

John Hamilton called the meeting to order at 5 p.m. after Julie Farrar asked for a moment of silence on behalf of the families suffering in Aurora, Colorado, the **Invocation**, and the **Pledge of Allegiance**.

The clerk called **the roll** and the following Commissioners responded: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith.

City staff present: Todd Roth – Engineer, Jim Lang – Interim Police Chief, Paul Ricci – Fire Chief, Thomas Schwan – Transit Administrator, Scott Miller – General Services Director, Don Rumbutis – IT Department, Don Icsman – Law Director, Nicole Ard - City Manager, Hank Solowiej – Finance Director and Kelly Kresser – Commission Clerk.

Upon motion of Diedre Cole and second of Julie Farrar, the commission voted to approve the minutes of the July 9, 2012 meeting and dispensed with the oral reading. The President declared the motion passed.

AUDIENCE PARTICIPATION (*agenda items only*)

None.

PRESENTATION

John Hamilton recognized several **Hayes Avenue residents and hospital employees who recently beautified their neighborhood with planters and flowers**. Those recognized were Ginger Cusano of Golden Rose Florist and The Occasional Cookie, John Buller of Firelands Regional Medical Center (FRMC), Dru Meredith on behalf of FRMC, Rosanne Cotton, Tesia Ewing, Carl Henson, Ron and Barbara Laws, Sandra Kennedy of Adelon Hair Salon, Sherry Brill, Dale and Mitzi Kosel, Naomi Twine and Elaine Waterfield - a member of the Garden Committee at FRMC. Wesley Poole invited those recognized to explain the project for the benefit of people who might not be familiar. Elaine Waterfield said the project started with a group of neighbors who wanted to beautify the street. The city's planner, Carrie Handy, suggested planters and the idea took off. Elaine Waterfield said the planters take 4 – 6 gallons of water per day and every door she knocked on was met with agreement. Dru Meredith recognized Elaine Waterfield for her help with the Garden District Committee at FRMC which is working together to beautify the area around the hospital. Hayes Avenue is the health care corridor in the community and flowers have a healing and calming effect. These residents have pulled together as a team and great things have happened; he hopes this is infectious throughout the rest of the community. Dale Kosel challenged the city to plant the same stately trees on Hayes Avenue as are currently planted near the Sandusky Library on Columbus Avenue. They do not take up a lot of root space and are quite adaptable. There is one dead tree near his home and he would pay for a new one to be planted.

CURRENT BUSINESS

Upon motion of Pervis Brown and second of Keith Grohe, the commission voted to accept all communications. The President declared the motion passed.

ITEM #1 – Submitted by James Lang, Interim Police Chief

Budgetary Information: The total cost for two LK790 commercial treadmills is \$9,672.20 and will be funded with grant funds from the Sandusky/Erie County Community Foundation in the amount of \$4,836.10 and the Wightman/Wieber Foundation in the amount of \$4,836.10, if awarded. This price includes a \$250 trade-in for our outdated equipment. These grants require no matching funds from the city.

RESOLUTION NO. 020-12R: It is requested a resolution be passed **approving the submission of grant applications to the Sandusky/Erie County Community Foundation and the Wightman/Wieber Foundation for the Sandusky Police Department and, if awarded, authorizing the city manager to execute any required agreements;** and declaring that this resolution shall take immediate effect in accordance with Section 14 of the city charter.

Upon motion of Pervis Brown and second of Keith Grohe, the commission voted to approve this resolution according to Section 14 of the city charter. Roll call on the motion: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. Roll call on the resolution: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. The President declared the resolution passed.

ITEM #2 – Submitted by Todd J. Roth, P.E., P.S.

Budgetary Information: The estimated amount of the consultant fee for professional design services is \$195,036 to be paid with sewer funds.

ORDINANCE NO. 12-071: It is requested an ordinance be passed **authorizing and directing the city manager to enter into an agreement for professional design services with Jones & Henry Engineers, Ltd. for the wastewater collection improvements preliminary design project;** and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the city charter.

Upon motion of Jeff Smith and second of Keith Grohe, the commission voted to approve this ordinance according to Section 14 of the city charter. Roll call on the motion: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. Roll call on the ordinance: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. The President declared the ordinance passed.

ITEM #3 – Submitted by Todd Roth, P.E., P.S.

Budgetary Information: The cost of the additional construction administration is not to exceed \$111,200 and is to be paid with water funds.

ORDINANCE NO. 12-072: It is requested an ordinance be passed **authorizing and directing the city manager to enter into an amendment to the agreement for professional design/engineering services with MWH Americas, Inc. for the Big Island Water Works chemical improvement project;** and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the city charter.

Upon motion of Pervis Brown and second of Jeff Smith, the commission voted to approve this ordinance according to Section 14 of the city charter.

Discussion: Diedre Cole asked about the line item entitled “excessive RFI review” and Todd Roth said this is for requests for information which involve a formal process to identify questions and concerns to the consultant. Todd Roth said all questions have been answered and everything is going well with the project. Todd Roth said the tanks are in place and have been tested.

Roll call on the motion: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. Roll call on the ordinance: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. The President declared the ordinance passed.

ITEM #4 – Submitted by Thomas Schwan, Sandusky Transit Administrator

Budgetary Information: The total cost for the annual support fee is \$14,500 and will be paid with funds from the Sandusky Transit System budget. There will be no impact on the city’s general fund.

ORDINANCE NO. 12-073: It is requested an ordinance be passed **authorizing and directing payment to Trapeze Software Group of Dallas, Texas for the annual software support and maintenance fee for the period of July 1, 2012 through June 30, 2013;** and declaring that this ordinance shall take immediate effect in accordance with Section 14 of the city charter.

Upon motion of Keith Grohe and second of Wesley Poole, the commission voted to approve this ordinance according to Section 14 of the city charter. Roll call on the motion: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. Roll call on the ordinance: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. The President declared the ordinance passed.

CITY MANAGER’S REPORT

Upon motion of Diedre Cole and second of Jeff Smith, the commission voted to accept a donation from Cedar Point Gardeners in the amount of \$100 for the greenhouse endowment. All Ayes. The President declared the motion passed.

Upon motion of Diedre Cole and second of Jeff Smith, the commission voted to accept a donation from Arthur and Rose Gagnon in the amount of \$150 for the green fund. All Ayes. The President declared the motion passed.

Upon motion of Diedre Cole and second of Pervis Brown, the commission voted to accept a donation from Paul Berlin in the amount of \$50 for the firefighter combat challenge. All Ayes. The President declared the motion passed.

Upon motion of Pervis Brown and second of Diedre Cole, the commission voted to accept a donation from Nace's Records Management System, Forest Nace, in the amount of \$150 for the firefighter combat challenge. All Ayes. The President declared the motion passed.

Upon motion of Keith Grohe and second of Jeff Smith, the commission voted to accept a donation from Fresch Hair Designs, Monica Vaccaro, in the amount of \$100 for the firefighter combat challenge. All Ayes. The President declared the motion passed.

Nicole Ard said **Sandusky and the Paper District Marina were recently featured in the Mid-America Boating magazine encouraging boaters to visit Sandusky.**

Nicole Ard said **Markley's, Decco Products and Adrienne Gourmet Foods have all paid their respective revolving loans from the City of Sandusky.**

Diedre Cole said there is a **beehive in the Chapel at Oakland Cemetery and asked if anyone from staff reached out to the local beekeeper for assistance.** Scott Miller said a rather large honeybee hive was located between the ceiling and the roof in the Chapel and a contractor was called to remove a portion of the roof to remove the hive and then replace everything. Scott Miller said he was unaware of anyone local who could help with this.

OLD BUSINESS

Jeff Smith said **concerns about trees** are the number one calls he receives and asked Don Icsman what the State law is regarding city trees (in the boulevard). Don Icsman said this is part of the Political Tort Subdivision Liability Act in Chapter 2744 of the Ohio Revised Code and functions are defined either as governmental or proprietary, and there immunities are listed in Section 2744.01. Section 2744.02 lists exceptions to immunity by governmental functions performed by non-government employees normally defined for the common good, health, welfare and safety and including the care of trees which is a governmental function. There are no exceptions for losing immunity and this law changed about 10 years ago to narrow the scope of potential liability for political subdivisions although some people may be under a misimpression. Government no longer has responsibility for sidewalks since this was passed by the State Legislature. Under the old laws, responsibility could fall to cities for certain things in the sidewalks, boulevards and roadways. The scope has been narrowed as "the regularly traveled portion of the road", which is to be kept in repair, and to remove nuisances. The city no longer has responsibility for curbs and sidewalks under this Act. If a tree falls in the road or there is an obstruction or hole in the road, and the city receives notice, it has an obligation to make repairs. Property owners should know this as well as those in the landlord/tenant business. Don Icsman said this can be confusing and practicing law is not like a coin collecting hobby done on the weekends, and there are a lot of functions which have the benefit of governmental immunity including the design and construction of a water or sewer system; however, maintenance and operation are proprietary and the city could be potentially liable. Jeff Smith said he was under the impression residents were not allowed to touch trees located in the boulevard and Don Icsman said there have been different employees throughout the years operating under different policies, and the Tree Commission previously authorized tree plantings. The city has now evolved to responding to calls, but residents can remove and/or replace trees on their own if approved by the Tree Commission. Don Icsman said there is a tree in front of his house which is a danger and he has considered contacting Barnes Nursery to remove the tree. Jeff Smith asked what a resident should do if they have a problem tree. Don Icsman said the city has told him they will get there when they can and he does not want the general services staff to give out legal advice. He cannot sue the city because a tree falls on his house and/or knocks out the power. Wesley Poole asked if residents can cause a tree to be removed without the city's permission if one would fall in a yard. He asked how this is managed and if there is a policy. Scott Miller said this is covered in the city's Code of Ordinances and permission is first required. Wesley Poole said this can be changed but certified tree companies can take care of these trees as ordinances are currently written. Don Icsman said this policy can be changed although not outside the bounds of State law but he would urge the commission **not** to change this. Don Icsman said - also as an example - government is immune from flooding caused by a design problem as opposed to maintenance and operation. Wesley Poole asked how often requests are made by citizens to authorize removal of trees on their own and Scott Miller said not many requests are made. Scott Miller said most people are still under the impression these are city trees and are the city's responsibility. Diedre Cole said the problem seems to be that the public is not aware of this and said the city needs to figure out how to make people aware of this policy since the city should be aware of problem trees.

NEW BUSINESS

Julie Farrar thanked **Todd Roth and the employees in the Code Compliance office for taking care of a nuisance on McKelvey Street**. Julie Farrar said there was also a junk vehicle complaint which Scott Miller is also working to resolve.

John Hamilton said the **Shoreline Park shelter needs to be power washed and/or swept** and this was called to his attention by someone who attended a Sunday morning church service there. John Hamilton said **the door was torn from the ladies restroom at Shoreline Park and needs repaired**.

John Hamilton said **there are people living in the Sandusky Bay Pavilion area** and this is a place for them to get out of the rain, but the area needs some sprucing up.

John Hamilton said there are **200 – 300 young adults sailing at the Sandusky Sailing Club for the national Optimist races** and thanked them for being in Sandusky and spending money.

John Hamilton **thanked the group of people who walk Columbus Avenue from downtown to Perkins Avenue picking up litter**.

Upon motion of Pervis Brown and second of Keith Grohe, the commission voted to hold an executive session regarding the purchase and sale of real property. Roll call on the motion: Yeas: Julie Farrar, Pervis Brown, John Hamilton, Diedre Cole, Wesley Poole, Keith Grohe and Jeff Smith, 7. The President declared the motion passed.

Under **Audience Participation**, the following persons offered their comments:

Mrs. Kammer, 1801 Hayes Avenue, said she owns a Ford F150XL truck and hit a pothole in the vicinity of Cliff's Carryout; the truck had been trouble-free for 17 years. The next day, the truck was towed by Mathews Ford and the front end was shot. This took nearly her entire monthly social security check (\$787.12), but there were still problems with the truck. She made many phone calls and the city had an article about requesting assistance from the state to make road repairs. Mrs. Kammer wrote letters and called her elected officials to try and help the city get money. She called the city many times and said Scott Miller checked the pothole in April of this year and this was covered up. Mrs. Kammer held up an article from the newspaper about city workers receiving raises and one city worker told her only the administration received raises and this makes her wonder who to believe. Mrs. Kammer held up an article from the newspaper about the city paying \$24,000 to problem workers and said years ago, someone not doing their job would be fired. Mrs. Kammer held up an article stating the city was paying \$237,000 for retirements and the city is paying for bad employees. Mrs. Kammer said she and her husband owned KamAir for 22 years and in 1974, she was asked to take over a job which would have required her to ride to Columbus twice each week with men but her husband would not allow this. Mrs. Kammer said she would like her money back and has asked for help at Serving our Seniors and the CAC, but does not want to accept charity, although she has been given assistance for budgeting gas and electric. She would like a loan rather than living on cash advances like she has done for the past year. She has helped many people over the years including helping the city get its money and does not want charity.

Sharon Johnson, 1139 Fifth Street, asked for an update about opening the Lions Park restrooms and Todd Roth said the restrooms have warranties which he does not want to jeopardize. Jeff Smith asked if there was an estimated opening date and Todd Roth said he will provide this at the next meeting. Sharon Johnson asked about the basketball hoops, splash pad equipment and rock climbing/play equipment. Todd Roth said the rock climbing equipment is not part of this project phase; the concrete pads were installed based upon a standard location of other equipment which will be purchased at a later date. The concrete was left so poles could be placed that will be better suited to the area. Sharon Johnson asked who is installing all of the equipment and Todd Roth said this will have to come back to the city commission and will be another phase of the project. Todd Roth said a bike path is also proposed for next year which could be considered Phase III. Sharon Johnson said she understood this equipment was supposed to be installed during Phase II but Todd Roth said the basketball poles will be in as the city did not want to use the portable poles. The play equipment (rock climbing, etc.) was never part of this contract, only the concrete pads. Todd Roth invited Sharon Johnson to stop in his office and look at the contract. Sharon Johnson asked where the city stood with the former Apex property and Todd Roth said the agreement with the Ohio Department of Development was signed and returned. A partnership agreement is being composed and will be presented to the city commission in the near future. A Request for Qualifications was prepared for the consultants and the project will continue to move forward. Sharon Johnson asked about dredging samples from the Paper District Marina and Todd

Roth said the city has a proposal provided by the consultants involved throughout the project which he is evaluating to ensure it is a fair proposal. Todd Roth said he does not have this document with him but invited Sharon Johnson to stop in his office to review it. Sharon Johnson said three windows were popped out at the Keller Building and asked if these would be replaced. Todd Roth said the windows are at a height five stories up and people cannot gain access and he will address this. Sharon Johnson asked if the city is still a Tree City U.S.A. and Scott Miller said it is.

Tim Schwanger, 362 Sheffield Way, representing Save Our Shoreline Parks, said the contractor for Lions Park disappeared about two weeks ago and asked if the city is done with this phase. Todd Roth said the term "done" is subject to opinion and the project is not done until he ensures warranties will not be jeopardized. Todd Roth said he wants to be sure the items on the punch list are addressed prior to opening the park as the contractor will not take responsibility after that point. Tim Schwanger asked the cost of this phase and Hank Solowiej said this phase cost approximately \$871,000 with one change order. Tim Schwanger said signs are attached to the city's building at the Paper District Marina which state "No outside food or beverage allowed". He said this means to him that he can get a sandwich elsewhere, but cannot eat it on "his" property. Tim Schwanger said a serious effort needs to be made to decide what is going to be done with the Sandusky Bay Pavilion property and asked if a committee will be formed for this purpose. Wesley Poole said he does not want to leave Tim Schwanger's question unanswered about going to the city marina and 'taking up space' just because he considers this public property. John Hamilton said he does not want to get into a discussion, but the sign about taking food into the restaurant area should be looked into. Tim Schwanger said food from other restaurants should be able to be consumed at this location.

Andy Ouriel, Sandusky Register, asked if the city commission will support a vote for further deficit spending as the current budget calls for \$15.5 million in revenues and \$15.9 million in expenses. John Hamilton said he does not wish to discuss this due to the union contracts being open. Andy Ouriel said people in the community have suggested the city negotiate with Cedar Point to relocate the Space Spiral somewhere in Sandusky and asked if this is a realistic possibility. John Hamilton said the metal is probably stressed, fatigued and rotted, and has served its useful life of approximately 50 years. It would be interesting and a fitting end to cut the Space Spiral down like a tree and watch it fall into the lake. It was also suggested the revolving area of the ride be removed and located somewhere such as the Maritime Museum. Jeff Smith suggested this would look good on top of the Sandusky Register building. John Hamilton said he does not believe this is a realistic possibility. Andy Ouriel asked the average cost to remove a tree and John Hamilton said he does not know this cost.

The President announced a recess of the regular session at 6:01 p.m. One executive session was held beginning at 6:10 p.m. Upon motion of Jeff Smith and second of Pervis Brown, the commission voted to adjourn the meeting at 6:53 p.m. The President declared the motion passed.

Kelly L. Kresser
Clerk of the City Commission

John F. Hamilton
President of the City Commission