

**MINUTES OF THE REGULAR  
MEETING OF LOVELAND CITY COUNCIL  
Tuesday, September 23, 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; Chief Sabransky, Safety Director Rees, and Police Specialist Shockey

Mayor Weisgerber pointed out the minutes of the September 9, 2008 special Council meeting were placed at the table this evening. Mrs. Cox explained that Chief Sabransky's title was incorrect in the minutes previously sent to Council. Mr. Schickel moved to approve the minutes of the September 9, 2008 special Council meeting; seconded by Vice Mayor Bednar. The motion was approved by unanimous consent. Vice Mayor Bednar moved to approve the minutes of the September 9, 2008 Council meeting; seconded by Mr. Osborne. The motion was approved by unanimous consent.

**OPEN FORUM**

Mr. Arnold Bellush, 100 Gamekeepers Lane, stated he's here to speak about the conveyance of the Christman house to the Community Improvement Corporation. As he remembers, the property was purchased through a tax exempt municipal bond for the purpose of building a park. He expressed hope that there's a proviso that the conveyance is for only building that park, as any other use would violate the purchase of the bond, which has a tax exempt status particularly for the park. He wondered if bond counsel would feel this is a legal conveyance and reminded Council that zoning of the adjacent property was based on density that included the public park property. If the area is not used as a park, he believes Council should revisit the entire zoning issue. The payment schedule for the bond incorporated borrowing additional funds in anticipation of TIF revenue from the construction of the higher density housing and that seems to be several years before they could possibly see the construction of that housing; he questioned if Council has planned for how to pay the principle and interest on the bond issue when the funds are depleted that was borrowed to pay for the first year or two. Mr. Bellush stated these questions are all related and if Council is satisfied that all these issues have been dealt with, then they should proceed with a public hearing and conveyance of the property; if not, it may be appropriate to table this issue.

**CITY MANAGER'S REPORTS**

Memorandum No. 84 explains the Planning and Zoning Commission (P&Z) approved zoning text amendments that regulate electronic message display signs and has forwarded those amendments to Council for their required action. Mr. Elliott asked that the background of this issue be explained for the public. Mr. Carroll pointed out that Council packets are posted on the City website so the public can review the same information before Council if they have access to a computer. Mr. Wright explained St. Columban Church requested the City approve a proposed new ground mounted sign at the intersection of Route 48 and Loveland Miamiville Road. This replacement sign would incorporate part of the sign having an electronic message display. Staff review revealed the sign meets the existing Zoning Code except for the fact that electronic message display signs are not allowed within the City. Institutional and business requests for these signs have been received in the past and since staff recognizes this is a trend, they felt it would be appropriate to investigate uses adopted by nearby municipalities and what regulations would be appropriate for the City. He explained sign sizes vary depending on type of use and what District they're located within and the intent is to have a result that applies to ground mounted signs only. Mr. Carroll explained an amendment to P&Z's recommendation would require six approval votes of Council. Mr. Osborne pointed out many signs throughout the City would be in violation of Section 3 of this ordinance and he has a problem with Council regulating signage inside a business, as he feels these restrictions are anti-business. He feels St. Columban's request should be a conditional use permit and Council should get input from Loveland Madeira Road business and property owners. Mr. Schickel stated his reluctance to restrict window signs, which he's not sure this does. He feels there may be appropriate places within the City for electronic signs where there would be conditional uses that would be tightly controlled, such as in the Historic District,

perhaps a benefit for the Loveland Stage Company. Mr. Zuch stated some of the expressed concerns are valid. Mr. Fitzgerald stated P&Z's intent was not to restrict; however, they were concerned about garishness of some signs so they had a presentation by a sign vendor and they also reviewed brightness of signs. He also pointed out most churches tend to be in residential areas. Regarding the Historic and Scenic Waterway Districts, the sentiment is that with more pedestrian traffic and the prohibition of wall mounted signs, there wouldn't be space for ground mounted signs. Shopping centers would be permitted to have a LED pole mounted sign. Mr. Wright concurred and explained the tenants would share that sign to prevent each tenant from having a wall sign and from having more than one ground sign per center. Mr. Fitzgerald suggested Council approve this legislation rather than dealing with individual requests for a conditional use and pointed out a number of proponents are making plans and they would like to get direction so they can order and install their signs. Mr. Elliott pointed out Council does not have the minutes of the August 18 P&Z public hearing. Mr. Carroll noted Council has a recommendation from P&Z, as conveyed in Memorandum No. 84, and minutes will be forthcoming; however, pursuant to the Zoning Code, Council is required to hold a public hearing on this issue. Discussion continued on Council receiving the P&Z minutes. Mr. Carroll explained Council has not been asked to take action on this ordinance other than to set the public hearing. Mr. Elliott pointed out tonight is the first reading of the ordinance and he's curious about residential feedback and asked what the proposed sign would cost. Mr. Wright was unsure since the sign is not yet permitted; if the zoning text change permits this type of sign, St. Columban would have to request a conditional use permit, requiring another P&Z public hearing. Mr. Elliott stated that if the sign (attached to the memorandum) is expensive and other businesses, organizations or residents could not afford to have a similar sign, then Council is changing the zoning text for St. Columban Church, as opposed to doing a change that theoretically is good for the entire community. The Mayor stated the zoning text change as proposed is for the community at large and if someone can or can't afford the sign, it doesn't mean the text change is for one individual only. It's up to P&Z and the City to set the standard for the community. Mr. Fitzgerald pointed out the resident input Mr. Elliott is seeking did not appear at P&Z's public hearing, as he didn't recall anybody speaking other than those that had an interest in promoting the availability of the LED signage. While he can't speak to whether or not the speakers were from the neighborhood, that is not a pre-condition of their speaking and he doesn't recall any opponents. Mr. Elliott felt if he had P&Z minutes, he could determine whose speaking, where they live and what was said. Mr. Fitzgerald was unsure from a protocol standpoint if it would be appropriate to circulate minutes before they are approved, but he offered to send Mr. Elliott a copy of minutes when he receives his next P&Z packet. Mr. Elliott asked that copies be made for all of Council.

Mayor Weisgerber pointed out it is past time to conduct public hearings scheduled for tonight. He then entertained a motion to open a public hearing for the purpose of receiving input for the use of community development block grant funds in the City of Loveland; so moved by Vice Mayor Bednar and seconded by Mr. Osborne. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Motion carried and the public hearing began at 8:51 p.m. and ended at 8:52 p.m.

Mayor Weisgerber entertained a motion to open a second public hearing to receive input on the conveyance of City-owned property known as the Christman house, located at 10506 Butterworth Road, to the Loveland Community Improvement Corporation (CIC); so moved by Vice Mayor Bednar and seconded by Mr. Zuch. Mr. Osborne pointed out Council had received a memorandum from the Solicitor tonight and wondered if this hearing, based on the Solicitor's advice, is warranted. The Mayor explained that if Council wishes to convey this property to the CIC, he believes the public hearing is required; if they choose not to do that, that's Council's choice. Mr. Carroll clarified the ordinance before Council tonight is to convey the property from the City to the CIC. The legal opinion given to Council tonight addresses the ability of the CIC to lease that, or any other property, to a City employee; the opinion does not preclude the CIC from leasing the property and explains the CIC is also bound by Charter Section 11.03; Mr. Klaine concurred. ROLL CALL: Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes. Motion carried. This hearing opened at 8:52 p.m. and the regular session continued at 9:00 p.m.

The Mayor explained that public hearings have been scheduled for tonight and October 14 for the City's application for 2009-2011 Community Development Block Grant funding. Staff recommends utilizing the fund to create jobs in Loveland's Historic District. Responding to questions, Mr. Wright explained the Downtown area, referenced as having higher than average percentage of residents with low to moderate income, includes the Clermont County portion of the City. Mr. Carroll added the

theory is by geographic proximity to the created jobs, these residents will benefit by private investment and employment opportunities that will put them into a higher income track. Mr. Fitzgerald explained the Federal regulations necessary to receive this funding, including using the funds for public improvements. Mr. Elliott commented he's unsure the influx of grant monies will actually benefit these residents, though it may benefit certain developers or businesses, which may benefit all the City's residents.

Referencing the damage caused by remnants of Hurricane Ike last week. Mr. Carroll reported Public Works is expecting difficulty with leaf pickup in the coming weeks due to broken branches and twigs being attached to the leaves. Since the leaf machine cannot pick up those leaves, he asked that residents, when possible, bag this yard waste and dispose of it through the yard waste program. Mr. Zuch pointed out the City has started their annual leaf and brush pickup program early this year and many City employees are working very hard, to the benefit of many residents. With the power outages experienced, many people were acting more neighborly and he was glad that nobody was seriously injured. Mr. Schickel concurred on the efforts made by the community, including City Police and Fire, but particularly the Public Works Department. Mr. Carroll explained the Athletic Boosters are working on rescheduling the homecoming parade, which was postponed last week due to storm recovery efforts, with the intention to hold a fall parade. Mr. Osborne thanked Mr. Carroll for his decision to postpone the parade, as the debris along the parade route created a safety issue. The Mayor thanked City crews for doing a great job and also acknowledged Staff efforts being made through the Federal Emergency Management Agency (FEMA) to help protect the City's budget against extraordinary expenses incurred due to this storm. Mr. Carroll predicted recovery costs up to \$150,000 for Police, Fire and Public Works overtime and equipment, not including damage to private property.

#### **COMMUNICATIONS**

Mr. Zuch pointed out Representative Schmidt's letter indicating her caseworker will be available locally on September 26 to address issues involving Social Security, Veterans' care, IRS, farm aid, passports, visas, Medicare or any other federal government programs.

#### **COUNCILMANIC WORKSHEET**

No reports were due this evening.

#### **OLD BUSINESS – ORDINANCES**

Mr. Osborne introduced for second 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. Vice Mayor Bednar moved to table this legislation until October 28; seconded by Mr. Schickel. Vice Mayor Bednar explained this will give Mr. Klaine the opportunity to confer with bond counsel to address issues raised by Mr. Bellush this evening. ROLL CALL: Bednar, yes; Elliott, yes; Fitzgerald, no; Osborne, yes; Schickel, yes; Weisgerber, no; Zuch, yes. Motion carried.

#### **OTHER OLD BUSINESS**

Vice Mayor Bednar moved to set a public hearing for October 28 for the purpose of receiving input on the zoning text change that was discussed at great length earlier this evening; seconded by Mr. Elliott. Vice Mayor Bednar felt the hearing should be set for October 28, since their October 14 meeting will be held at the Lodge Retirement Community. Discussion ensued. ROLL CALL: Fitzgerald, no; Osborne, no; Schickel, no; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes. Motion carried. The Mayor stated that unless Council articulates differently, the hearing will be held at 8:30 p.m.

Mr. Elliott asked for an explanation on the White Pillars carriage house/garage. Mr. Zuch stated his understanding from their last committee meeting is that the carriage house will serve as a work place for the person remodeling the homestead so as not to litter the lawn; it would also serve as a garage where cars can be parked to help improve aesthetics in the neighborhood. Mr. Carroll noted this improvement would be retained by the City. The homestead would be opened two days a year for public viewing.

Discussion ensued on the Solicitor's opinion regarding lease of public property to a City police officer and that being considered part of the employee's compensation. Mr. Klaine explained the City Charter is clear a contract cannot be enacted with a City employee, as the employee could be subject to malfeasance that could terminate their employment. If Council needs additional advice beyond his

opinion, they could probably request an Ohio Ethics Commission opinion. He felt that any action to change the City Charter would be a very drastic action. Discussion continued on the ethics issue and leasing of the house at a fair market value price. Mr. Elliott asked that CIC be guided to lease the house to the highest bidder so that favor is not showed to any person. He suggested using a closed bid process, but stated he'll work with Administration or the Solicitor on directing doing so via a motion. Mr. Klaine stated CIC is actually an agent for the City and they can do some things more quickly, but they are governed by open meetings law, executive session, etc. Mr. Osborne noted they are all bound by ORC Section 2921.42 regarding having an unlawful interest in a public contract. Mr. Klaine noted there are certain exceptions also spelled out in this section that deal with contracting with a public individual. Discussion continued on the process to utilize for leasing the house.

Mayor Weisgerber noted Council has already set a public hearing for October 14 (for CDBG funding), but Memorandum No. 86 recommends specific wording and he entertained a motion to have the advertisement for that public hearing per the verbiage listed in the "Recommendation" section of Memorandum No. 86; so moved by Mr. Zuch and seconded by Mr. Osborne. ROLL CALL: Osborne, yes; Schickel, yes; Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes. Motion carried.

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

Mr. Osborne introduced for first reading ORDINANCE AMENDING CHAPTERS 1107 AND 1173 OF THE LOVELAND CODE OF ORDINANCES TO DEFINE, PERMIT, AND REGULATE ELECTRONIC MESSAGE DISPLAY SIGNS. Mr. Osborne moved to table this ordinance; seconded by Mr. Schickel. ROLL CALL: Schickel, yes; Weisgerber, no; Zuch, yes; Bednar, no; Elliott, yes; Fitzgerald, no; Osborne, yes. Motion carried. The Mayor pointed out no date was indicated to give Administration direction. Mr. Osborne felt Administration has heard Council's viewpoints to come back with a better draft; at this time, it's indefinite.

Mr. Osborne introduced A RESOLUTION AUTHORIZING THE CITY MANAGER TO FILE AN APPLICATION WITH THE OHIO PUBLIC WORKS COMMISSION FOR CLEAN OHIO CONSERVATION FUNDS. Since there's an initiative on the November ballot that could add more funding to the Clean Ohio Fund, Mr. Fitzgerald asked when the application would be submitted, if it would be before the initiative is possibly passed or would it be submitted during the current funding cycle. Mr. Wright explained this application will be in the current funding cycle and OPWC hopes to have an answer back to all the applicants prior to the November election. ROLL CALL: Weisgerber, yes; Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes. Resolution was approved and assigned the number 2008-66.

### **OTHER NEW BUSINESS**

Mr. Zuch expressed his appreciation for P&Z's efforts on the sign zoning amendment recommendations. He stated there's much benefit in having uniformity in signs. He believes one of Loveland Madeira Road's downfalls has been disjointedness of buildings and signage and there wasn't effort upfront to regulate that and he hopes Administration works with Mr. Osborne's concerns. He doesn't have an issue with window signs and he thinks there's a workable solution. Mayor Weisgerber asked Mr. Fitzgerald to pass along his appreciation to P&Z for their time.

Mr. Schickel congratulated Coach Marlatt and the Loveland Tigers' football team for their 4-1 season to date and encouraged everyone to support the team.

The Mayor 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. Zuch. ROLL CALL: Zuch, yes; Bednar, yes; Elliott, yes; Fitzgerald, yes; Osborne, yes; Schickel, yes; Weisgerber, yes. Motion was approved and Council went into executive session at 9:50 p.m.

The Mayor entertained a motion to reconvene the regular session; so moved by Vice Mayor Bednar and seconded by Mr. Schickel. The motion was approved by unanimous consent and the meeting reconvened at 10:55 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 10:56 p.m.

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Mayor

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Clerk of Council