

**MINUTES
REGULAR MEETING OF COUNCIL
AUGUST 13, 2012**

Call to Order

Mayor Ronald A. D'Epifanio called the Regular Meeting of Council to order at 7:00 PM at the Fairfield Municipal Building, 5350 Pleasant Avenue.

Prayer/Pledge of Allegiance

Councilmember Meyers led in prayer followed by the pledge of allegiance.

Roll Call

Acting Clerk Flaig called the roll of Council. Councilmember Senger, Councilmember Abbott, Councilmember Oler, Councilmember Meyers, and Councilmember Jones.

Councilmember Meyers seconded by Councilmember Abbott moved to excuse Councilmember Holtegel and Councilmember Pennington. Motion Carried 5-0.

Agenda Modifications

There were no modifications to the Agenda.

Executive Session Requests

Councilmember Oler, seconded by Councilmember Abbott moved to approve an Executive Session to discuss pending and imminent litigation. Acting Clerk Flaig took a roll call vote of Council. Motion Carried 5-0.

Public Hearing(s)

No public hearings were scheduled.

Special Presentations and Citizen Comments

Proclamation - Fairfield High School Choraliers and Director Jeff Clark

Fairfield High School Choraliers sang the National Anthem. Mayor D'Epifanio presented a proclamation and certificates to the Choraliers in recognition of their award of World Grand Champions of the Show Choir Category of the 2012 World Choir Games. Street signs recognizing the Choraliers accomplishment were unveiled and will be dispersed throughout the city.

Bill Meyer commented on the 8th Annual Hero's Ride, to be held on Saturday, August 25. This event supports severely injured military personnel. The city of Fairfield has hosted four previous events, and Mr. Meyer thanked the city for their support of this important event.

Johnny and Shirley Haynes, 5896 Emerald Lake Drive, presented to council regarding their home on Emerald Lake Drive. The home was built in November 2005 and there were 30 feet between homes in the subdivision, which was one of their reasons for choosing that community. In July 2012, the Zoning Board disregarded their concerns regarding the approval for their neighbor to build an additional car garage between the two homes, which reduces the space from thirty feet to eleven feet. She requested that the Mayor and Council revisit this request and approval of the additional car garage.

Law Director John Clemmons explained that the Planning Commission is the last word on this issue. The only recourse would be to try to appeal the decision to the Common Pleas Court; Council and the Mayor do not have jurisdiction to override the Planning Commission's decision.

David Brown, of the Butler County Auditor's Office, 130 High Street, presented to Council as part of the Auditor's Office outreach. The photo project that has been ongoing for several months, in which pictures of every property in Butler County have been taken for Auditor records, will be in

Fairfield as the first part of phase six, the last phase, later this month. The county financial reports are available on the Auditor's webpage, www.butlercountyauditor.org.

Robert Philpot, current resident in Hamilton, Ohio, but born and raised in Fairfield. He approached council with a request for help for veterans to be hired in city positions. Hamilton currently gives five points to veterans and ten points to disabled veterans on the civil service tests. He noted there are many characteristics of veterans that are beneficial to the city, such as their leadership.

Mayor D'Epifanio commented that the city does have several veterans and active-duty reservists currently employed. Councilmember Oler commented that the city would look into Mr. Philpot's request with the Civil Service Commission.

Mayor/Council Reports

Councilmember Meyers reported on the Bypass 4 Project and noted that it is essentially complete, all lanes are open and final restoration of the turf area will be completed by the end of the month. This project started in July 2010. The I-275 Gilmore and Winton Road Project will be completed in Spring 2013. The project is fifty percent (50%) complete as of right now. The sidewalk and apron program is about fifty percent (50%) complete and should be finished in approximately thirty (30) days.

Councilmember Abbott reported that staff has renegotiated the contract for solid waste with Rumpke, which will go into effect on September 1. Residents will see a reduction of approximately eighteen percent (18%). He commended staff for their great work on the contract. Councilmember Abbott also reported that income tax revenues are up approximately one and one-half percent (1.5%) or \$218,000 for the same period last year. This is a good sign of positive economic growth in the city.

Councilmember Senger reported again on the Hero's Ride and encouraged participation in the event. He also reported that the Miracle League opening day was held on July 28 and that it was a great day of events and went well. Mayor D'Epifanio noted that the Miracle League Fields have been featured on ESPN and Fox National News.

Approval of Minutes

- Regular Meeting Minutes of July 9, 2012
 - The Regular Meeting Minutes of July 9, 2012 were approved as written.

OLD BUSINESS

DEVELOPMENT SERVICES COMMITTEE

Jeff Holtegel, Chairman; Tim Abbott, Vice Chairman, Tim Meyers, Member

Ordinance to approve a modified development plan for a Kroger Gas Fueling Facility and to authorize the City Manager to sign a development agreement with the Kroger Limited Partnership I.

Councilmember Abbott presented the second reading of this ordinance.

Councilmember Meyers asked Development Services Director Tim Bachman if a full-impact safety study of that intersection has been completed and if it can be presented to Council prior to the third reading.

Monte Chesko, Real Estate Manager with Kroger Cincinnati/Dayton Division, reported to Council that the process started in July 2011. He noted that Kroger has taken the comments and suggestions of the city seriously and has made several changes to the design of the facility. Mr.

Chesko reported that Kroger has made several commitments to the city regarding the maintenance of the property, merchandising on the property and improvements to their grocery store location. He commented that in regards to the safety concerns, Kroger has agreed to limit the access to one turning movement northbound into the property from Pleasant Avenue. Mr. Chesko passed out a letter from John Pflume, certified traffic engineer, regarding the traffic impact of a fueling center, in which Mr. Pflume suggests that there will be minimal impact on the traffic flow of the intersection at Pleasant and Nilles and a traffic study for the fueling center location only would not be beneficial to the decision.

Councilmember Meyers asked if Mr. Pflume benchmarked data from other Kroger fueling centers. Mr. Chesko answered that Mr. Pflume used data from the Institute of Transportation Engineers (ITE), Trip Generation Manual and Handbook, which is much higher than what Kroger is anticipating based on data from other fueling centers. Councilmember Meyers also asked if Mr. Pflume made a judgment call on the safety of the location. Mr. Chesko answered that Mr. Pflume did not make a judgment call of the safety.

Mayor D'Epifanio commented that there was a "No Left Turn" sign posted at Nilles and Bibury due to the number of high-rate accidents, and the intersection of Nilles and Pleasant also has a high number of serious accidents, and it is his understanding that left turns from the fueling center onto Nilles would be permitted.

Councilmember Abbott thanked Mr. Chesko for providing the information to Council and for working so well with the staff regarding the concerns of the city. He asked if the fueling center will be managed by the current management at the Kroger grocery store, and Mr. Chesko answered that it would be overseen by the same management staff.

Councilmember Oler commented that his concern of accidents in that area has still not been addressed. He requested reports from the Police Department showing the number of accidents with property only and injury only.

Tony Spaeth, store manager at Kroger, reported to Council that the fueling center would be under his management with a department manager and several associates working at the location, given it's size. The positives of this project are that it will bring improvement to a blighted corner of the city, provide economic benefits, such as increased taxes and new jobs, Fairfield residents will keep business in Fairfield, as well as visitors from other communities that shop in the Fairfield Kroger grocery store. Kroger will maintain the good relationship it has built with the city and continue to sponsor city events. Mr. Spaeth presented a petition from Kroger customers with 5,000 signatures in support of the fueling center. He noted that it will be the most beautiful gas station anyone has ever seen, with nothing on the parking lot; all merchandise will be located inside the store. Kroger has an established presence in the Cincinnati-Dayton area and will have a long-term commitment to the property. The current grocery store is spending over \$200,000 in remodeling and renovation of the store, which will be completed within nine (9) days.

Don Hassler, 825 Brook Court, commented to Council that he agrees with a full-impact study on the intersection. Fueling centers generate a lot of traffic and the city should have records in the event that improvements are needed, Kroger pays for it and not the tax-payers. Councilmember Meyers asked Law Director Clemmons about the process to request an impact study. Mr. Clemmons answered that Council can request the impact study of the staff. There was discussion among Council and staff regarding the impact study specifics.

Judy Abbott, Village Green, commented to Council that she petitioned against a fueling center at the Kroger grocery location in Village Green, but she is impressed with the store and impressed with the plans displayed for the fueling center. She remembers a Dairy Mart on that corner that did well and there were not accidents, and she hopes the Council votes for the fueling center.

Steve Barrett, 1605 Parliament Court, commented to Council that he has several reasons he is

opposed to the fueling center, as well as questions for the city and Kroger staff. Mr. Barrett's opinion is that the corner of Pleasant and Nilles is a very important, historical corner and something of importance should be located on that corner. He does not believe a gas station fits that criteria. He agrees that no left turn should be allowed out of that location, no matter what the business is that occupies the space. Mr. Barrett is concerned about fuel delivery at that location with large semi-trucks trying to pull in and out of the location. There are several gas stations located within two blocks of the proposed fueling center location, and he feels that one of the smaller stations will fail as a result of a Kroger fueling center being built, resulting in another vacant property. He asked if there is any cost to the city for this proposed facility, and if there is, Kroger should have to pay for it, no matter what it is. He does not support an easement. Mr. Barrett asked if anyone has discussed this proposal with any of the companies along Nilles to Wessel Drive that back up to Kroger's existing property. He noted that he contacted one of those business owners that said he would be happy to negotiate with Kroger to sell his property for them to build a fueling center, which would not present the same traffic and safety issues that the current proposed location presents. Councilmember Oler noted that he has been told Kroger is not interested in building a gas station behind their store. Mr. Barrett requested legitimate reasons as to why Kroger does not want to build behind their store.

Jordan Horan, Real Estate Manager for the Kroger fueling center project, commented to Council and Mr. Barrett that Kroger has proposed to pay the city for the easement that has been requested, as well as the lease to the existing property and all demolition and improvements to the location. Ms. Horan noted that Kroger did look at another site that backs up to the current store and tried to lay it out, but the facility wouldn't fit, and the site that Mr. Barrett referred to is also not the appropriate size.

Matthew Goodwin, 5327 Lakeside Drive, commented to Council that he feels the Kroger fueling center would bring good business to the city. He does not like the run-down buildings that currently occupy the lot.

Councilmember Senger, seconded by Councilmember Abbott moved to postpone the third reading and vote on this issue to September 24. Councilmember Senger noted that he is not available for the September 10 meeting and wants his vote to be heard on this issue. Mr. Clemmons clarified that this motion is for both the Kroger fueling center ordinance and the easement ordinance. Motion Carried 5-0.

Ordinance to authorize the City Manager to enter into an easement agreement with the Farhat S. Khan Trust.

Councilmember Abbott presented the second reading of this ordinance.

NEW BUSINESS

PUBLIC SAFETY COMMITTEE

Mike Oler, Chairman; Debbie Pennington, Vice Chairman, Terry Senger, Member

Simple Motion: Motion to approve a liquor permit application in the name of Danny Phone Card LLC, 5407 Dixie Highway, Fairfield, OH 45014 (Permit Classes: C1 and C2).

Councilmember Oler, seconded by Councilmember Meyers moved to approve a liquor permit application in the name of Danny Phone Card, LLC. Motion Carried 5-0. SIMPLE MOTION 19-12. APPROVED 5-0.

PARKS & RECREATION COMMITTEE

Terry Senger, Chairman; Debbie Pennington, Vice Chairman, Adam Jones, Member

Ordinance to authorize the City Manager to enter into an agreement with The Joe Nuxhall Miracle League Fields, Inc. for the operation of the Field of Dreams recreation complex.

Councilmember Senger, seconded by Councilmember Meyers moved to approve to read the following ordinance by title only. Motion Carried 5-0.

Background: City Manager Pizzano recommended entering into an agreement with The Joe Nuxhall Miracle League Dream Fields, Inc. for the operation of the Field of Dreams recreation complex. This is a procedural step following council action in February 2012; the agreement has not changed, however, since February 2012, the entity has changed and has become a 501(c)(3), therefore further action is required. Legislative action: Councilmember Terry Senger presented the first reading of this ordinance.

PUBLIC WORKS COMMITTEE

Tim Meyers, Chairman; Mike Oler, Vice Chairman, Tim Abbott, Member

Councilmember Meyers, seconded by Councilmember Abbott moved to approve to read the following four (4) ordinance by title only. Motion Carried 5-0.

Ordinance to authorize the City Manager to enter into a contract with D.A. Van Dam and Associates for the 2012 Emergency Storm Sewer Repair on South Gilmore Road and declaring an emergency.

Background: City Manager Pizzano recommended a contract with D.A. Van Dam and Associates for the 2012 Emergency Storm Sewer Repair on South Gilmore Road and declaring an emergency. It was discovered during construction that the storm sewer needs repair so as not to cause sink holes in the roadway. Legislative Action: Councilmember Meyers presented the first reading of this ordinance.

Councilmember Meyers, seconded by Councilmember Jones moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 5-0. Councilmember Meyers, seconded by Councilmember Abbott moved to adopt . Motion Carried 5-0. ORDINANCE NO. 78-12. ADOPTED 5-0.

Ordinance to authorize the City Manager to execute the grant application and enter into an agreement with Ohio Public Works Commission (OPWC) for a grant to fund a portion of the Seward Road Project and declaring an emergency.

Background: City Manager Pizzano recommended execution of the grant application and an agreement with Ohio Public Works Commission (OPWC) for a grant to fund a portion of the Seward Road Project. He commended the staff for their work to secure the following three (3) grants, which total in excess of \$4 million. This particular grant is \$750,000, which is 43.5% of the project funding. The project consists of widening the road in several areas. Legislative Action: Councilmember Meyers presented the first reading of this ordinance.

Councilmember Meyers, seconded by Councilmember Jones moved to suspend the rules requiring three (3) readings. Motion Carried 5-0. Councilmember Meyers, seconded by Councilmember Oler moved to adopt . Motion Carried 5-0. ORDINANCE NO. 79-12. ADOPTED 5-0.

Ordinance to authorize the City Manager to execute the Local Public Agency Agreement with ODOT for the Route 4 and Holden Improvement Project and declaring an emergency.

Background: City Manager Pizzano recommended execution of the Local Public Agency Agreement with ODOT for the Route 4 and Holden Improvement Project. The grant amount is almost \$2.5 million. This agreement with ODOT allows the city to manage the project, in terms of design and construction. The funding from ODOT is 90% of the total project cost. Legislative Action: Councilmember Meyers presented the first reading of this ordinance.

Councilmember Meyers, seconded by Councilmember Senger moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 5-0. Councilmember Meyers, seconded by Councilmember Abbott moved to adopt . Motion Carried 5-0. ORDINANCE NO. 80-12. ADOPTED 5-0.

Ordinance to authorize the City Manager to enter into an agreement with Ohio Public Works Commission for the grant to fund a portion of the 2012 River Road Project and declaring an emergency.

Background: City Manager Pizzano recommended entering into an agreement with Ohio Public Works Commission for the grant to fund a portion of the 2012 River Road Project. The grant total is \$985,000, which is 59% of the total funding for the project. Legislative Action: Councilmember Meyers presented the first reading of this ordinance.

Councilmember Meyers, seconded by Councilmember Senger moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 5-0. Councilmember Meyers, seconded by Councilmember Oler moved to adopt . Motion Carried 5-0. Mayor and Council thanked the staff for securing these three (3) grants for the city. ORDINANCE NO. 81-12. ADOPTED 5-0.

FINANCE & BUDGET COMMITTEE

Tim Abbott, Chairman; Terry Senger, Vice Chairman, Mike Oler, Member

Councilmember Abbott, seconded by Councilmember Senger moved to read the following four (4) ordinance by title only. Motion Carried 5-0.

Ordinance determining to recertify special assessments levied for the purpose of constructing certain improvements and declaring an emergency.

Background: City Manager Pizzano recommended recertification of special assessments, as part of an agreement with Greater Cincinnati Port Authority. This has been done every year since 2004 and is a procedural requirement. Legislative Action: Councilmember Abbott presented the first reading of this ordinance.

Councilmember Abbott, seconded by Councilmember Meyers moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 5-0. Councilmember Abbott, seconded by Councilmember Senger moved to adopt . Motion Carried 5-0. ORDINANCE NO. 82-12. ADOPTED 5-0.

Ordinance to amend subsection 953.01(a) of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio, relative to the service fees for residential garbage and solid waste collection and recycling.

Background: City Manager Pizzano recommended an amendment to subsection 953.01(a) of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio, relative to the service fees for residential garbage and solid waste collection and recycling. The contract was renegotiated and has resulted in an eighteen percent (18%) decrease in fees for the first year and minor increases

for the subsequent four (4) years. Legislative Action: Councilmember Abbott presented the first reading of this ordinance.

Appropriation Ordinance (Contractual Items) - \$985,000 for the 2012 River Road Project; \$51,491 for the 2012 Emergency Storm Sewer Repair at South Gilmore Road.

Background: City Manager Pizzano recommended the following contractual appropriations: \$985,000 for the 2012 River Road Project and \$51,491 for the 2012 Emergency Storm Sewer Repair at South Gilmore Road. Legislative Action: Councilmember Abbott presented the first reading of this ordinance.

Councilmember Abbott, seconded by Councilmember Senger moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 5-0. Councilmember Abbott, seconded by Councilmember Meyers moved to adopt . Motion Carried 5-0. ORDINANCE NO. 83-12. ADOPTED 5-0.

Appropriation Ordinance (Non-Contractual Items) - \$21,840 for the Alternate Power for Traffic Signals; \$20,000 for the installation of time and attendance electronic time clocks.

Background: City Manager Pizzano recommended the following non-contractual appropriations: \$21,840 for the Alternate Power for Traffic Signals and \$20,000 for the installation of time and attendance electronic time clocks. Legislative Action: Councilmember Abbott presented the first reading of this ordinance.

Councilmember Abbott, seconded by Councilmember Senger moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 5-0. Councilmember Abbott, seconded by Councilmember Oler moved to adopt . Motion Carried 5-0. ORDINANCE NO. 84-12. ADOPTED 5-0.

Meeting Schedule

Acting Clerk Flaig read the following meeting schedule:

Monday, September 10 Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.
Monday, September 24 Regular Meeting, 7:00 p.m.
Tuesday, October 9 Regular Meeting, 7:00 p.m.

Executive Session of Council (if needed)

Council adjourned to Executive Session at 9:01 PM.

Adjournment

The Regular Meeting of Council adjourned at 10:05 PM.

ATTEST:

Clerk of Council

Mayor's Approval

Date Approved _____