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City of Montgomery
City Council Business Session Minutes
June 6, 2007

Present

Cheryl Hilvert, City Manager
Terry Donnellon, Law Director
Susan Hamm, Clerk of Council
Frank Davis, Community Development Director
Peter Hames, Finance Director
Bob Nikula, Public Works Director
Amber Morris, Recreation Director

Council Members Present

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

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

ROLL CALL

Mayor Harbison asked for a motion to dispense with the roll call since everyone was in attendance.

Mr. Combs moved to dispense with the roll call. Mr. Joffe seconded. City Council unanimously agreed.

GUESTS AND RESIDENTS

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

LEGISLATION FOR CONSIDERATION TONIGHT

Pending Legislation

An Ordinance Amending Ordinance No. 20, 2006, Which Ordinance Established the Procedure for the Receipt and Disposition of Personal Property (3rd Reading)

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

Mr. Suer read the ordinance by title only and moved passage. Mr. Combs seconded.

Mr. Suer explained that if approved, this ordinance would amend Ordinance No. 20, 2006, establishing the procedure for receipt and disposition of personal property. He further explained that periodically, the City is contacted by other governments who express interest in surplus property including fire department equipment and police vehicles. Often, these are governments that have limited financial ability to purchase new equipment and rely on cities such as the City of Montgomery for their vehicles and equipment. He also explained that the current surplus property ordinance does not provide for such a direct sale of property to governmental units and staff would like to suggest that this manner of disposal be added to our opportunities to dispose of surplus property.

The roll was called and showed the following vote:

AYE: Combs, Joffe, Harbison, Niehaus, Roesch, Suer, Steinbrink (7)
NAY: (0)
ABSENT: (0)

54

55 **An Ordinance Granting an Access Easement Within Safety Center Lot to Twin Lakes In Ohio, Not For**
56 **Profit Corporation (3rd Reading)**

57

58 Mr. Steinbrink read the following statement:

59

60 *As you know, tonight would be the third reading for the Ordinance regarding the easement for the Twin Lakes*
61 *Garden Homes that we have been discussing for several months. Along the way we have heard arguments both*
62 *pro and con for Access Point A, as well as C and even a couple of arguments against development of the area at*
63 *all.*

64 *While Council has only been asked to consider an easement to allow a properly aligned access for the*
65 *development at hand, Council cannot ignore the bigger picture of access for all of the properties on the east*
66 *side of the road. A significant factor we need to consider is the preservation of the median concept put in place*
67 *by a previous Council that has served our community well.*

68 *As a result of these two issues, this City Council and Staff have been studying the broader access picture for all*
69 *the properties along the eastern side of Montgomery Road between Schoolhouse Lane and the Safety Center.*
70 *While we can move forward tonight to vote up or down on Access Point A, if we can find a solution to resolve*
71 *access issues for more of these properties, the entire community is better served.*

72 *In our independent analysis, this Council and Staff have studied alternatives that would allow us to preserve*
73 *the median and would find an access answer for both the Boymel and Steele properties. Even if Access*
74 *Point A were decided tonight to be the best choice for the Boymel property alone, it defers the inevitable*
75 *question concerning access for the other properties.*

76 *At this point, Twin Lakes has a workable plan on the table but they have chosen to work with Council and Staff*
77 *on this, and have stepped up to the plate to try to acquire the additional property south of its proposed*
78 *development that would facilitate a comprehensive access strategy for more of these properties – a goal of this*
79 *Council and Staff. We may be close to having an alternative access solution that would accomplish all of our*
80 *goals, and as such I would prefer to give Twin Lakes the additional time to continue its discussions with the*
81 *owners of the Steele property to get us to that point.*

82 *I cannot move to vote yes or no to a potential new Access Point that might solve these problems tonight because*
83 *the only issue before us is Access Point A. While I am fully prepared to call for a final vote on Access Point A,*
84 *again I would prefer to defer that decision for two weeks to see if the staff and the developers can get this*
85 *alternative solution to work.*

86 *I wish to clearly state this action has been reached not as a result of any petition drives, picketing, resident threats*
87 *or accusations against this City Council and staff. An access point that can accomplish the long term need for*
88 *more properties along Montgomery Road and maintains our median concept is an obvious choice. It doesn't*
89 *serve a single neighborhood or developer - it serves the interest of the greater community.*

90 *Despite some residents' criticism of this Staff and criticism of this Council, we have been looking at the big*
91 *picture and not focusing upon this single issue. These things don't happen overnight. Hopefully the work at*
92 *hand will be successful within the next two weeks.*

City Council Business Session Minutes

June 6, 2007

Page 4.

141
142 Mayor Harbison noted that City Council has not violated any open meeting law.
143

144 Mr. Donnellon stated that everyone has been diligently working with Twin Lakes to find another access
145 alternative which he thought has been the stated goal of Forestglen residents for many months. He further stated
146 that there has not been a violation of the Sunshine Law. He explained that what Mr. Steinbrink was proposing
147 by tabling this matter and holding discussion until the June 20, 2007 work session would allow an opportunity
148 for Twin Lakes, if possible, to finalize any possible acquisition of property to develop an alternate access point,
149 which would be in everyone's best interest and is everyone's goal. He further explained that if that is
150 everyone's interest and everyone's goal, he didn't understand why the need to debate the issue tonight to make
151 comment on it, unless there is a disagreement with it being tabled, and there is a feeling that City Council should
152 call for a vote immediately on Access Point A.
153

154 Ms. Crittenden commented from the audience, but the statements were not discernible from the tape of the
155 meeting as she did not speak from the podium. In general she questioned that this was the first anyone was
156 hearing about this proposal.
157

158 Mayor Harbison indicated that it was discussed when City Council got to the piece of legislation that is on the
159 table this evening.
160

161 Mr. Crittenden commented from the audience, but the statements were not discernible from the tape of the
162 meeting as he did not speak from the podium. In general he commented that he was interested in hearing about
163 how everyone is diligently working with Twin Lakes and if the City Government is really having some forward
164 planning discussions on this matter. He also commented that he had a prepared statement that ended with a
165 proposal that the city take a time out for planning.
166

167 Mr. Donnellon noted that it sounded like everyone was on the same page.
168

169 Mr. Crittenden commented from the audience, but the statements were not discernible from the tape of the
170 meeting as he did not speak from the podium. In general he commented that he didn't know if we were or not.
171

172 Mr. Donnellon explained that, if Twin Lakes comes forward with an alternate development that includes all of
173 these properties and a different access plan; then the new plan would have to go back to the Planning
174 Commission for review and approval of that development and alternate access plan. He further explained that if
175 anyone from the audience wanted to argue in favor of Access Point A, then those arguments could be presented
176 at the June 20, 2007 work session. He also explained that City Council wanted to have more time to allow Mr.
177 Meyers to come up with a solution that would be in everyone's best interest. He indicated that City Council
178 should move on to the next item on the agenda and hope and pray that between now and the June 20, 2007 work
179 session that everything comes true that people are working hard to accomplish.
180

181 Mr. Crittenden commented from the audience, but the statements were not discernible from the tape of the
182 meeting as he did not speak from the podium.
183

184 Mr. Donnellon explained that when someone is trying to acquire property, they don't negotiate the property
185 acquisition at a public meeting.
186

187 Mayor Harbison explained that one thing that City Council has repeatedly told people, is that this City Council
188 just doesn't rubber-stamp items. She further explained that this City Council works very hard to make informed

189 decisions. This City Council has stood at the site and watched traffic, researched all the research that residents
190 had given to them, and directed staff to research the research. She also explained that City Council has been
191 diligently working for a solution that works for everyone, and that's what they're still trying to do, and she
192 asked that the audience let City Council proceed that way.

193
194 Mr. Crittenden commented from the audience, but the statements were not discernible from the tape of the
195 meeting as he did not speak from the podium. In general he commented that he heard City Council's motion,
196 and it sounded like it's up to Twin Lakes.

197
198 Mayor Harbison explained that it is up to Twin Lakes to negotiate with their client.

199
200 Mr. Crittenden commented from the audience, but the statements were not discernible from the tape of the
201 meeting as he did not speak from the podium.

202
203 Mr. Donnellon explained that the city has been working on an IDC, which is an overlay for the whole
204 development district, for over a year. He further explained that this came up in our Planning Session in 2005,
205 and the city has been looking at this for some time. The city has recognized the issues of points of access, and
206 the access management that has been so often talked about is something the city is acutely aware of, however
207 the city is dealing with separate private property interests and the city doesn't control those decisions. He also
208 explained that the city is not in the position to negotiate all the terms of the sale, however it can encourage, offer
209 help and advice, but it is not the principals. He indicated that the city will have to wait for the private property
210 owners to come up with a plan, but in the meantime, one of the key steps the city has taken, over a year ago, was
211 to retain the D2 zoning for that stretch of property. The city even had a plan that called for a D3, which would
212 be a higher density and the city resisted that because it felt like it could get a good project on this property that
213 would be the D2 zone. He further indicated that this is something the city has been talking about and working
214 on for well over a year. He also indicated that the city is acutely aware of what the limitations are here, and
215 trying to work with those limitations.

216
217 **An Ordinance to Amend General Appropriations for Current Expenses and Other Expenditures of the City**
218 **of Montgomery, State of Ohio, During the Fiscal Year Ending December 31, 2007 (2nd Reading)**

219
220 Mr. Combs moved to read the ordinance by title only. Ms. Roesch seconded. City Council unanimously agreed.

221
222 Mr. Combs read the ordinance by title only and moved passage of the 2nd reading. Ms. Roesch seconded.

223
224 Mr. Combs explained that if approved, this ordinance will amend various budget areas that need supplemental
225 appropriations prior to year end. He further explained that the budget needs to be amended to allow for the
226 construction and repair to Remington Road in 2007, as opposed to the planned construction in 2008, so that the
227 project can be coordinated with the ODOT-Indian Hill project for Remington Road. He also explained that the
228 ordinance will also include other amendments, such as the re-appropriating of funds for the Triangle Plaza project,
229 a transfer of funds for the municipal pool from the former enterprise fund into the new special revenue fund, and
230 an appropriation of additional funds from the Ohio National TIF for the Sycamore School District.

231
232 The roll was called and showed the following vote:

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234 AYE: Combs, Joffe, Harbison, Niehaus, Roesch, Suer, Steinbrink (7)
235 NAY: (0)
236 ABSENT: (0)

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New Legislation

A Resolution Authorizing the City Manager to Contract with Frost Brown Todd, LLC to Provide Special Counsel Services

Mr. Joffe moved to read the resolution by title only. Mr. Steinbrink seconded. City Council unanimously agreed.

Mr. Joffe read the resolution by title only and moved passage. Ms. Roesch seconded.

Mr. Joffe explained that this resolution, if approved would authorize the City Manager to enter into a contract with Frost Brown Todd, LLC to provide special legal counsel services for labor negotiations/labor relations activities.

Mrs. Connie Pillich, 9910 Forestglen Drive, asked about the hourly rates and how the fees would be based.

Ms. Hilvert explained that the fees are based primarily upon the time expended by the attorneys. She further explained that the attorneys have been assigned hourly rates based upon their experience and level of expertise. She also explained that the rates of those attorneys likely to work on this matter range from \$225.00, in the case of the junior partner, to \$330.00 in the case of the senior partner.

Mrs. Julie Bradley, 10113 Woodfern Way, suggested that the City consider allowing outside law firms to submit a proposal on providing these professional services.

The roll was called and showed the following vote:

AYE:	Combs, Joffe, Harbison, Niehaus, Roesch, Suer, Steinbrink	(7)
NAY:		(0)
ABSENT:		(0)

A Resolution Amending Resolution No. 48, 2004, Establishing a Budgetary/Financial Policy for the City of Montgomery Relative to Targeted Fund Balances for Effective Planning and Emergency Financial Needs

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

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

Mr. Combs explained that this resolution, if approved will adopt a resolution amending Resolution #48, 2004 establishing a budgetary/financial policy for the City of Montgomery relative to targeted fund balances. He further explained that the Financial Planning Committee of City Council reviewed the current policy at its March 5, 2007 and May 7, 2007 meetings and agreed to recommend a change, from \$800,000 to \$1,000,000 in the capital improvement fund target fund balance. He also explained that the reason for the change included the need to strengthen the commitment to maintaining the city's infrastructure assets, and the fact that the target had not been increased in several years and, thus, did not reflect the impact that inflation had upon the diminished value of the current target.

332 Mr. Frank Davis, Community Development Director, explained that staff will be recommending that the
333 ordinance be amended to include language that allows the Landmarks Commission to set standards for the size
334 and design of all streetscape furniture, including the news racks. He further explained that this would be
335 included in Section 2, "Development Standards" which assigns to the Zoning Administrator, subject to the
336 approval of the Landmarks Commission, the responsibility of establishing standards for the palette of colors and
337 acceptable materials for all street furnishings. He also explained that the words 'size' and 'design' would be
338 added to Section 2.

339
340 Mr. Combs stated that he understands the goals and principles however, he is concerned that the ordinance is
341 subjective. He further stated that he is also concerned with the 60 day compliance regulations.

342
343 The roll was called and showed the following vote:

344
345 AYE: Joffe, Harbison, Niehaus, Roesch, Suer, Steinbrink (6)
346 NAY: Combs (1)
347 ABSENT: (0)

348
349 **ADMINISTRATION REPORT**

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351 Ms. Hilvert reported on the following items:

- 352
353 • Homearama will open this Saturday, thanks to the efforts of a tremendous number of people, including
354 our staff, elected officials, Board and Commission members, the Homebuilders Association and Great
355 Traditions Land Development Corporation. It promises to be a great event, bringing in upwards of
356 100,000 people to our city. Thanks to the many city residents and employee/council/board and
357 commission member volunteers who will be staffing our information booth at the event and to the many
358 businesses who are supporting the event through welcoming signage and donation of door prizes. Also,
359 thanks to Susan Hamm, Amber Morris, Carolyn Lunt-Hartoin and Joyce Yock for assisting in gathering
360 prizes and volunteers for this event. And, last but not least thanks to Terry Willenbrink and the Service
361 Department staff who have designed and installed a beautiful landscaped display for our information
362 booth.
- 363
364 • City Council is scheduled to hold a public hearing on the 2008 Tax Budget on June 20, 2007 at 6:15
365 p.m. City Council is also scheduled to receive a presentation from Frank Davis, Community
366 Development Director, on teardowns in the City of Montgomery.
- 367
368 • City Council will meet in business session on Wednesday, June 27, 2007 at 7:00 p.m. at City Hall. The
369 date change is a result of the July 4th holiday. Additionally, City Council will meet at 6:00 p.m. prior to
370 the City Council meeting to review the implementation of the City's 2006 Strategic Plan.

371
372 **MAYOR'S COURT REPORT**

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374 Mrs. Harbison reported that the total Mayor's Court collections for the month of May, 2007 were \$14,408.00.

375
376 Mr. Steinbrink moved to accept the Mayor's Court collections for the month of May, 2007. Ms. Roesch
377 seconded. City Council unanimously accepted the collections.

378
379

380 **OTHER BUSINESS**

381

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

384

385 Mr. Steinbrink moved to adjourn. Mr. Niehaus seconded.

386

387 City Council unanimously agreed.

388

389 City Council adjourned at 7:45 p.m.

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Clerk of Council