

City of Montgomery  
City Council Business Session Minutes  
September 6, 2006

Present

Cheryl Hilvert, City Manager  
Terry Donnellon, Law Director  
Susan Hamm, Clerk of Council  
Frank Davis, Community Development Director  
Wayne Davis, Assistant City Manager  
Peter Hames, Finance Director  
Bob Nikula, Public Works Director  
Don Simpson, Police Chief  
Matthew Vanderhorst, Information Technology  
Paul Wright, Fire Chief

City Council Members Present

Gerri Harbison, Mayor  
Mark Combs  
William Niehaus  
Lynda Roesch  
Todd Steinbrink  
Ken Suer

City Council Member Absent

Barry Joffe

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Council convened in Council Chambers at 7:00 p.m. with Mayor Harbison presiding.

**ROLL CALL**

Mayor Harbison asked that the roll be called.

The roll was called and showed the following Council Members present:

PRESENT: Harbison, Combs, Niehaus, Roesch, Steinbrink, Suer  
ABSENT: Joffe

Mayor Harbison noted that Mr. Joffe was absent due to illness in his family. She asked for a motion to excuse Mr. Joffe.

Ms. Roesch moved to excuse Mr. Joffe. Mr. Combs seconded. City Council unanimously excused Mr. Joffe.

**SPECIAL PRESENTATION**

Mr. Mike Hammond, Executive Director of the Miami Valley Risk Management Association (MVRMA), made a presentation to City Council, recognizing its designation as the runner up for the 2005 award for the City with the lowest amount of losses per full-time employee among MVRMA member jurisdictions for 2005.

**GUESTS AND RESIDENTS**

There were no guests or residents to address City Council tonight.

**MINUTES**

Mr. Steinbrink moved to approve the minutes from the July 19, 2006 Work Session and August 2, 2006 Business Session. Mr. Combs seconded. City Council unanimously approved the minutes.

**LEGISLATION FOR CONSIDERATION TONIGHT**

**Pending Legislation**

**An Ordinance Declaring Improvements to Parcels of Real Property Located in the City of Montgomery, Ohio to be a Public Purpose Under Section 5709.40 (C) of the Ohio Revised Code, Exempting such Improvements**

**from Real Property Taxation, Authorizing the Execution of a Tax Incentive Agreement, a Service Agreement and such other Documents as may be Necessary (3rd Reading)**

Mr. Steinbrink read the ordinance by title only and moved passage. Ms. Roesch seconded.

Mr. Steinbrink explained that this ordinance, if approved, would create a Tax Increment Financing District on the Vintage Club property. He further explained that through the creation of the tax increment financing district, City Council will declare certain improvements to parcels of that property to be for public purposes, including the proposed parking garages, and exempt those improvements from real property taxation for a period of 30 years.

The roll was called and showed the following vote:

AYE: Harbison, Combs, Niehaus, Roesch, Steinbrink, Suer	(6)
NAY:	(0)
ABSENT: Joffe	(1)

**An Ordinance Adopting the Residential Code of Ohio for One-,Two-, and Three-Family Dwellings as Supplemented (2<sup>nd</sup> Reading)**

Mr. Combs read the ordinance by title only and moved passage to the 3<sup>rd</sup> reading. Mr. Steinbrink seconded.

Mr. Combs explained that this resolution, if approved, would adopt the Residential Code of Ohio for one-, two-, and three-family dwellings as adopted by the Ohio Board of Building Standards and as codified in Ohio Administrative Code §§ 4101:8-1 to 4101:8-43 (effective May 27, 2006). He further explained that additionally, this ordinance will adopt the applicable regulations for swimming pools, spas and hot tubs as a supplement to the Residential Code and establish a penalty section for any violation of any section of the Residential Building Code.

The roll was called and showed the following vote:

AYE: Harbison, Combs, Niehaus, Roesch, Steinbrink, Suer	(6)
NAY:	(0)
ABSENT: Joffe	(1)

**An Ordinance Accepting Dedicated Property and Certain Easement Rights on Main Street and Remington Road**

Mr. Niehaus read the ordinance by title only and moved passage to the 3<sup>rd</sup> reading. Ms. Roesch seconded.

Mr. Niehaus explained that this ordinance, if approved, would authorize the acceptance of both public right of way and an easement to provide for the appropriate installation and maintenance of the required streetscape for the Montgomery Row development in the Heritage District.

The roll was called and showed the following vote:

AYE: Harbison, Combs, Niehaus, Roesch, Steinbrink, Suer	(6)
NAY:	(0)
ABSENT: Joffe	(1)

**New Legislation**

**A Resolution Accepting a Bid and Authorizing the City Manager to Enter into a Contract with R.B. Jergens Contractors, Inc. for the 2006 Montgomery Gateway Resurfacing Project**

Mr. Niehaus moved to read the resolution by title only. Mr. Combs seconded. City Council unanimously agreed.

Mr. Niehaus read the resolution by title only and moved passage. Mr. Combs seconded.

Mr. Niehaus explained, if approved, this resolution would authorize the City Manager to enter into a contract with R.B. Jergens Contractors, Inc. for the 2006 Montgomery Gateway Resurfacing project. He further explained that this project includes the resurfacing work on all three (3) streets fronting the Triangle Development: Montgomery Road, Cooper Road and Main Street, as well as the installation of four (4) paver crosswalks at the intersection of Main Street and Cooper Road, and the installation of one (1) paver crosswalk at the southern “leg” of the intersection of Montgomery Road and Cooper Road.

Mr. Nikula, Public Works Director, noted that four (4) bids were received and the R.B. Jergens Contractors, Inc. bid was determined to be the lowest and best bid. He further noted that the funding for this project is included in the Triangle Tax Increment Equivalent Fund.

Mr. Waymire, 9915 Forestglen Drive, asked if the project would include the repaving or tar and chipping of Montgomery Road.

Mr. Nikula indicated that the project would include the milling of the old pavement and installation of a hot mix overlay resurfacing.

Mr. Waymire, 9915 Forestglen Drive, stated that Montgomery Road is rough and not suitable for the City.

Mr. Nikula explained that the “bituminous black mat” surfaces last five (5) to seven (7) years and that the product was applied to Montgomery Road in order to extend the service life of the pavement until such time that the City becomes eligible for funding through the ODOT urban paving program that will fund up to 80% of the resurfacing program costs.

The roll was called and showed the following vote:

AYE: Harbison, Combs, Niehaus, Roesch, Steinbrink, Suer	(6)
NAY:	(0)
ABSENT: Joffe	(1)

**An Ordinance Creating the Montgomery Corridor/Schoolhouse Interim Development Control Overlay District**

Mr. Steinbrink moved to read the ordinance by title only. Ms. Roesch seconded. City Council unanimously agreed.

Mr. Steinbrink read the ordinance by title only and moved passage to the 2<sup>nd</sup> reading. Ms. Roesch seconded.

Mr. Steinbrink noted that this ordinance, if approved, would create the Montgomery Road Corridor/Schoolhouse Interim Development Control District, which would include the properties on the east side of Montgomery Road from the north property line of Camargo Cadillac through the south property line of the Safety Center. He further noted that the Montgomery Road Corridor/Schoolhouse Interim Development Control District (IDC) would be in effect for a period of

one (1) year and would provide the Planning Commission time to complete a study of existing land use controls and an evaluation of whether the City should apply new or different standards for this area. He also noted that as part of this ordinance, City Council will adopt a set of interim standards which will be used to regulate development in this area during the period of the study.

City Council discussed this legislation, pointing out that the property in question is a very valuable piece of property in the City of Montgomery, and is a desirable location from a development aspect. The purpose of the IDC legislation is to place controls on the type of development and the access points to the development from Montgomery Road. It was also pointed out that the IDC is an interim control.

Mr. Michael Schock, 9895 Forestglen Drive, spoke in opposition of any development of the green space in question, stating that he would rather see the space developed as a park or at least a strip of green space along Montgomery road to create a buffer from the development.

Mrs. Janet Kilburn-Phillips, 9926 Forestglen Drive, spoke against the IDC, stating that this type of zoning will allow for a high density of residential units to be built on that land, which would create a significant increase in traffic on Montgomery Road.

Dr. Tom Firor, 9925 Forestglen Drive, spoke in favor of the City taking the property through eminent domain for the good of the health of the community. He also stated that he felt that a development in this location will create traffic problems on Montgomery Road.

Ms. Joan Recker, 9938 Forestglen Drive, asked if the IDC was adopted, during the interim period, could the property be developed under "D-3" zoning.

Mr. Frank Davis, Community Development Director, clarified what the zoning restrictions actually are under this type of zoning, which limits the total number of residential units per acre.

Ms. Recker encouraged City Council to change the zoning designation for this property to Residence "A" to match what is directly across the street.

Ms. Anne Kaplan, 9936 Forestglen Drive, voiced concerns over potential traffic problems that might be created if an access point is placed across from Forestglen Drive.

Ms. Angie Holt, 9939 Forestglen Drive, asked what the benefit is to the City if the property is tax exempt.

Ms. Hilvert explained that Twin Lakes is a church-owned facility and has therefore applied for tax exemption with Hamilton County; however, the developer has agreed to pay a certain amount of money for a set amount of time to the City to offset some of that potential revenue loss. She further explained that the residents of Twin Lakes are not property owners, and as such, are billed as non-property owners for any emergency runs by the City of Montgomery Fire/EMS department.

Ms. Holt then stated that she has concerns over the potential for traffic problems that might be created by the development of this property.

Mr. Kim McCracken, 9850 Forestglen Drive, proposed that the IDC be changed to completely halt any development of this property for a period of one (1) year to give City Council and Planning Commission adequate time to come up with alternative uses for this property, such as an extension of Montgomery Park.

Mr. Dennis Waymire, 9915 Forestglen Drive , echoed Mr. McCracken's idea to halt any development on the property for a year.

Mr. Donnellon explained the history of how the IDC came into being. He stated that it came out of the review of the comprehensive plan for the City which was looking at the property in question as property that was likely to be developed by someone at some point in the future and figuring out some way to control the type of development that could go in there under the City's zoning classification. He stated that the Twin Lakes proposal coming in at around the same time as the IDC legislation was completely coincidental, and that Twin Lakes was not the reason for the creation of the IDC.

Mr. Combs moved that City Council follow through with the first reading of the ordinance and directed the Law Director to amend the ordinance to reflect that the existing zoning districts (both D-2 and D-3) on the property north of Schoolhouse Lane be maintained. Mr. Steinbrink seconded. City Council unanimously agreed upon the motion to amend the ordinance for the second reading.

The roll was called for the first reading and showed the following vote:

AYE: Harbison, Combs, Niehaus, Roesch, Steinbrink, Suer	(6)
NAY:	(0)
ABSENT: Joffe	(1)

Mr. Steinbrink moved to place this piece of legislation on the September 20, 2006 work session agenda for consideration that night. Mr. Niehaus seconded. City Council unanimously agreed.

### **ADMINISTRATION REPORT**

Ms. Hilvert reported on the following items:

- Certificates of Appreciation for the twelve (12) winners of the 2006 Montgomery Beautification Awards will be presented at the September work session to receive their recognition.
- With the recent ruling by the Ohio Supreme Court on the use of eminent domain for economic development purposes, Mr. Donnellon, who has reviewed the full text of this decision, will have an update for City Council at the September work session.
- The retirement luncheon for Glenn Smith has been set for Wednesday, September 27<sup>th</sup> from 11 a.m. to 1 p.m. at Terwilligers Lodge. Glenn has been a loyal employee of the City for 27 years and we encourage everyone to attend to wish him well in his retirement.
- The conciliation date for the Montgomery Fire Fighters has been moved up from October 19<sup>th</sup> to September 26<sup>th</sup> due to a cancellation on the conciliators schedule.
- The City has been asked to make a presentation to a class at Wright State University on the evening of Wednesday, September 27<sup>th</sup>. The class will involve emergency management and preparedness, as well as a discussion on the impact of all the new homeland security initiatives on smaller governments. The City was asked to present as a result of our quality response and recovery from the 1999 tornado, as well as our disaster preparedness work both before and after the tornado.

Ms. Hilvert noted that she will be out of town from Friday, September 8<sup>th</sup> until Saturday, September 16<sup>th</sup> for the purpose of attending the International City/County Management Association Conference (ICMA) in San Antonio,

Texas. She further noted that a number of employees will also be attending this conference as a result of teaching three (3) courses in the ICMA University Series on our HPO program and our Human Resource System that has been developed to support HPO. Those employees are: Casey Sparks, Jim Stewart, Don Jasper, Tom Wolf, Paul Wright, Wayne Davis, Brian Donnellon, and Matthew Vanderhorst. She also noted that the City receives compensation for teaching these courses that offset the travel costs for these employees, as well as free registration for the conference, which makes this an excellent training opportunity for them.

Ms. Hilvert explained that on Tuesday, September 5, 2006, the Financial Planning Committee of Council completed its review of the 2007 operating and capital budget and five year capital improvement program. She further explained that City Council will need to schedule a meeting to conduct its formal budget review session of these documents. This review was completed in one evening last year, and it was felt by the members of the Financial Planning Committee that the budget can, once again, be sufficiently presented and reviewed in this same time frame.

City Council agreed to schedule its 2007 Operating and Capital Budget and Capital Improvement Program review for Thursday, October 5<sup>th</sup> from 5:30 until 8:00 p.m. at City Hall.

Ms. Hilvert stated that the following Committees of City Council are scheduled to meet on Tuesday, September 19, 2006:

- Government Affairs
- Parks & Recreation
- Law & Safety
- Public Works

City Council agreed that the regularly scheduled meeting of the Public Works Committee of City Council would be cancelled.

### **MAYORS COURT REPORT**

Mayor Harbison reported that the total Mayor's Court collections for the month of August, 2006 were \$11,748.00.

Mr. Suer moved to accept the Mayor's Court collections for the month of August, 2006. Mr. Combs seconded. City Council unanimously accepted the collections.

### **OTHER BUSINESS**

Mayor Harbison asked if there was any further business to discuss in public session. There being none, she asked for a motion to adjourn.

Mr. Niehaus moved to adjourn. Mr. Suer seconded.

Council unanimously agreed.

Council adjourned at 8:53 p.m.