

**MINUTES OF THE REGULAR  
MEETING OF LOVELAND CITY COUNCIL  
Tuesday, August 12, 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, Mr. Zuch

Also Present: Mr. Carroll, City Manager; Mr. Wright, Assistant City Manager; Mr. Klaine, Solicitor; Mrs. Cox, Clerk of Council; Mr. Taphorn, Finance Director; Mr. Rees, Safety Director; Chief Huber, Chief Sabransky, Pastor Hounshell, Police Chaplain; Sergeant Rahe, Officer Alejandro, and Police Specialist Shockey

Mayor Weisgerber recognized audience members as follows: Mr. DC Canada, a Loveland business leader; Mr. Tim Canada, Former Council Member; Ms. Paulette Leeper, Executive Director of the Chamber of Commerce; and Board of Education Members, Ms. Christine Olsen, Mrs. Linda Pennington, and Dr. Kolp

Mayor Weisgerber asked that a few minutes of silence be observed in recognition of Former Council Member John Banks, who passed away last week. Mr. Banks served on City Council in the 1980's and again from 1992 until 1996.

Vice Mayor Bednar moved to approve the minutes of the July 22, 2008 Council meeting; seconded by Mr. Schickel. The motion was approved by unanimous consent.

**PERSONS APPEARING BEFORE COUNCIL**

Mayor Weisgerber called Mr. DC Canada to the podium and presented him a mayoral proclamation declaring Wednesday, August 13, as DC Canada Day in the City of Loveland in honor of his retirement and the passing of his business, Bond Furniture Galleries, to his son and grandchildren. Mr. Canada thanked Council and expressed his pleasure in serving the community.

Mr. Martin Schickel, representing the Loveland Amazing Race Committee, stated deserving local organizations and charities will be recognized tonight and introduced Committee members as follows: Dr. Portman, Founder and Chairman; Dr. Huber; Mrs. Ray, Course Marshall; Mr. Alteri, Treasurer, and Mr. and Mrs. Brown. Dr. Portman stated they could not make these presentations if it weren't for the support of the City and residents. He also thanked all the volunteers who helped to make this event a great day. Mr. Schickel explained challenge stations are put on by local businesses, churches, groups, and individuals. Of the 20 challenges this year, contestants chose their favorite as "Nothing But Wet," where they attempted to make a basketball hoop while the Fire Department played defense with fire hoses. Pastor Hounshell, on behalf of New Hope Baptist Church, and Chief Huber were presented a plaque for their efforts. Those receiving grants were: Paulette Leeper, Loveland Area Chamber of Commerce, \$4,000; Rose Eckert, Cancer Free Kids, \$9,000; Marjorie Blair and Janet Tewksbury, Loveland Initiative Cool School Program, \$9,000; Dick Lajoie, Impact A Hero (for severely wounded veterans), \$9,000; and Angela Pancella and Sister Mary Beth Peters, Our Daily Bread Soup Kitchen, \$9,000. Mr. Schickel reported the race raised \$40,000 this year, but the good will, good press and good memories have been priceless for their Committee. Dr. Portman stated the 2009 charities their Committee has selected are Grailville, Debt Free, Cancer Free Kids, Granny's Garden, Little Miami, Inc., and the Loveland Food Pantry. Mayor Weisgerber thanked the organizing Committee for all their time and efforts to put on this successful event year after year.

**OPEN FORUM**

Mrs. Linda Pennington, 111 Lebanon Road, stated she's a City resident since 1975 and asked why Council would not form a J.E.D.D. with Symmes Township. It would allow the City to collect the 1% income tax from Loveland High School employees while allowing the school resource officer (SRO) to remain at the High School for the safety and protection of all its students. Mrs. Pennington stated the Mayor's comments in the Loveland Herald that this would be double taxation isn't true since this is privately owned public property not subject to taxes. As a City taxpayer, she doesn't understand why her City would not want a solution that's in the best interest of its residents. The Mayor stated that as Mrs.

Pennington is aware, this is pending litigation and while he's happy to receive her comments, Council will discuss this in executive session as appropriate. Mrs. Pennington stated she's here as a taxpayer and not for anything to do with that issue, which she thought she had that right as a citizen. The Mayor explained this is pending litigation and Council will not be discussing pending litigation at the table this evening.

Dr. Jim Kolp, business owner at 910 Loveland Madeira Road, stated he's here as a business member of the community and is asking Council to reconsider the pending law suit, though he realizes they can't and he doesn't expect them to discuss it now. He feels that if the City, Symmes Township and the School District could work together and everyone gets what they want, which he feels they would under the J.E.D.D., then really who would benefit are the High School students. Mr. Kolp stated it's a proven fact that high schools need SRO's and if the annexation goes through, the High School will be without one. With the J.E.D.D., he feels it is possible for the City to get what it needs, which he believes they should, and the High School can keep its SRO while showing the City, Township and School can all work together for the good of the community. He appealed to Council to consider in executive session doing this J.E.D.D.

Ms. Christine Olsen, 11317 Donwiddle Drive, stated she's a resident of Symmes Township since 1993 and she's here to speak as a resident of the Loveland School District, not as a member of the School Board. She asked that as Council discusses the annexation they keep in mind that they are all residents of the same School District. She would like Council to refrain from further negative public relations against the School District, as she feels it's forcing the residents to split and it's not the situation she or Council want. They are allowed to have a difference of opinion, but as public officials they should be respectful and she wants Council to realize there's enough battle going on in this world and they don't need it here.

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

Memorandum No. 68 explains a resolution on tonight's agenda authorizes the City to contract with the Hamilton County Health District for public health services for 2009 for City residents in Hamilton, Clermont and Warren Counties. Mr. Zuch pointed out the pie chart on the County's financial report is not accurate relative to personnel services. Mr. Carroll concurred and stated he'll contact the County to verify what their expenses are and report back to Council.

Regarding Memorandum No. 70, Clerk of Council Selection Sub-Committee, Mr. Fitzgerald suggested perhaps Council could add a task to the proposed sub-committee, namely to review and update Council Rules, if it wouldn't deter them.

A resolution before Council tonight will authorize the City Manager to enter into a collective bargaining agreement with the City's Police Sergeants (Memorandum No. 71). Mr. Fitzgerald asked what budget implications would be realized due to the rotation of the Sergeants into the Captain's role. Mr. Carroll stated the Acting Captain will be paid a differential of \$4.00 per hour, plus their benefit costs will increase a proportional amount, but costs should still be within the budget as presented in Mr. Taphorn's financial report. He anticipates the 2009 impact will be neutral or decline because of vacancy savings that are anticipated in the Police budget.

Memorandum No. 72 details projects City Departments are undertaking to improve the environmental sustainability of its business operations. Mayor Weisgerber pointed out that due to a copying error, the last page of the report was omitted; that page was emailed to Council and a complete memorandum is at their seat tonight. Mr. Zuch stated he had suggested this be undertaken through the Finance Committee and he commended Mr. Carroll and particularly the Department Heads. He would like to see this continue with a report back to Council. Mr. Carroll stated they have been looking at cost effective measures that make business sense, but that also have environmental benefits. They may discover as they get into green initiatives that some may not have a positive return on investment, but are worthy of consideration nonetheless. Based on that, there may be some tough future policy decisions.

#### **COMMITTEE REPORTS**

Mr. Elliott, referencing page 3 of the unapproved Finance Committee minutes of July 17, read that Mr. Taphorn asked to discuss the June financial report and Mr. Carroll objected to the report as issued. He asked that this matter be carried over for discussion on Communication No. 7. Mr. Elliott also asked for clarity on the Mayor being an ex-officio member of the Finance Committee; he added that the City

Manager is an ex-officio, non-voting member of all standing committees. Mr. Carroll pointed out there are two exceptions, those being the Board of Zoning Appeals and the Civil Service Commission.

Mr. Fitzgerald pointed out the Planning and Zoning Commission will meet next Monday (August 18). They will conduct a public hearing at 7:15 p.m. to consider a text amendment to permit electronic display signs, similar to what is used at Loveland High School. He believes this will have applications beyond non-profit and institutional-type uses and felt those who may have an interest may want to participate in that public hearing. Mr. Wright explained that St. Columban Church made this request to try to reduce the number of temporary signs they display for special events or registrations. Their request is for a small ground sign that would have two lines of LED computerized, changeable copy to replace their current sign. The Zoning Code does not currently permit LED signs, but he believes this is a technological change that the Code needs to keep up with to regulate in some fashion. While St. Columban isn't the first property owner to make this request, staff realizes this is a long-standing trend and this will be one of many future requests.

### **COMMUNICATIONS**

Vice Mayor Bednar commented that Rev. A.J. Hamilton and Ms. Paulette Leeper have requested Council appoint a task force to commemorate the visit of Dr. Fred Shuttlesworth to Loveland in 1993 (Communication No. 2). He then moved to suspend Council Rules to allow Ms. Leeper or Rev. Hamilton to speak if they would like to; seconded by Mr. Schickel. ROLL CALL: Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes. Motion carried.

Rev. Hamilton stated that in light of all the bad, disturbing news that has come from Loveland lately, they might be able to, out of a bad situation with the 1993 Metcalfe affair, bring some good. He explained that things had not been going well (with civil unrest) around here at that time and Dr. Shuttlesworth had traveled to Washington, DC and New Orleans. In the light that he also visited Loveland, he feels it will be beneficial to do something noteworthy to signify the fact of his visit to Loveland and the invaluable help he gave, as explained in Communication No. 2. Rev. Hamilton explained history shows that Dr. Shuttlesworth was one of the most non-violent men that ever lived and he could not personally undertake the mission that Dr. Shuttlesworth and those that served with him were on, as his make-up would not allow him to be beaten and jailed and have the good attitude he maintained under those circumstances. With Dr. Shuttlesworth's fame, he still stopped in Loveland and he feels making some gesture through a task force, with their recommendation then sent to Council, would be good for Loveland. Rev. Hamilton added that he's troubled and hurt by all the violence and with seeing young folks killing each other and added that he wouldn't recommend just anybody, but he's recommending somebody who has been through this.

Based on Rev. Hamilton addressing Council, Mayor Weisgerber entertained a motion to form an ad hoc task force; so moved by Vice Mayor Bednar and seconded by Mr. Elliott. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Motion carried. The Mayor pointed out the intent, as addressed in the letter from Rev. Hamilton and Ms. Leeper, is for the task force to submit their recommendations to Council and also to appoint Ms. Leeper and Rev. Hamilton to the Task Force. He asked Council to submit their recommendation for task force membership so the appointments can be made at Council's next meeting.

Mr. Elliott stated he attended the July 17 Finance Committee meeting and was confused about the disagreement between Mr. Taphorn and Mr. Carroll regarding a \$50,000 transfer from the special project to the Water Capital Improvement (CI) fund. His understanding is there was a budget ordinance that included this transfer of funds and that Mr. Taphorn was making that transfer and the City Manager said not to. Mayor Weisgerber explained an ordinance exists that directs funds be placed in the Special Projects fund and is where this money was designated to go. The budget approved by Council showed the transfer of the \$50,000 to the Water CI fund. It is the City Manager's responsibility to manage the budget and trying to manage to a margin analysis correctly, which is reviewed at every Finance Committee meeting, they needed to not transfer those funds to the Water CI fund and is where the difference occurred. Mr. Elliott felt that a transfer of this amount would not arbitrarily take place without perhaps Council voting on it. The Mayor reiterated the funds were not transferred due to making the margin analysis work. In this case, Mr. Taphorn was looking for concurrence from Council and that did not require legislation. Mr. Klaine was asked where the authority lies to request and move funds to keep the budget balanced and he explained that typically the adjustment is made at the end of the year to reconcile accounts and make transfers and he doesn't believe that type of direction is needed during the

course of the year. Mr. Carroll agreed that Council sets appropriations through an ordinance that's usually before Council two or three times a year. In the initial appropriation ordinance, there are a number of fund transfers, including a \$50,000 transfer from the Special Projects fund to the Water CI fund. His understanding from Mr. Klaine is that an ordinance creates the legislative authority for staff to transfer funds, but it does not necessarily create the legislative requirement that they do so if for other reasons throughout the year they determine they don't need to. He believes it is accurate to say that this year they are transferring less money from the Income Tax to the General Fund to balance that fund. A re-appropriation ordinance will be presented to Council in December that rectifies what they intended to spend in each fund, at which time Council can make adjustments as they see fit, which means at the end of the year all legalities are fully complied with. Mr. Carroll stated he's confused and asked Mr. Elliott what in his estimation is significant versus insignificant. Discussion continued on prior transfers and reduction in certain budgets. Mr. Carroll noted that Council approves appropriations by fund, not by line item, so monies can be moved from one line item to reflect the current business operations of the City so long as they do not exceed the appropriation total for an individual fund, which they would not without a re-appropriation ordinance. Mr. Elliott questioned if a \$50,000 transfer could then be done unilaterally. Mr. Carroll explained Council appropriated the transfer, but they did not say it has to be done. If Council does not agree with him, the appropriate action would be a motion to direct the transfer of that money. He did not authorize the transfer because in today's economy there have been reductions over what was originally budgeted in interest earnings and income tax collections and a number of steps have been taken to tighten expenditures. Transferring money to a fund with a balance of \$1,500,000 did not make good sense to him this year. If Council deems otherwise, he'd welcome a motion. Mr. Elliott questioned if the approved ordinance suggests or directs the transfer and how that would then play out. Mr. Carroll stated the ordinance is an authorization to do that and is the business plan that they begin the year with.

Mr. Osborne commented that he wishes Mr. Elliott would read the Charter and Code of Ordinances regarding duties of City Manager, as that would clarify most of what he just asked. Council appropriates the top and bottom of the year and outside that, the City Manager manages. If this is an employee issue between the Finance Director and City Manager, that would be executive session material; if it's a procedural issue, he doesn't have a problem with this. The Mayor stated it is important for Council and the community to understand when these procedural issues come up, discussions can happen and he appreciates all the effort and diligence that goes into the budget. Mr. Taphorn does a great job looking at these funds, watching the Water Fund to ensure it has contingencies and balance. The Finance Committee works hard reviewing the budget, as does the City Manager, who has the authority under the Charter to manage the budget. He asked that it be recognized as they transfer money into the Water fund (an enterprise fund where funds cannot be taken back), particularly this year when they're watching the budget and trying to manage to the margin analysis, it's very important to not handcuff those funds into an enterprise fund that is currently in good shape; they also should recognize, as pointed out by Mr. Taphorn, that they need to watch out in the long term for that fund. In the short term, it's important to manage these funds, which is the City Manager's responsibility to do, and hence, this discussion.

### **COUNCILMANIC WORKSHEET**

The Worksheet was reviewed and both reports due tonight (Liquor License Report and Wireless Internet Access) were rescheduled for November 25.

### **OTHER OLD BUSINESS**

Mayor Weisgerber entertained a motion to form an ad hoc committee for the purposes of working with staff on the review and selection of the next Clerk of Council/Executive Assistant to the City Manager and to review and update Council Rules; so moved by Mr. Fitzgerald and seconded by Vice Mayor Bednar. Discussion ensued on assigning these duties to two separate committees. The Mayor explained his intent was to make this a committee of three Council Members so they could review Clerk of Council/Executive Assistant resumes with City staff as well as review Council Rules, per Mr. Fitzgerald's suggestion. Mr. Elliott felt there should be three committees. The City Manager would hire a person and Council would hire a Clerk of Council, and if that turns out to be the same person, so be it. The Mayor explained if it is Council's wish to hire one person to fill those two roles, then one committee can have that discussion and identify if a person fulfills those roles. Mr. Elliott pointed out it is not up to him to hire the Executive Assistant; the Mayor concurred. Mr. Carroll reminded Council that he had sent a memorandum to them previously that laid out what they're looking for in replacing Mrs. Cox, recognizing that one person holds two positions and reports to Council and the City Manager. The expressed desire was to hire one person who could fill those two roles, with the sub-committee working with the City Manager's office to hopefully reach agreement that there is one person that both Council and the City Manager's office agree

is the best candidate; however, they also recognize that may not be possible and the two positions may have to be split into a part-time Clerk and full-time Executive Assistant. The sub-committee will help determine how they want staff to help sort through the 187 applications received and review Council Rules, where staff could assist if needed. Mr. Fitzgerald felt Council should shoot for the goal of having one person because it provides for very meaningful linkages and synergies between the functional aspects of Council and Administration, but it would not surprise him if it may not be possible to employ one person for both positions. Mr. Elliott moved to amend the motion to separate the committee for the personnel search and the Council Rules review. Motion died for lack of a second. ROLL CALL: Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, no; Fitzgerald, yes; Osborne, yes. Motion carried.

Discussion ensued on a possible vacancy on the Finance Committee. The Mayor explained there are not a required number of appointments to that Committee; currently there are seven members. Mr. Elliott moved that another person be added to (the Finance) Committee; seconded by Mr. Fitzgerald. Mr. Osborne stated he believes the Charter states the Mayor will appoint committee members and he doesn't know if this motion is proper. The Mayor felt he has the right to name individuals, but the number of committee members is not defined and it's the will of Council if they wish to have more members. Mr. Elliott commented he's not adding a member, he's just bringing the Committee up to the number it had. Mr. Zuch pointed out if there are eight members, they could be deadlocked on an issue. ROLL CALL: Zuch, no; Bednar, no; Elliott, yes; Fitzgerald, yes; Osborne, no; Schickel, no; Weisgerber, no. Motion failed.

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

Mr. Osborne introduced A RESOLUTION APPROVING THE CONTRACT FOR PUBLIC HEALTH SERVICES FOR THE YEAR OF 2009 AND AUTHORIZING THE CITY MANAGER TO SIGN THE CONTRACT ON BEHALF OF THE CITY. ROLL CALL: Bednar, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes. Resolution was approved and assigned the number 2008-56.

Mr. Osborne introduced RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF LOVELAND AND THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION (OPBA) REPRESENTING THE SWORN POLICE SERGEANTS OF THE CITY OF LOVELAND. ROLL CALL: Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes. Resolution was approved and assigned the number 2008-57.

Mr. Osborne introduced RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH WESTERMAN COMPANIES FOR THE UPGRADE OF THE CITY OF LOVELAND SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM. Mr. Carroll stated there should be no disruption to service, but with the existing system being nearly 20 years old, he can't guarantee there won't be any glitches. The system should be installed this year. He also commended Mrs. Klopfenstein for putting together this project that came in under budget nearly \$90,000. ROLL CALL: Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes. Resolution was approved and assigned the number 2008-58.

#### **OTHER NEW BUSINESS**

Mr. Zuch stated he enjoyed being the master of ceremony at last week's Concert in the Park with Robin Lacy and DeZydeco. The Remains, a rock-n-roll band, will be at Nisbet Park on August 24. He also recognized the following Boy Scouts from Troop 621 who recently made the rank of Eagle Scout: Drew Corrigan, Alex Ping, and Christopher Ready. The Mayor noted that Michael Stewart, from Troop 888, just reached the rank of Eagle Scout also.

Mayor Weisgerber announced the next Citizens Police Academy will be held at the Safety Center on Wednesday evenings, 6:30 p.m. until 9:30 p.m., between September 10 and November 12. For information or to register, call Officer Caudell at 583-3000 or email him at ccaudell@safety-center.org.

Mr. Elliott expressed his appreciation for Council acknowledging Mr. John Banks passing, as he was his friend and mentor and Mr. Banks always put the community first, was as gentle as he was strong, and truly was a man of great integrity. Mr. Elliott expressed his condolences to the Banks family.

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 Vice Mayor Bednar and seconded by Mr. Fitzgerald. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Motion was approved and Council went into executive session at 9:24 p.m.

The Mayor entertained a motion to reconvene the regular session; so moved by Vice Mayor Bednar and seconded by Mr. Fitzgerald. The motion was approved by unanimous consent and the meeting reconvened at 10:49 p.m.

The Mayor entertained a motion to adjourn; so moved by Mr. Elliott and seconded by Mr. Fitzgerald. The motion was approved by unanimous consent and the meeting adjourned at 10:50 p.m.

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Mayor

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Clerk of Council