

**MINUTES OF THE REGULAR
MEETING OF LOVELAND CITY COUNCIL
Tuesday, July 13, 2004**

Mayor Greenberg called the meeting of the Loveland City Council to order at 8:01 pm. The Pledge of Allegiance was recited.

Members Present: Mr. Daly, Mr. Elliott, Mayor Greenberg, Mr. Osborne, Vice Mayor Schickel, Mrs. Showler, Mr. Weisgerber.

Also Present: Mr. Enderle, City Manager; Mr. Carroll, Assistant City Manager; Mr. Taphorn, Finance Director; Mr. Klaine, City Solicitor; Mrs. Bellisemo, Assistant to the City Manager; Mrs. Bunnell, Clerk of Council; Officer Ray Shockey.

The minutes of the June 22, 2004 City Council meeting were approved by unanimous consent.

OPEN FORUM

Mr. William Gustavson, legal representative for Shooters' Supply, stated his clients requested approval of an amendment to the Zoning Code allowing an indoor shooting range at 1425 Loveland Madeira Road (Matthew 25 Ministry). A quiet, safe, state-of-the-art facility ran by certified personnel is planned and an outline was distributed to Council. Mr. Weisgerber asked if they were familiar with issues that other local gun ranges had experienced in establishing their businesses. Mr. Gustavson was not aware of similar shooting ranges in the area, but research would be done with findings provided to City Council before any scheduled zoning hearing. Construction on the proposed facility could be completed by December 2004. The Matthew 25 Ministry is moving to a larger location and the building will be sold in August to an architectural firm. Shooters' Supply would initially lease the building, renting out a portion of it for retail or office space.

Mr. Michael Showler, 112 Bridle Lane, announced that the Antique and Classic Car Show, hosted by the American Legion Post 256, will take place Saturday, July 17. A total of 60-100 antique cars and motorcycles will be displayed with food, entertainment, and a cornhole tournament planned. The event is open to the public.

CITY MANAGER'S REPORT

Staff recommended that Council grant STATE CAPITAL IMPROVEMENT PROGRAM AUTHORIZATION (Memorandum No. 68) to apply for the upcoming funding cycle. Projects do not have to be identified in the application, but Staff recommended the waterline and sewer replacement in the neighborhood of Maple, Lyons, and Railroad Avenue, and the Five Points Intersection as potential projects.

If Council so desired, Staff requested scheduling a public hearing on SHOOTERS' SUPPLY SHOP AND RANGE (Memorandum No. 71) for July 27, 2004.

Mr. Enderle stated that if the City of Loveland, participating with approximately 29 other jurisdictions, obtained the CENTER FOR LOCAL GOVERNMENT HEALTH INSURANCE (Memorandum No. 75), savings of approximately \$53,000 could be realized the first year. The Loveland-Symmes Fire Department (LSFD), already partnering with the City of Loveland on health insurance, would like to continue working through the City by joining the local governments' pool. Staff recommended approval of the resolution authorizing entering into an agreement with the cooperative.

Mrs. Showler asked if the City intended on paying the CONCERT IN THE PARK INVOICE (Memorandum No. 69), an invoice from Mr. Elliott's company for supplying Concerts in the Park signs. Mr. Enderle replied that he had no authorization to pay the invoice, unless Council directed him to do so, as the business transaction was a violation of City Charter. Mrs. Showler moved that the City of Loveland pay the bill for the Loveland Concerts in the Park yard signs; so seconded by Mr. Osborne. Mr. Enderle stated to Mr. Osborne that he approved all purchases for Concerts in the Park. He had not authorized the sign purchase prior to the order. A policy on purchases is currently in process, but guidelines on these types of contracts had been in place for a number of years. Anyone making purchases, less than a thousand dollars, should obtain three estimates and choose the best one. Mr. Enderle did not know if the guideline had been

followed, and believed Ms. Keller had taken delivery of the signs. Mr. Osborne stated he did not have a problem with the invoice, if profit had not been gained. Mr. Enderle thought the Charter would have to be changed to allow the invoice, as it was very specific in prohibiting this contract. Vice Mayor Schickel recalled that it had been made very clear to him, on becoming a member of Council, that selling goods or services to the City was prohibited, and he wondered if Mr. Elliott had thought he could. Referring to City Charter, Sec. 11.03, the Vice Mayor thought the sale had been a violation and did not support the motion. Mr. Daly thought Mr. Elliott's intentions had been good. He stated that although Mr. Elliott's company had not directly profited from the transaction, the goods had come through one of Mr. Elliott's suppliers indicating indirect financial interest, a clear violation of the Charter. Mr. Elliott apologized for completing the business transaction, stating it was an apparent mistake to have done so. He had asked the City Manager to bring this issue before Council to clear the air and bring about a resolution. He explained that his company had purchased the signs, paid the supplier's invoice, and used that exact invoice to bill the City without any markup. Mr. Elliott stated he had no financial interest in the transaction. Mr. Elliott's company has supplied signs to the City for 7-10 years. At Mr. Osborne's request, Mr. Klaine gave his legal opinion that action by Council should be to void the contract, communicating that the City is not authorized to pay it. Then, Mr. Elliott could decide what he wanted to do with the invoice. The solicitor thought the Charter was very clear regarding the matter and other State statutes could apply. He stated that other problems created by this situation were that the City did not know if this was the best price obtainable, if there were other incentives involved, and, if the contract was not paid by the City, then Mr. Elliott suffers a financial loss providing another financial interest.

Vice Mayor Schickel thanked Mr. Elliott for his explanation, understanding that a profit had not been gained. However, the Charter did not simply prohibit a financial gain, but "any financial interest, direct or indirect". He thought the best way to resolve the issue was for Mr. Elliott to withdraw the invoice. Mr. Elliott replied that he would agree to whatever decision Council made. Mr. Weisgerber did not want to take exception with the Charter by paying the invoice. If he were Mr. Elliott, he would personally absorb the costs to resolve the issue. Mr. Weisgerber was also concerned with possible legal ramifications, if Council chose not to pay the invoice. After Mr. Osborne moved to table Mrs. Showler's motion, discussion ensued on proper procedure. Mr. Osborne answered Mr. Daly that he wanted to table the motion because the action would be unnecessary, if Mr. Elliott withdrew the invoice. Mr. Osborne withdrew his second. The motion failed due to lack of a second. Mr. Daly asked Mr. Elliott if he was withdrawing the invoice. Mr. Elliott thought that he had made a mistake in proceeding with the business transaction, but wanted to bring it out into the public forum so if he had done something wrong it would be on the public record. Mr. Daly stated to Mr. Elliott that if he was not going to withdraw the invoice, then he was forcing a Council vote. Mr. Daly shared Mr. Weisgerber's concerns over possible ramifications to Council taking action on the issue. Vice Mayor Schickel moved that Council request Mr. Elliott withdraw the invoice; so seconded by Mr. Osborne. Mayor Greenberg agreed that either Mr. Elliott should withdraw the invoice or Council should vote to void the contract, stating it was improper for any Council member to engage in business dealings with the City. ROLL CALL: Daly, yes; Elliott, abstain; Greenberg, yes; Osborne, yes; Schickel, yes; Showler, no; Weisgerber, yes. Motion carries. Mr. Elliott declared that the next morning he would contact the City Manager's office to withdraw the invoice.

Mr. Osborne moved to have Administration draft legislation amending the appropriate ordinances regarding Shooters' Supply Shop and Range, and set a public hearing for August 10, 2004. ROLL CALL: Daly, yes; Elliott, yes; Greenberg, yes; Osborne, yes; Schickel, yes; Showler, yes; Weisgerber, yes. Motion carries.

On MARBEA, COMANCHE, AND MOHICAN STORM WATER DRAINAGE (Memorandum No. 73), Mr. Osborne stated that the grading, done during renovations at Loveland Middle School, possibly added additional storm water into The Heights. On Mr. Osborne's question of if Planning and Zoning had approved the grading, Mr. Carroll replied that the City would have reviewed either the site plans or construction drawings. Mr. Osborne wondered if a retention pond on the property would alleviate approximately 80% of the problem. Mr. Carroll stated that it could be a solution, which had been discussed with the Public Works Superintendent. Additional funds needed to review this could appropriately come from the Storm Water Utility. Mr. Osborne moved that Administration review the issue with funding to come from the Storm Water Utility; so seconded by Mr. Daly. At Mr. Elliott's request, Mr. Osborne explained that this area had suffered for years with flooding, due primarily to drainage from Claiborne and the Intermediate School property. He thought the issue should be resolved, and that the constant erosion and storm water runoff warranted review. Mr. Enderle wanted clarification that Mr. Osborne's motion would

authorize Staff to further investigate alternatives and spend additional engineering money to bring alternatives before Council for consideration. Mr. Carroll confirmed for Mr. Osborne that reviewing this would increase the scope of work in the ongoing engineering study in The Heights. Mr. Daly thought the area deserved further consideration and planned to discuss the issue with City Staff. He withdrew his second of the motion, not wanting to conflict with the priorities set forth in the Storm Water Master Plan. Motion failed due to lack of a second.

Mr. Elliott thanked Staff for providing a HANNA AVENUE CONNECTOR UPDATE (Memorandum No. 70), including a preliminary drawing. The Clermont County Planning Department will hold a public hearing regarding the subdivision on Tuesday, July 27, at 5:00 pm.

Mr. Klaine pointed out that an attorney with his firm represented the Center for Local Government, but had not been familiar with or involved in the agreement for CENTER FOR LOCAL GOVERNMENT HEALTH INSURANCE (Memorandum No. 75). He wanted Council to be made aware of this, for the record.

COMMITTEE REPORTS

Mr. Enderle stated for Mr. Osborne that the Bronner House had been sold, with the exception of the garage and surrounding property. The Beautification Committee had undertaken a project to landscape, paint the garage, and install a walkway there.

COMMUNICATIONS

On Communication No. 7, June 2004 Financial Report, Mr. Osborne questioned a \$926 expense for uniforms under the Storm Water Fund. Mr. Enderle thought this was a portion of the shared expense for the new uniforms for the Public Works Department.

COUNCILMANIC WORKSHEET

HANNA AVENUE CONNECTOR UPDATE was rescheduled for August 10, 2004. The MAPLE STREET SEWER UPDATE was rescheduled for August 10, 2004. MARBEA, COMANCHE, AND MOHICAN STORM WATER DRAINAGE was deleted from the worksheet. Concrete work on RECONFIGURATION OF THE DOWNTOWN PARKING LOT is planned for August 2 and 3. Asphalt work is planned for August 9. Sealing and striping will occur on August 16 and 23. The topic was rescheduled for August 24, 2004.

OTHER OLD BUSINESS

Referring to the Solicitor's bill, Mr. Osborne thought the number of phone calls between Administration and Mr. Klaine was excessive. The City Manager countered that the Solicitor serves as a member of Staff, and limiting the number of times Administration could contact him would be comparable to restricting Mr. Enderle's conversations with the Assistant City Manager or the Finance Director. As to Mr. Osborne's question of billings for four different attorneys and paralegals, Mr. Enderle answered that this saved the City money. Mr. Elliott asked what "conference with Frank Klaine" meant on the invoice. Mr. Klaine preferred to see the actual bill, but offered that it could represent other attorneys in the office conferring with him or updating him on various real estate, personnel, or insurance matters. Mr. Elliott desired more itemization with the solicitor's bills.

Mrs. Showler initiated the discussion of setting a time for Council's upcoming work sessions. The Mayor explained that the majority of Council wished to have the work sessions coincide with regular Council meetings. With the majority of Council preferring an 8:00 pm rather than 7:00 pm start, Mayor Greenberg stated the regular Council meetings would begin at 8:00 pm with the work sessions listed as part of the agenda.

Mr. Daly questioned the Mayor's plans for handling the committee appointments. Mayor Greenberg replied that Mrs. Cox had been instructed to send out an e-mail referencing all three committee appointments (Finance Committee, Board of Zoning Appeals, Planning and Zoning Commission), with an expected Council vote at the next meeting. The Mayor stated that Mr. Gott, Mr. Daly's neighbor, had been included in the list.

NEW BUSINESS – ORDINANCES AND RESOLUTIONS

Mr. Osborne introduced a resolution entitled A RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR STATE CAPITAL IMPROVEMENT PROGRAM 2005 FUNDS AND EXECUTION OF

PROJECT AGREEMENT WITH THE OHIO PUBLIC WORKS COMMISSION. ROLL CALL: Daly, yes; Elliott, yes; Greenberg, yes; Osborne, yes; Schickel, yes; Showler, yes; Weisgerber, yes. The resolution was approved and assigned the number 2004-48.

Mr. Osborne introduced a resolution entitled A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE BENEFITS COOPERATIVE, THROUGH THE CENTER FOR LOCAL GOVERNMENT TO PROVIDE INSURANCE BENEFITS TO ELIGIBLE CITY EMPLOYEES. Mr. Klaine assured Mr. Daly, despite his employment with an insurance company that provides commercial insurance, that he could participate in the vote. ROLL CALL: Daly, yes; Elliott, yes; Greenberg, yes; Osborne, yes; Schickel, yes; Showler, yes; Weisgerber, yes. The resolution was approved and assigned the number 2004-49.

OTHER NEW BUSINESS

Mr. Weisgerber handed out an Unrestricted Funds analysis, stating that the trend of operating expenditures versus revenues was not very favorable. He thought Council should have an agreed-to formula that identifies what the potential shortfall is and proposed cuts to keep a balanced budget. Mr. Weisgerber moved to request the Finance Committee review and propose a formula to establish a baseline and projection of operational revenue and expenses, and to propose budgetary cuts to keep the two lines balanced; so seconded by Mr. Elliott. Mr. Enderle stated that Administration endorsed such a formula, and that the subject was on the agenda for the Finance Committee's upcoming meeting. Mr. Osborne asked if the Finance Committee ever discussed "nickel and dime" line items. Mr. Weisgerber replied that part of his motion was for the Finance Committee to come back with recommended cuts and to what level. Mr. Enderle added that the Finance Committee conducted a review of each separate line item in the budget. ROLL CALL: Daly, yes; Elliott, yes; Greenberg, yes; Osborne, yes; Schickel, yes; Showler, yes; Weisgerber, yes. Motion carried.

Vice Mayor Schickel announced that the 4th of July Celebration had been a wonderful event. He thanked the committee chair, Mrs. Goodwin, the Police, Fire, and Public Works Departments, as well as all volunteers. He announced that the Loveland Stage Company was putting on "Godspell Junior", July 16-18, at the Crist Theater. He encouraged the community to support the production by attending the show.

Mayor Greenberg reported that the Tour de Loveland had been a success, and he looked forward to next year's event. He thanked Mrs. Bellissemo and Ms. Leslie Keller for their efforts. He also thanked Mr. Klaine, as his firm, Strauss and Troy, supplied the children's medals.

The Mayor entertained a motion to enter into Executive Session under Ohio Revised Code Section 121.22(G)(1), Personnel; so moved by Mr. Osborne and seconded by Mr. Elliott. ROLL CALL: Daly, yes; Elliott, yes; Greenberg, yes; Osborne, yes; Schickel, yes; Showler, yes; Weisgerber, yes. City Council entered Executive Session at 9:20 pm.

The Mayor entertained a motion to return to Regular Session; so moved by Mr. Daly and seconded by Mr. Osborne. The motion was approved by unanimous consent and Council returned to Regular Session at 9:45 pm.

The Mayor entertained a motion to adjourn; so moved by Mr. Weisgerber and seconded by Mr. Elliott. The motion was approved by unanimous consent and the meeting adjourned at 9:45 pm.

July 23, 2004 Issue Date

Approval Date

Mayor

Clerk of Council