They also touted how they needed more time and he's calculated they've had 290 – 300 meetings of this body since the agreement was signed to have discussions. He feels the agreement is pretty self explanatory and for them to say they need more time, doesn't cut it and it's time Council takes action positively. Representing the City's interest, he feels they're in very sound stature as far as this suit. He's dismayed at the School Board Members who voted to table, as they've had plenty of time for discussion.

Mayor Weisgerber announced the Memorial Day ceremony was held yesterday and he complimented Mr. Terry Stouder and the organizing committee, who did an excellent job. Intercommunity Cable Regulatory Commission has recorded the event and the televised broadcast schedule is posted on the City web page.

Mrs. Cox announced the next Concert in the Park will be Sunday, June 8, at 6:00 p.m. The P&G Big Band will be performing.

Mr. Elliott announced Loveland High School graduation will be this Saturday at the Cintas Center. The public is invited.

Mayor Weisgerber explained the agenda calls for executive session discussion on personnel and pending and imminent litigation, but it's only necessary to discuss litigation. He then entertained a motion to go into executive session under Ohio Revised Code Section 121.22(G)(3), Pending or Imminent Litigation; so moved by Vice Mayor Bednar and seconded by Mr. Osborne. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Motion was approved and Council went into executive session at 9:45 p.m.

The Mayor entertained a motion to reconvene the regular session; so moved by Vice Mayor Bednar and seconded by Mr. Osborne. Mr. Schickel was not present at this time. The motion was approved by unanimous consent and the meeting reconvened at 9:57 p.m.

The Mayor entertained a motion to adjourn; so moved by Mr. Osborne and seconded by Mr. Elliott. The motion was approved by unanimous consent and the meeting adjourned at 9:58 p.m.

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Mayor

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Clerk of Council