

BLUE ASH CITY COUNCIL

May 28, 2009

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A regular meeting of the Council of the City of Blue Ash, Ohio, was held on May 28, 2009. The first portion of the meeting (Executive Session) was held in the Blue Ash Conference Room, beginning at 5:30PM; the remainder of the meeting was held in the Council Chambers.

EXECUTIVE SESSION

Councilman Sumner moved, Councilman Bryan seconded to convene an Executive Session to discuss matters pertaining to personnel (interviewing candidates for the vacant Board of Site Arrangement/Zoning Appeals position). Councilpersons Stoller, Sumner, Adamec, Czerwonka, Bryan, and Vice Mayor Weber voted yes. Six yeases. Motion carried.

After matters pertaining to personnel were discussed, Councilman Bryan moved, Councilwoman Stoller seconded to convene to the regular meeting. A voice vote was taken. All Council members voted yes. Motion carried. Council members moved to the Council Chambers for the remainder of the meeting.

OPENING CEREMONIES

Vice Mayor Weber led those assembled in the Pledge of Allegiance.

ROLL CALL

MEMBERS PRESENT: Councilman Tom Adamec, Councilman Rick Bryan, Councilman Lee Czerwonka, Councilwoman Stephanie Stoller, Councilman James Sumner, and Vice Mayor Mark Weber

MEMBER ABSENT: Mayor Robert Buckman

Councilman Sumner moved, Councilwoman Stoller seconded to excuse Mayor Buckman from the meeting. A voice vote was taken. All members voted yes. Motion carried.

ALSO PRESENT: City Manager David Waltz, Solicitor Mark Vander Laan, Clerk of Council Jamie Eifert, Deputy Clerk of Council Sue Bennett, Treasurer/Administrative Services Director James Pfeffer, Parks & Recreation Director Chuck Funk, Public Works Director Mike Duncan, Assistant to the City Manager Kelly Osler, and interested citizens

RAIN GARDEN PRESENTATION- Brian Bohl, Hamilton County Soil & Water Conservation District

Assistant to the City Manager Kelly Osler announced that the Hamilton County Soil & Water Conservation District asked the City to host a pollution prevention and watershed awareness event, and that public event is set for Friday morning, June 5, at the North Fire Station. Ms. Osler introduced Mr. Bohl.

Mr. Brian Bohl, Stream Specialist with the Hamilton County Soil & Water Conservation District (HCSWCD), gave a brief presentation regarding rain gardens. A summary of his presentation is below:

- A rain garden is a garden in a low spot designed to catch runoff from downspouts, driveways, parking lots, roads, etc. The rain garden is populated with attractive plants that thrive in water.

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- Rain gardens filter stormwater runoff from driveways, absorb runoff from downspouts, provide gradual infiltration, and slow and reduce runoff. The plants within the rain garden are deep-rooted and loosen the soil.
- Rain gardens help to reduce or slow down storm water runoff.
- In a one-inch rainfall (used as an example), the total potential runoff is about 5,422 gallons of water total, broken down as follows: 3,880 gallons from an 8,390 square foot compacted lawn; 925 gallons from a 1,500 square foot house and patio; 617 gallons from a 1,000 square foot driveway; and 1,542 gallons from about 2,500 square feet of other impervious surfaces.
- A major rain garden benefit is that it mimics natural conditions as it reduces water flow velocities; infiltrates storm water; increases “evapo-transpiration”; filters pollutants, such as sediments, bacteria, metals, chlorides, etc.; and provides habitat. A rain garden can serve as an aesthetic landscape feature.
- Mr. Bohl provided many pictorial examples of area rain gardens, such as those at Colerain Township Park, Miami University, and the Cincinnati Zoo.

In addressing a question from Councilman Adamec, Mr. Bohl explained that the HCSWCD is eager to educate the public and provide information regarding the benefits of rain gardens. They are very willing to provide speakers, attend community and civic meetings, as well as offer technical support to those with an interesting in learning more about or installing rain gardens.

In addressing a question from Councilman Czerwonka, Mr. Bohl commented that the District has offered “mini” grants in the past. However, he is unsure how much grant money is available in the current budget year.

In addressing a question from Councilman Bryan, Mr. Bohl explained that communication is a constant effort with their organization, including through newsletters, the internet, manuals, training sessions, etc. It was suggested that a future Blue Ash newsletter include information about this opportunity for residents as well.

In addressing a question from Councilwoman Stoller related to clay soil, Mr. Bohl explained that their recommendation is to work with the native soil, and that they would very much be interested in working with garden clubs.

Mr. Bohl thanked Council and left several brochures available for the public to learn more about rain gardens.

Vice Mayor Weber appointed Kelly Osler to read the legislation (ordinances) in their entirety in the rear of Council Chambers.

ACCEPTANCE OF AGENDA

Councilman Bryan moved, Councilwoman Stoller seconded to accept the agenda. A voice vote was taken. All members present voted yes. Motion carried.

- “1. 5:30 PM: EXECUTIVE SESSION – Personnel Matter (Board Vacancy Interviews) – Blue Ash Conference Room
2. 7:00 PM: MEETING CALLED TO ORDER (Council Chambers)
3. OPENING CEREMONIES
4. ROLL CALL - Clerk of Council Jamie K. Eifert
5. RAIN GARDEN PRESENTATION – Brian Bohl, Hamilton County Soil & Water Conservation District
6. Appointment of person(s) to read ordinances in full in rear of Council Chambers

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7. ACCEPTANCE OF AGENDA

8. APPROVAL OF MINUTES

- a. Regular Meeting of May 14, 2009

9. COMMUNICATIONS

- a. Communications to Council - Clerk of Council Jamie K. Eifert
- b. Reports From Outside Agencies
- c. Mayor's Report – April 2009 – Honorable Robert J. Buckman, Jr.
- d. Financial Report – Motion to accept the report for April 2009

10. HEARINGS FROM CITIZENS

11. COMMITTEE REPORTS

- a. Planning & Zoning Committee, James W. Sumner, Chairperson
 - 1. Resolution No. 2009-3, appointing John Berry to the Planning Commission
 - 2. Motion to remove Ordinance No. 2009-14 from the table
 - 3. Ordinance No. 2009-14, setting an expiration date for the special use permit granted by Ordinance No. 84-18 regarding construction of a sign at 10996 Deerfield Road & repealing Section I(B) of Ordinance No. 83-47 (*second reading*)
- b. Finance & Administration Committee, Rick Bryan, Chairperson
 - 1. Resolution No. 2009-4, reappointing members to the Civil Service Commission, Charter Revision Committee, and Board of Tax Review (Sandra Roberts, John Klasmeier, and Robert Miller respectively)
- c. Parks & Recreation Committee, Lee Czerwonka, Chairperson
 - 1. Resolution No. 2009-5, reappointing Barb DeMar to the Recreation Board

12. MISCELLANEOUS BUSINESS

13. ADJOURNMENT"

APPROVAL OF MINUTES

Councilman Bryan moved, Councilman Czerwonka seconded to approve the minutes of the regular meeting of May 14, 2009. A voice vote was taken. All members present voted yes. Motion carried.

COMMUNICATIONS

Communications to Council

There were no communications presented to Council.

Reports From Outside Agencies

There were no representatives from outside agencies present.

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Mayor's Report – April 2009

RECEIPTS:

Fines	\$ 14,762.00
Bonds & BMV fees carried over	\$0
Bonds collected	\$ 191.00
TOTAL RECEIPTS:	\$ 14,953.00

DISBURSEMENTS:

To Blue Ash (fines/costs/interest/Expungements/forfeitures)	\$9,762.00
To the State of OH.....	\$4,520.00
Ohio Dept. of Pub Safety (Drug Law Enf. Fnd).....	\$336.00
Refund of overpaid fines	\$144.00
Bond Money applied	\$100.00
Bond Money returned	\$0
BMV	\$0
TOTAL DISBURSEMENTS	\$14,862.00

BALANCE IN BONDS:.....	\$ 91.00
Mayor's Court traffic citations.....	226
Mayor's Court criminal citations	19
Total Mayor's Court cases	245
April revenues from Mayor's Ct. Cases:	\$9,762.00

Financial Report – April 2009

Councilman Czerwonka moved, Councilwoman Stoller seconded to accept the Financial Report for April 2009 as submitted. A voice vote was taken. All members present voted yes. Motion carried.

CITY OF BLUE ASH FINANCIAL POSITION STATEMENT- MONTH ENDING APRIL 30, 2009

MONTH TO DATE	2008	2009
START OF MONTH FUND BALANCE: 4-1-09	\$25,326,128.17	\$20,777,268.70
<u>Revenues:</u>		
Earnings Tax Collections:	3,976,786.92	3,584,393.99
Debt Financing (long term)	0	0
Debt Financing (short term)	0	0
Other Revenue Received:	785,875.47	704,752.85
= Total Monthly Receipts	4,762,662.39	4,289,146.84
<u>Expenditures:</u>		
Bond Retirement	0	0
Short term debt refinancing	0	0
Other Expenditures:	3,279,317.12	3,374,091.95
= Total Monthly Expenditures:	-3,279,317.12	-3,374,091.95
END OF MONTH FUND BALANCE: 4-30-09	26,809,473.44	21,692,323.59
YEAR TO DATE	2008	2009
START OF MONTH FUND BALANCE: 4-1-09	24,395,221.48	21,919,948.20
<u>Revenues:</u>		
Earnings Tax Collections:	11,716,144.10	11,329,677.41
Debt Financing (long term)	0	0
Debt Financing (short term)	0	0
Other Revenue Received:	2,783,661.67	2,865,469.49
= Total YTD Receipts	14,499,805.77	14,195,146.90
<u>Expenditures:</u>		
Bond Retirement	0	0
Short term debt refinancing	0	0
Other Expenditures:	12,085,553.81	14,422,771.51
= Total YTD Expenditures:	-12,085,553.81	-14,422,771.51
YEAR-TO-DATE FUND BALANCE:	26,809,473.44	21,692,323.59

100% of the fund balance was invested as of 4/30/09. Interest paid to date on matured investments: \$53,893.86. Receipt and expenditure figures do not include interfund transfers.

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BLUE ASH INCOME TAX DIV. INCOME TAX RECEIPT SUMMARY - MONTH ENDING APR. 30, 2009			
MONTH-TO-DATE STATUS	2008	2009	
Business Net Profit	1,330,411.67	1,085,345.41	
Resident Net Profit	381,460.02	355,704.85	
Non-Resident Net Profit	102,003.72	82,748.16	
Subcontractor Net Profit	28,100.90	19,865.01	
Net Profit Total		1,841,976.31	1,543,663.43
Withholding	2,078,920.06	1,993,519.59	
Subcontractor Withholding	55,890.55	47,210.97	
Withholding Total		2,134,810.61	2,040,730.56
Monthly Collection Totals		3,976,786.92	3,584,393.99 (-9.87%)
YEAR TO DATE STATUS			
Business Net Profit	2,414,716.46	2,221,997.99	
Resident Net Profit	535,846.45	534,339.04	
Non-Resident Net Profit	141,119.42	132,385.93	
Subcontractor Net Profit	39,057.09	27,757.85	
Net Profit Total		3,130,739.42	2,916,480.81
Withholding	8,394,720.17	8,243,331.87	
Subcontractor Withholding	190,684.51	169,864.73	
Withholding Total		8,585,404.68	8,413,196.60
YTD Collection Totals		11,716,114.10	11,329,677.41 (-3.3%)
YTD Refund Totals		341,647.03	520,335.08 (52.3%)

HEARINGS FROM CITIZENS

Mr. Raymond Schneider introduced himself as a 22-year Blue Ash resident and Blue Ash commercial investor of two properties since 2002. He explained his presence again this evening is to express concerns with Ordinance No. 2009-14 on tonight's agenda affecting his property and business. Mr. Schneider distributed printed information to Council, which he asked Council to review at a later time. He explained that he took an existing, ugly business property (former JW Harris property on Deerfield Road), made it more attractive, and maintains it well. He explained that this is the fifth time in dealing with this issue with the City, and he has been to court two times (winning both times), and he believes he has been mistreated by the City. The court denied that his property is a nuisance, yet Blue Ash continues to argue that it is, even though there is no evidence to support this. It is his opinion that Ordinance No. 84-18 (referenced within Ordinance No. 2009-14) should not be changed, and he urged Council to drop Ordinance No. 2009-14 because the billboard does not provide a danger to the health and safety of Blue Ash. The billboard increases his business value and brings him clients. He urged Council to review the information he distributed.

Marvin Lucas, 3748 Fallen Tree Lane, expressed unease in not hearing from Council since the May 14 Council meeting at which time he made several suggestions and proposals. He mentioned that Vice Mayor Weber was receptive to his concept of having specific ward meetings tied to Council meetings; however, it appears that six of the seven Council members have decided this idea not worth pursuing. Dr. Lucas believes this concept has merit and should be considered. Another idea from Dr. Lucas is to mandate scheduled Council work sessions at least three to four times a year where the City Manager and administrative staff would discuss major projects they have been working on recently and are planning for the near future.

Dr. Lucas reiterated his belief of initiating a "board of communications" made up of citizens to assist the City in preparing the newsletter, updating the website, and preparing other communication efforts.

Dr. Lucas reiterated his belief that the City should consider creating a "board of elections" made up of citizens to help separate Council and the City Administration from issues involving political campaigning and debate, and he referenced a situation that arose during his campaign which he believes was handled inappropriately. Some discussion with the City Solicitor was had regarding this topic, with City Solicitor Mark Vander Laan

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asking for further elaboration. Dr. Lucas explained that during his campaign, the City's Treasurer placed a letter on the website and in the community newspaper stating that there was misinformation provided by his campaign about operating deficits related to the City's 2007 Comprehensive Annual Financial Report (CAFR). After some discussion, it was agreed that the Solicitor would review this situation and report back to him if there was an issue.

Dr. Lucas continued by suggesting that the community newsletter include a regular article which would review Council work completed in the recent past and planned for the near future. Dr. Lucas also reminded Council of his comment that the Blue Ash Code of Ordinances has not been updated on the internet since 2007, and his suggestion that such updates should be completed more frequently. Some discussion was had regarding the Code, and Mr. Vander Laan explained that most Council action at Council meetings does not go into the Code and that the City contracts with Walter Drane for recodification. When the Code is changed, those pages affected are updated, and Mr. Vander Laan showed Dr. Lucas an example of this instance within his Code book. Just one example of changes that do affect the Code would be a zoning-related issue. It was mentioned also that recent changes in the Codification contract with Drane will include quarterly updates.

Dr. Lucas asked for Council input regarding his ideas. Vice Mayor Weber reminded Dr. Lucas of their recent meeting regarding his idea related to specific ward meetings tied to Council meetings. He clarified that the outcome of that discussion was to periodically offer a Ward 5 meeting either immediately before or immediately after a Council meeting; however, Vice Mayor Weber does not believe a specific ward meeting in the middle of a Council meeting would be efficient. He urged Dr. Lucas to be patient in receiving a response to the ideas he presented just two weeks ago, and commented that it is not fair to chastise Council because his recommendations were not immediately implemented or responded to.

Councilman Sumner commented that he has heard Dr. Lucas's ideas; however, he does not intend to support any of them. Councilman Sumner commented that this is not the appropriate forum to bring such ideas and suggested that he contact individual Council persons to seek individual responses.

Councilwoman Stoller urged Dr. Lucas to talk with his Council representatives (one for his ward and the two at-large representatives). If they believe his ideas warrant action, then they will present their thoughts and support to Council as a whole. Dr. Lucas expressed concern with the thought that one Council member may not support his concerns when there are thousands of citizens in the community.

Dr. Lucas recommended that the City begin public meetings regarding the airport property and mentioned that he would like to know what the Colwell Group findings have been. Additional recommendations by Dr. Lucas included making available online the information distributed to Council in their packets, and an improved website included easier access to Council agendas and information. In addressing a question from Dr. Lucas regarding the parliamentary representative for the Charter, and Mr. Vander Laan indicated that he would serve in that role. Mr. Vander Laan also explained that the general election is held in November.

Mr. Rich Cogen, Executive Director of the Ohio River Foundation (and a Classic Drive resident), commented on the favorable impact rain gardens can have in a commented that rain gardens have also been completed at the Sycamore High School. He has also recently submitted a proposal to the Parks & Recreation Director for a potential rain garden on the Recreation Center property.

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COMMITTEE REPORTS

Prior to the Council meeting, Council members received the following report describing agenda items:

"The following offers a brief description of the topics included on the May 28 Council agenda:

11.a.1. Resolution No. 2009-3 - Appointing John Berry to the Planning Commission

Resolution No. 2009-3 formally appoints John Berry to the Planning Commission for the term expiring July 1, 2013.

11.a.2. Motion to remove Ordinance No. 2009-14 from the table

The City Solicitor's office is recommending that Ordinance No. 2009-14 be removed from the table and formally voted upon by City Council. This legislation relates to the court ruling associated with the City's efforts to provide for the removal of the free-standing "banjo" style sign (i.e., billboard) at 10996 Deerfield Road. The first reading of this legislation took place on February 12, 2009, and Council tabled the ordinance at the February 26 Council meeting.

In late October 2008, the Hamilton County, Ohio First District Court of Appeals ruled that the Blue Ash ordinance originally authorizing construction of the sign (Ordinance No. 84-18) is still in effect because the ordinance did not state the special use permit expired in any specific period of time. The City's legal counsel at Dinsmore suggests consideration of Ordinance No. 2009-14 which formally establishes an expiration date of July 1, 2014 associated with the special use.

Please direct questions regarding this ordinance to the Solicitor.

11.a.3. Ordinance No. 2009-14 - Setting an expiration date for the special use permit granted by Ordinance No. 84-14 regarding construction of a sign at 10996 Deerfield Road & repealing Section I(B) of Ordinance No. 83-47 (second reading)

See item description above.

11.b.1. Resolution No. 2009-4 - Reappointing members to the Civil Service Commission, Charter Revision Committee, and Board of Tax Review (Sandra Roberts, John Klasmeier, and Robert Miller respectively)

Items 11.b.1 and 11.c.1 relate to the reappointment of persons to the Council-appointed boards and commissions. All have been contacted and have expressed an interest in continuing to serve on their respective board/commission. The appointments are summarized below:

- Civil Service Commission: Sandra Roberts
- Charter Revision Committee: John Klasmeier
- Board of Tax Review: Robert Miller
- Recreation Board: Barb DeMar (Resolution No. 2009-5)

11.c.1. Resolution No. 2009-5 - Reappointing Barb DeMar to the Recreation Board

See item description above."

Planning & Zoning Committee, James W. Sumner, Chairperson

Councilman Sumner asked the Clerk of Council to read Resolution No. 2009-3 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

RESOLUTION NO. 2009-3

APPOINTING JOHN BERRY TO THE PLANNING
COMMISSION OF THE CITY OF BLUE ASH

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Councilman Sumner moved, Councilwoman Stoller seconded to adopt Resolution No. 2009-3. There being no discussion, the Clerk called the roll. Councilpersons Sumner, Adamec, Czerwonka, Bryan, Stoller, and Vice Mayor Weber voted yes. Six yeases. Resolution No. 2009-3 passed.

The Oath of Office was administered to Mr. Berry who was present at the meeting. Mr. Berry's family joined him up front for pictures.

Councilman Sumner moved, Councilman Bryan seconded to remove Ordinance No. 2009-14 from the table. A voice vote was taken. All members voted yes. Motion carried.

Councilman Sumner asked the Clerk of Council to read Ordinance No. 2009-14 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2009-14

AN ORDINANCE SETTING AN EXPIRATION DATE FOR THE SPECIAL USE PERMIT GRANTED BY ORDINANCE NO. 84-18, ENTITLED "GRANTING A SPECIAL USE PERMIT TO RED ROOF INNS, INC. AND JOSEPH H. GALLENSTEIN & SONS, INC., UNDER SECTION 154.7.307 OF THE COMPREHENSIVE ZONING ORDINANCE FOR CONSTRUCTION OF A SIGN TO BE LOCATED AT 10996 DEERFIELD ROAD; REPEALING SECTION I.(B) OF ORDINANCE NO. 83-47; AND DECLARING AN EMERGENCY."

Councilman Sumner moved, Councilman Bryan seconded to adopt Ordinance No. 2009-14. (This ordinance was first read on February 12, 2009.)

Solicitor Mark Vander Laan offered points of clarification in reference to points made previously by Mr. Schneider in regards to this ordinance. Mr. Vander Laan explained that the three initials upon Ordinance No. 83-47 when originally passed were those of the Solicitor, Clerk, and Mayor noting their acceptance of hand-written changes upon that ordinance made at the meeting. Regarding the billboard in question, Mr. Vander Laan noted that this is the only non-conforming billboard in Blue Ash, and is the only property in Blue Ash with two billboards upon it. One of the billboards was supposed to come down when the other one was erected, as was testified repeatedly to by Mr. Schneider in court; however, that did not happen. The Court of Appeals in its ruling noted that Ordinance No. 84-18 was never specifically repealed, and therefore never was time specific, despite the fact that it was understood that one of the signs was to come down at the expiration of the lease. Ordinance No. 2009-14 permits the sign to remain for an additional five years from today, which will then make the property in conformance with the Blue Ash Code. He also clarified that his property has been out of conformance with the Code since 1989, not 2002 as previously stated.

There being no further discussion, the Clerk called the roll. Councilpersons Adamec, Czerwonka, Bryan, Stoller, Sumner, and Vice Mayor Weber voted yes. Six yeases. Ordinance No. 2009-14 passed.

Finance & Administration Committee, Rick Bryan, Chairperson

Councilman Bryan asked the Clerk to read Resolution No. 2009-4 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

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RESOLUTION NO. 2009-4

PROVIDING FOR THE REAPPOINTMENTS OF SANDRA ROBERTS TO THE CIVIL SERVICE COMMISSION, JOHN KLASMEIER TO THE CHARTER REVISION COMMITTEE, AND ROBERT MILLER TO THE BOARD OF TAX REVIEW

Councilman Bryan moved, Councilwoman Stoller seconded to adopt Resolution No. 2009-4. There being no discussion, the Clerk called the roll. Councilpersons Czerwonka, Bryan, Stoller, Sumner, Adamec, and Vice Mayor Weber voted yes. Six yeses. Resolution No. 2009-4 passed.

Parks & Recreation Committee, Lee Czerwonka, Chairperson

Councilman Czerwonka asked the Clerk to read Resolution No. 2009-5 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

RESOLUTION NO. 2009-5

PROVIDING FOR THE REAPPOINTMENT OF BARB DEMAR TO THE RECREATION BOARD OF THE CITY OF BLUE ASH, OHIO

Councilman Czerwonka moved, Councilman Adamec seconded to adopt Resolution No. 2009-5. There being no discussion, the Clerk called the roll. Councilpersons Bryan, Stoller, Sumner, Adamec, Czerwonka, and Vice Mayor Weber voted yes. Six yeses. Resolution No. 2009-5 passed.

The Oath of Office was administered to Barb DeMar who was present at the meeting.

MISCELLANEOUS BUSINESS

Public Works Director Mike Duncan commented that beginning June 8th (after schools are out of session), work will begin to completely rebuild Hunt Road between the railroad tracks and West Avenue. Hunt Road will be closed, and motorists will be required to follow posted detours.

City Manager Waltz commented that the Recreation Center is now open to the public and is about 80% complete. The remaining portion of the project will be complete for the grand opening scheduled for July 25.

Councilman Sumner suggested that a simple recognition plaque for former Councilman Stacey be prepared recognizing his years of service on Council. It was the consensus of Council that this would be appropriate.

Councilman Bryan complimented the City on another successful Memorial Day event, including the parade and ceremonies. He expressed his thanks to the City employees who supported hat event.

Councilman Czerwonka complimented the flowers in downtown Blue Ash and mentioned he has received many compliments already.

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ADJOURNMENT

All items on the agenda having been acted upon, Councilman Bryan moved, Councilman Adamec seconded to adjourn the meeting. A voice vote was taken. All members voted yes. The Council meeting was adjourned at approximately 8:30 PM.

Mark F. Weber, Vice Mayor

Jamie K. Eifert, Clerk of Council

MINUTES WRITTEN BY:

Susan K. Bennett, Deputy Clerk of Council