

MINUTES
REGULAR MEETING OF COUNCIL
SEPTEMBER 24, 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 Holtegel led in prayer. American Heritage Girls Troop OH 3017 led the Pledge of Allegiance.

Roll Call

Clerk Wilson called the roll of Council. Councilmember Holtegel, Councilmember Pennington, Councilmember Senger, Councilmember Abbott, Councilmember Oler, Councilmember Meyers, and Councilmember Jones.

Agenda Modifications

Executive Session Requests

Public Hearing(s)

Special Presentations and Citizen Comments

Mayor/Council Reports

Councilmember Oler reported that Cincinnati UC Health helicopter service will be housed at the Butler County Regional Airport. The aircraft is faster and has more safety features than the previous aircraft, and response times should be much faster with the new model and with it being housed at the local airport.

Councilmember Pennington reported that the Hamilton Journal News had an article about Mayor D'Epifanio in today's newspaper. The article honored residents for volunteer work they perform in the community.

Councilmember Holtegel reminded everyone that September is Prostate Cancer Awareness Month and to get testing done as recommended by your doctor. He also reported that some citizens are frustrated at the literature distributed to neighborhood homes; these citizens do not want to receive the literature. There was a discussion of the legality of these distributions. It was mentioned that the situation has been reviewed in the past. Law Director Clemmons reported that it is a very complicated situation, given the publishers' first amendment rights, but it is something that can be looked at again.

Approval of Minutes

Regular Meeting Minutes of September 10, 2012

- The Regular Meeting Minutes of September 10, 2012 were approved as written.

OLD BUSINESS

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 presented the third reading of this ordinance.

Councilmember Senger, seconded by Councilmember Pennington moved to adopt . Motion Carried 7-0.
ORDINANCE NO. 91-12. ADOPTED 7-0.

FINANCE & BUDGET COMMITTEE

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

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.

Councilmember Abbott presented the third reading of this ordinance.

Councilmember Abbott, seconded by Councilmember Oler moved to adopt . Motion Carried 7-0.
ORDINANCE NO. 92-12. ADOPTED 7-0.

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 Holtegel presented the third reading of this ordinance.

Councilmember Holtegel noted that it has been a long process, starting with Design Review and Planning Commission, and he would have voted against the fueling center in its original form. The requested changes have been made and the new design is palatable. Councilmember Holtegel stated that he does not particularly like the use for that location, however, the zoning is in place and the plan meets the minimum requirements. He would have liked a larger building and is concerned about the access to the location.

Development Services Director Tim Bachman noted that traffic engineer Jack Pflume was in attendance at the meeting and available to answer any questions Council had.

Councilmember Tim Meyers asked Mr. Pflume if he took into account the amount of traffic that a Kroger gas station would attract to the intersection. Mr. Pflume explained that there were estimates made, based on nationally accepted data. Mr. Pflume explained that safety studies look more at the physical

characteristics of the location. He noted that there were several things suggested in the report to be done to the location to assist in making it as safe as possible. Councilmember Meyers commented that he uses the Kroger fuel center in Hamilton and the location and access driveways are similar to what the Fairfield location will have. He noted that it is always very congested and he would consider that a benchmark to use when considering a Kroger fuel center in Fairfield. He asked Mr. Pflume if the gas station will improve the safety of that corner (Pleasant and Nilles). Mr. Pflume stated that he thinks the gas station will improve the safety, because of the changes Kroger has agreed to make. He noted that there is a big difference between congestion and safety of a location. Councilmember Meyers asked Development Services Director Tim Bachman if there are any obligations on Kroger to make changes if it is deemed unsafe after it has been opened for a period of time. Mr. Bachman stated that there are some suggestions in Mr. Pflume's report that Kroger do some analysis after the fuel center has been open for three to six months to see if additional safety measures are necessary. Aside from those suggestions, Kroger will not be financially responsible for additional safety measures deemed necessary by an expert.

Councilmember Oler commented that the volume of traffic will impact the safety of the location, and Kroger fuel centers tend to have a high volume of traffic. Mr. Pflume answered that the safety of a location is determined more by the physical characteristics of the location than by the volume of traffic. He noted that he was asked to perform a safety study, which does not take into account volume of traffic. He was not asked to do a traffic impact study, which would take into account the volume of traffic at a location. Mr. Pflume then explained the differences in the two studies and the results of the safety study he conducted.

Councilmember Abbott commented that he has been a supporter of the Kroger fueling center since day one and has thousands of signatures showing why he supports the project, because the residents want it. He was happy that Mr. Pflume was hired for the safety study, given the history between the city and Mr. Pflume. He noted that he was surprised that 70% of the customers that will use the fueling center are existing Fairfield residents and people that already travel through that intersection, so they are already familiar with how to navigate that intersection. Councilmember Abbott commended Kroger for their hard work and patience in working on the project.

Mayor D'Epifanio commented that he is happy the city has Kroger as a business partner, however, he does not support the Kroger fueling center. He does not feel that it is the best option for the residents of Fairfield. He noted that he did not support the Forest Fair/Cincinnati Mills Mall development, either, because of the location. In his opinion, that mall has only created traffic and problems. He also commented that there are other city development projects that he was opposed to that have not had problems, such as the Community Arts Center not being large enough to pay for itself. He noted that there were several items in the agreement with Kroger for the location at Village Green that have not been upheld by Kroger, probably due to management changes, and he does not want to see that happen with the fueling center. Mayor D'Epifanio reported that he has driven to Kroger in Hamilton and to Shell on Route 4 in Fairfield and the gas price is always within a penny, and the Kroger card is accepted at Shell for \$0.10 off per gallon. He noted that he feels the access to the fueling center should be restricted to right-turn in and right-turn out only. He stated that Flowerama told him they were going out of business because their customers said the location was too difficult to get in and out of. He commented that he hopes the location stays as beautiful as the drawings have shown.

Councilmember Senger commented that he is happy with the process and that it took so long to get to this point, because it shows the passion of the city to do what is best for the community. He thanked the city staff and Kroger for all of their hard work on the project and stated that he will be supporting it.

Councilmember Pennington commented she voted against the project when it was presented to the BZA board, but now it is a better plan. She is supporting the project because the residents want it. She reported that the elderly have told her that they don't use their points, because they can't go to Hamilton to get gas. She noted that she wants to keep the dollars in Fairfield and having a fueling center here will do that.

Councilmember Holtegel commented that if the project passes, the police chief should probably post people at the location to give warnings for a period of time to make sure they are not making illegal turns.

Councilmember Jones commented that he also appreciates the work of city staff and Kroger on the project. He noted that this project is a culmination of a lot of hard work and compromise, and that Fairfield is showing that it is business friendly by accepting the project today. He agrees that the money should stay in Fairfield, and feels that the potential line of traffic is a good sign, instead of something negative. He would have liked to see the numbers prior to 2008 in the traffic study, when Taco Bell was in business there, and what the impact was at that time. He commented that the current condition of the location does not reflect well on Fairfield, and Kroger is taking on the financial responsibility of cleaning up that property and making it look better.

Resident Cathy Dubbs, 460 Regorian Drive, commented that she moved to the city about 20 years ago. She supports the fueling center and feels that the current condition of the location gives the impression that the city is dying, when it is not. She is very touched by the concern of council for the safety of the residents, but feels that it is more of a safety risk for residents to drive further to go to Hamilton to get gas at Kroger.

Resident Jeff Rader, 4472 Rita Mae Drive, commented that he has lived in the city since 1995. He feels that common sense will intervene with people using the fueling center and most people will not try to turn left out of that driveway. He commented that if the fueling center is not approved, Kroger may move out of the Village Green location at some point because they want a fueling center, and then that leaves a larger empty building that will be difficult to find a use for.

Resident Lee Marcus, 5437 Southgate Boulevard, commented that he has lived in Fairfield for eight years. He is proud to live in Fairfield and more proud than ever after attending the council meeting. He noted that some residents, like himself, may have 300-400 fuel points that they are unable to use because they don't have the money to drive to Hamilton to fill their gas tank. He is proud that Fairfield is working so well with Kroger.

Resident Joe Swartz, 5305 Bibury Road, commented that he was first against the Kroger fuel center, due to the architectural design. However, due to the vast improvements made to the design and the landscaping, he now supports the project. Kroger has been in the city for 50 years and has done their part in meeting the city's requests for changes to the design. He would like to see the project supported.

Law Director John Clemmons clarified that Mr. Plume's recommendations will be part of the development agreement with Kroger.

Resident Kim Goodwin, 5327 Lakeside Drive, commented that she has lived in Fairfield for 25 years. She has been to all of the local Kroger fuel locations and feels that the proposed design for Fairfield will

make it nicest location in the area. She was a customer at Flowerama and her way around the difficulties in traffic was to make a right from Nilles into the parking lot, and then a right out of the parking lot onto Pleasant, which she feels is a much safer way to access the location. She is hopeful that Council will pass the legislation.

Councilmember Oler commented that everyone appreciates Kroger and he would like to see a fueling center, but would prefer it next to the store, instead of on the corner of the intersection. He noted that he has never seen a building turn out to look like the original drawing shows, but he hopes that the Kroger fuel center will. He does not feel that the store is very clean, because employees smoke outside and cigarette butts are on the ground. He would like to see some improvement in the store, possibly turn it into a Kroger Marketplace. He mentioned that most people don't pay attention to what they are signing, and simply sign a petition because a friend asks them to.

Mayor D'Epifanio commented that Kroger Manager Speath is a credit to Kroger and is a great manager. He appreciates the work they do for the city.

Councilmember Jones thanked the residents for their participation in the process.

Councilmember Holtegel, seconded by Councilmember Abbott moved to adopt . Motion Carried 6-1. ORDINANCE NO. 93-12. ADOPTED 6-1, COUNCILMEMBER MIKE OLER DISSENTING.

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

Councilmember Senger commented that this agreement states that the city will receive \$22,500 for the portion of city property that Kroger needs to build an easement.

Jonathan Woche, McBride Dale Clarion, commented that he has been working with Kroger on this project for a year and he appreciates the work of the city staff and city manager as they went through the process.

Monty Chesko, real estate manager with Kroger Cincinnati Division, thanked the city staff for their assistance and hard work on the project, as well as city council for their support and faith in their staff and Mr. Bachman.

Tony Spaeth, Kroger Manager, thanked the city for the yes vote and asked that if there are any issues, please contact him directly and he will take care of it. The city's concerns are also his concerns.

Councilmember Holtegel presented the third reading of this ordinance.

Councilmember Holtegel, seconded by Councilmember Abbott moved to adopt . Motion Carried 7-0. ORDINANCE NO. 94-12. ADOPTED 7-0.

NEW BUSINESS

COMMUNITY & PUBLIC RELATIONS COMMITTEE

Debbie Pennington, Chairman; Jeff Holtegel, Vice Chairman, Adam Jones, Member

Simple Motion: Motion approving the proposed City Council meeting schedule for November and December, 2012 as outlined in the Council Communication 11(A)(1) dated September 24, 2012.

Motion to Amend the November 2012 council meeting schedule, by moving the council meeting to Tuesday, November 13, 2012, due to the Veteran's Day holiday. Moved by Councilmember Senger, seconded by Councilmember Abbott. The Fairfield Community Foundation annual dinner is scheduled for November 13, so Councilmember Senger withdrew his motion following a new motion by Councilmember Meyers to cancel the November 12 meeting.

Councilmember Meyers, seconded by Councilmember Oler moved to amend the November 2012 council meeting schedule, by cancelling the November 12, 2012 meeting due to the Veteran's Day holiday. Motion Carried 7-0.

Councilmember Pennington, seconded by Councilmember Oler moved to approve the amended proposed City Council meeting schedule for November and December 2012. Motion carried 7-0. SIMPLE MOTION NO. 24-12. APPROVED 7-0.

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 Big Lots Stores, Inc. DBA Big Lots #5268, 4507 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 Big Lots Stores, Inc. Motion Carried 7-0. SIMPLE MOTION 25-12. APPROVED 7-0.

FINANCE & BUDGET COMMITTEE

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

Appropriation Ordinance (Non-Contractual Item) - \$24,088 for replacement of Route 4 underpass storm water pumps.

Background: City Manager Pizzano recommended approving one non-contractual item in the amount of \$24,088 for the replacement of Route 4 underpass storm water pumps. Legislative Action: Councilmember Abbott presented the first reading of this ordinance.

Councilmember Abbott, seconded by Councilmember Oler moved to read the following ordinance by title only. Motion Carried 7-0. Councilmember Abbott, seconded by Councilmember Jones moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 7-0. Councilmember

Abbott, seconded by Councilmember Meyers moved to adopt . Motion Carried 7-0. ORDINANCE NO. 95-12. ADOPTED 7-0.

Appropriation Ordinance (Non-Contractual Items) - \$36,549.25 for Exit 39 - South Gilmore/Winton Road Improvements relocation of Duke Electric work performed in 2011.

Councilmember Tim Abbott recused himself and left the room for the reading and vote of this appropriation ordinance.

Background: City Manager Pizzano recommended approving one non-contractual item in the amount of \$36,549.25 for the Exit 39 - South Gilmore/Winton Road Improvements relocation of Duke Electric work performed in 2011. Legislative Action: Councilmember Senger presented the first reading of this ordinance.

Councilmember Senger, seconded by Councilmember Holtegel moved to read the following ordinance by title only. Motion Carried 6-0. Councilmember Senger, seconded by Councilmember Holtegel moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 6-0. Councilmember Senger, seconded by Councilmember Pennington moved to adopt . Motion Carried 6-0. ORDINANCE NO. 96-12. ADOPTED 6-0, COUNCILMEMBER ABBOTT RECUSED.

Meeting Schedule

Clerk Wilson read the following meeting schedule:

- Tuesday, October 9 Regular Meeting, 7:00 p.m.
- Monday, October 22 Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.
- Monday, November 26 Council-Manager Briefing, 5:30 p.m.; Regular Meeting, 7:00 p.m.

Executive Session of Council (if needed)

Adjournment

The Regular Meeting of Council adjourned at 8:20 PM.

ATTEST:

Clerk of Council

Date Approved _____

Mayor's Approval