

**MINUTES OF THE REGULAR
MEETING OF LOVELAND CITY COUNCIL
Tuesday, September 9, 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: 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. Steger, Assistant Finance Director; Mr. Braun, Assistant Solicitor; Mr. Rees, Safety Director; Chief Huber, Chief Sabransky, Acting Deputy Chief Wilmes, Sergeant Rahe, Officer Jordan, Officer Alejandro, Officer Corbett, Officer Keller, Officer Hammer, Officer Adamson, and Officer Smallwood

Mr. Elliott moved to approve the minutes of the August 25, 2008 Special Council meeting; seconded by Mr. Osborne. The motion was approved by unanimous consent. Mr. Osborne moved to approve the minutes of the August 26, 2008 Council meeting; seconded by Mr. Schickel. The motion was approved by unanimous consent.

PERSONS APPEARING BEFORE COUNCIL

Mr. Klaine administered the oath of office to Police Officer Smallwood. Chief Sabransky explained Officer Smallwood was a Cincinnati Police Officer for seven years. She has served in Loveland as a part-time officer for over two years and tonight she took the oath of office as a full-time officer. She has a degree in exercise and fitness and has been instrumental in the City's wellness program and in reviving the City's bike patrol. The Chief also introduced her husband, who is a Cincinnati Police Officer, and their son and thanked Council for their support.

CITY MANAGER'S REPORTS

Memorandum No. 79 explains that due to expected increases in costs to replace a current fire truck in 2010, staff recommends the issuance of a five year note to allow delivery of the new truck in 2009. Mr. Carroll stated Mr. Steger's analysis shows a savings of about \$76,000, or about 25% of the purchase price, by ordering the truck now and taking delivery in 2009. An ordinance before Council tonight would authorize participation in the Center for Local Government loan pool and the City would receive funding later in the fall; those funds would be invested until the truck is delivered. With a prediction that interest rates are likely to increase this fall, staff believes they can get a better interest rate now. Mr. Fitzgerald pointed out the 1994 truck being replaced was donated to the City by the Loveland Firefighters Association and its resale value is estimated to net around \$90,000, a small beneficial factor in reduction of appreciation by selling the vehicle a year sooner.

Discussion ensued on several membership fees, particularly for Police and Public Works (Memorandum No. 80). Mr. Fitzgerald noted this information details how membership fees can add up. Mr. Elliott requested Council be provided costs of community based organizations, such as the Chamber of Commerce and Historical Society. Mr. Carroll stated the Chamber membership is charged to the Economic Development/Special Projects line item and the Historical Society Museum received \$2,000 each of the last two years, all listed under the account code for memberships and subscriptions. He noted that he inadvertently did not list the Center for Performance Measurement, an international city/county organization which the City just joined this year. The requested information will be provided in Council's weekly report.

As staff recommended in Memorandum No. 82, Mr. Osborne moved that Council set public hearings (for Community Development Block Grant funding) for September 23 and October 14 during those Council meetings; seconded by Vice Mayor Bednar. Mr. Carroll pointed out staff was contemplating a ribbon cutting at the Public Works Building for September 23. Also, Mr. Osborne had previously suggested that the October 14 Council meeting be held at the Lodge Retirement Community, though that has not been coordinated, but it is the annual Beautification Committee awards presentation meeting. If Council desires to move the meeting, staff needs to know so the proper advertisement of

the public hearing can be placed. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Motion carried.

Mr. Fitzgerald moved that the location of the October 14 meeting be moved to the Lodge Retirement Community and that appropriate notifications be conveyed to the public; seconded by Mr. Osborne. Discussion ensued on the public hearing being held during the regular Council meeting timeframe. ROLL CALL: Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes. Motion carried. The Mayor commented that if the Beautification Committee awards presentation date changes, the location may need to be moved, as this was based on the assumption those awards will be presented on October 14. Mr. Carroll added that this is also based on the assumption the Lodge concurs.

Memorandum No. 83 provides information about prospective five-year capital improvement program (CIP) projects for 2009 and beyond. Mr. Osborne commented the Recreation Board met last night and though their recommendation is opposite of what Administration desires, he would like to see their view point incorporated into the 2009 budget regarding the repairs and replacement of the tennis and basketball courts at Lever Park and the shelter at Nisbet Park. Regarding the new Public Works building CIP request, Mr. Carroll explained the building will be furnished within the confines of the 2008 budget utilizing receipts from the scrap metal sale the City held this year. The sale realized \$35,000, which funds were used to pay for a necessary change order to the building and the remaining amount, approximately \$15,000 - \$18,000, will be used to furnish the building; this 2009 CIP request was submitted in error. The Mayor asked staff to update the 2009-2013 summary based on what they intend to submit to Council for the 2009 budget, which he believes will reduce the 2009 budget from approximately \$5,000,000 to around \$3,000,000. He requested they also collectively create a priority list of items to be funded in 2009, independent of individual departments.

COMMITTEE REPORTS

Mr. Zuch reported he attended his first White Pillars Homestead Advisory Board meeting and there was much discussion on what to do with the house and how that will please the neighborhood and how they're going to maintain which many consider a historic building in a cost effective way. While there's not a cheap, easy way to do it, the Board agreed with Mr. Carroll and recommends finding a curator who would live there rent free, but agree to maintain and improve the building. The City has a plan for the house and improvements would be managed accordingly. As far as selling the house, there would be a limited market due to deed restrictions and they didn't believe renting the house or using it for public meetings would be a realistic purpose. The Committee and some of the neighbors didn't support using the house for an office and making these changes would not be in keeping with its historic nature.

COMMUNICATIONS

Vice Mayor Bednar noted Cincinnati Fire Department District Chief Dadosky highly praised the Loveland/Symmes Fire Department for their participation in the Homeland security drills. He congratulated Chief Huber for their efforts.

Referencing tonight's CIP work session and the August 2008 Financial Report, Mr. Taphorn pointed out efforts are ongoing to increase collections in the Income Tax Office as they pursue past due and delinquent accounts. They expect to mail 2,000 - 2,500 notices this month and by the end of the year, they'll know better how high collections will be. Staff feels the year-end collections will exceed the \$3,000,000 budgeted.

COUNCILMANIC WORKSHEET

Mr. Carroll stated costs for storm water studies for Fox Meadow Farms and Loveland Heights are included in the 2009 CIP, but those projects will be competing against other storm water related projects. He had nothing new to report on Departments' automatization/digitization. Mr. Osborne reported the Recreation Board was notified at their meeting last night that the Loveland Middle School back ball fields were graded for proper drainage by the baseball organization, with the permission of Board of Education staff. He questioned if the City Engineer could review this site and give Council an opinion on whether the grading has created more of a drainage problem in Stoneybrook and the Heights. Mr. Carroll stated he'll report back to Council and they'll probably recommend the follow-up be included in the overall Fox Meadows and Heights storm water report. Mr. Osborne also reported there are plans to alter the grass around the perimeter within the next several weeks and wondered if

they could suggest that be halted until the Engineer has made any decisions. Grading was reported to have cost around \$18,000 and he wondered if there could be some liability issues here. Vice Mayor Bednar clarified a swale was cut between the two fields and filled with gravel so the infields would naturally drain to the center of the fields; the backside of the infield and outfield were drained toward the fence, which leads the water to the backside of the subdivisions. This was done with the permission of Mr. Ames, Board of Education staff member, and the baseball association. Mr. Elliott questioned if the storm water utility was established in response to an EPA mandate. The Mayor explained the utility was created to address two issues: water quality, which is an EPA mandate, and water quantity. Both reports due tonight were scheduled for another report on November 11. Mr. Zuch commended Mr. Steger for finding some efficiencies and saving a staff person, which he feels is exactly what taxpayers are looking for while also improving services. The Mayor felt they are also looking for how to make the tax season go smoother and while the calculation tool has been helpful, filing online will be a great help to both the taxpayer and the Tax Office.

OLD BUSINESS – ORDINANCES

Mr. Osborne introduced for second reading AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 953.08 IN ITS ENTIRETY, CHAPTER 953 WASTE COLLECTION, OF THE LOVELAND CODE OF ORDINANCES. ROLL CALL: Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, no; Fitzgerald, yes; Osborne, yes; Schickel, yes. Ordinance was approved and assigned the number 2008-62.

Mr. Osborne introduced for second reading AN ORDINANCE AMENDING CODIFIED ORDINANCE SECTION 921.39, OF CHAPTER 921 WATER SERVICE, OF THE LOVELAND CODE OF ORDINANCES. Mr. Elliott stated this is raising rates and he's against doing that especially a year in advance. The Mayor explained this will hold rates, as there will be no increase for 2009, and the planned increase would start in 2010. He noted the chart displayed during Council work session this evening shows how the City has done a great job in keeping their utility rates below the increase of the consumer price index and this ordinance holds rates down for next year and places an increase in 2010 when it will be necessary. Mr. Carroll repeated there's no rate increase for water or refuse is contemplated in 2009; in 2010, there is a 4% increase in water rates and a 5% increase in sanitation rates proposed 2010. Mr. Zuch commented no one likes rate increases, but hopefully economics will be better in a year. ROLL CALL: Zuch, yes; Bednar, yes; Elliott, no; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes. Ordinance was approved and assigned the number 2008-63.

NEW BUSINESS – ORDINANCES AND RESOLUTIONS

Mr. Osborne introduced AN ORDINANCE PROVIDING FOR THE ISSUANCE OF NOT TO EXCEED \$300,000 OF GENERAL OBLIGATION BONDS BY THE CITY OF LOVELAND, OHIO, FOR THE PURPOSE OF PAYING THE COST OF ACQUIRING A FIRE TRUCK, AUTHORIZING PARTICIPATION IN THE OHIO CAPITAL ASSET FINANCING PROGRAM AND DECLARING AN EMERGENCY. ROLL CALL: Bednar, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes. Ordinance was approved and assigned the number 2008-64.

Mr. Osborne introduced for first reading AN ORDINANCE AUTHORIZING AND DIRECTING THE CONVEYANCE OF REAL PROPERTY LOCATED AT 10506 BUTTERWORTH ROAD, LOVELAND, OH ("CHRISTMAN HOUSE") TO THE COMMUNITY IMPROVEMENT CORPORATION OF LOVELAND. Mr. Elliott stated it sounds like the City wants to sell this house and questioned why they would use the Community Improvement Corporation versus the City. Mr. Carroll stated the intent is to lease the home and using the CIC streamlines the process of bringing forward a lease for approval back to the CIC, which can act more expeditiously. The house was going to be leased to a City employee, but the Code of Ordinance prevents doing so. While there are no plans to lease the house to that employee now, he feels it will be Mr. Klaine's opinion that there would still be the restriction to not lease to a City employee. The intent is to lease the property so it doesn't deteriorate and to generate some revenue on the property that's sitting idle until such time as development occurs so the City can create the park that was planned for the Christman farm. For Council to lease the property, they have to hold a public hearing, which would also need to be done to convey the property to CIC. Council would need to have two readings of an ordinance, whereas CIC could approve it by a motion. Mr. Fitzgerald stated the purpose of the CIC is to buy, hold or sell real estate as a community improvement corporation designated by the City so essentially it's the City's wholly owned subsidiary and it is used as a vehicle to facilitate economic community development transactions. He asked for more than a cursory legal opinion on this and explained part of the reason for having a CIC is so that a

municipality can do things that it can otherwise not do and he submits that leasing the property to an individual may fall under that category and so he doesn't think they want to underestimate the flexibility of the CIC. While it does expedite the process, it is also setup as a tool to allow community improvements, whether its economic development or housing, that otherwise could not because of either statutory, charter, constitutional or practical issues. What he would like to see between now and next meeting is a report from the economic development and legal people on why they're using this tool, cite examples of how the City has used it, and why they can't lease the property to a City employee under the provisions of the CIC. Mr. Klaine explained the restriction is set by a City ordinance and numerous state ethical opinions that deal with this issue with regards to city property. Mr. Zuch agrees with Mr. Fitzgerald and he'd like to hear more about this, though he's sure the intent is to not compensate a city employee over and above their wages or give them an advantage that other community members might not have; however, if it's something that restricts Council, it might be something they might want to visit via an ordinance because if everyone is given an opportunity, then its more than fair. For example, this individual is a police officer and he'd like to have his officers, including firefighters, as close to his house as can be, not across town.

Vice Mayor Bednar moved to have a public hearing on September 23, after the other public hearing Council is going to have, for the conveyance of the Christman farm to the CIC; seconded by Mr. Osborne. Discussion ensued on the purpose of having a hearing. The Mayor pointed out it is required to have the hearing and Mr. Fitzgerald explained the hearing will make everyone aware the property is available and it might mitigate concerns about the perception of potentially being unfair to lease it to a City employee; it's being transparent and getting information out and nothing but good can come from it. Mr. Klaine pointed out that if Council wants a legal opinion, he believes Council Rules have been that they make the request by voting. ROLL CALL: Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes. Motion carried.

Mr. Osborne moved that the City Solicitor provide this body with an opinion regarding the previous mentioned item; seconded by Mr. Schickel. Mr. Schickel clarified this issue is the advocacy of leasing to a City employee. Mr. Zuch felt this applies to whether the City or CIC or both have the authority. Mr. Klaine explained that with regards to the City, this falls under the City Charter in Section 11.03, which he read. With the CIC, it is moved one step from that. Mr. Fitzgerald stated they understand the Charter, but just as they understand in the State constitution there's a prohibition of any unit of government lending its credit to a private entity, part of the reason that entities like CIC's and other vehicles like this are set up is to work around these kind of issues. He believes it has been deemed there is some public good to come in the example when a government entity can loan money and he suspects in this case, there could be good in the fact that a public safety employee of the City is living in the City on a piece of property that's otherwise going to be vacant and unattended. ROLL CALL: Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes. Motion carried.

Mr. Osborne introduced RESOLUTION COMMEMORATING THE SACRIFICES OF PUBLIC SAFETY PERSONNEL AND OTHERS WHO GAVE THEIR LIVES ON SEPTEMBER 11, 2001 AND HONORING THE NATIONAL SEPTEMBER 11 MEMORIAL AND MUSEUM. Mr. Zuch stated he served two tours in the Gulf and when people use violence to resolve their issues, nothing good comes out of it. While everyone appreciated a firefighter, they seemed even more heroic after this day and it also applied to postal workers and what they had to deal with. This also changed the way people think about transportation, particularly flying, and his thoughts are with the heroes of Flight 93 and their tremendous act of courage in choosing to take action. He also expressed his appreciation for all military personnel and their families who sacrifice while they fight the war on terrorism to keep everyone free and safe. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Resolution was approved and assigned the number 2008-65.

OTHER NEW BUSINESS

Mrs. Cox reminded everyone the last Concert in the Park will be Sunday, September 14, with Foley, a Celtic group.

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. Zuch. ROLL CALL: Weisgerber, yes; Zuch, yes; Bednar, yes;

Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes. Motion was approved and Council went into executive session at 9:05 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 10:10 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 10:10 p.m.

Mayor

Clerk of Council