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2 City of Montgomery
3 City Council Business Session Minutes
4 April 1, 2009
5

6 Present

7 Cheryl Hilvert, City Manager
8 Terry Donnellon, Law Director
9 Susan Hamm, Clerk of Council
10 Jim Hanson, Finance Director
11 Amber Morris, Recreation and Communications Director
12 Bob Nikula, Public Works Director
13 Tracy Roblero, City Planner
14 Don Simpson, Police Chief
15 Matthew Vanderhorst, Customer Service Director
16

City Council Members Present

Gerri Harbison, Mayor
Mark Combs
Vicki Hirsch
Barry Joffe
Lynda Roesch
Todd Steinbrink
Ken Suer

17
18 City Council convened in Council Chambers for the business session at 7:00 p.m. with Mayor Harbison
19 presiding.
20

21 ROLL CALL

22
23 Mayor Harbison asked for a motion to dispense with the roll call since everyone was in attendance.
24

25 Mr. Joffe moved to dispense with the roll call. Mrs. Hirsch seconded. City Council unanimously agreed.
26

27 GUESTS AND RESIDENTS

28
29 Mrs. Betty Donnellan, owner of the Little Red Gift Shop, located at 7925 Remington Road, voiced concerns
30 with the safety conditions at the Montgomery Row project. She also voiced concerns with the lack of a
31 sidewalk on Remington Road.
32

33 Ms. Roblero, City Planner explained that staff met with a representative of the new development team for the
34 Montgomery Row Project. She further explained that it is anticipated that work will begin on cleaning up the
35 site within the next month.
36

37 Mr. Nikula, Public Works Director, explained that sidewalk development or redevelopment in the Heritage
38 District is driven by the streetscape ordinance. He further explained that this ordinance allows for the
39 construction sidewalks to be done on a cost sharing basis; therefore, construction of a sidewalk in this area
40 would require all three property owners to share in the construction costs.
41

42 Ms. Hilvert asked Mr. Nikula if he would meet with three property owners and discuss the matter further.
43

44 LEGISLATION FOR CONSIDERATION TONIGHT

45
46 Pending Legislation

47
48 New Legislation

49
50 **An Ordinance to Amend Appropriations for Current Expenses and Other Expenditures of the City of**
51 **Montgomery, State of Ohio, During the Fiscal Year Ending December 31, 2009**
52

53 Mr. Combs moved to read the ordinance by title only. Mr. Suer seconded. City Council unanimously agreed.
54

55 Mr. Combs read the ordinance by title only and moved passage of the first reading. Mr. Steinbrink seconded.
56

57 Mr. Combs explained that if approved, this ordinance would amend the 2009 Appropriations Ordinance to
58 appropriate funds in the amount of \$145,000 and \$30,000. The proposed \$145,000 supplemental appropriation
59 is necessary to reimburse expenditures made from the General Fund and other operating funds with FEMA grant
60 monies awarded to the City. The \$30,000 supplemental appropriation represents the estimated cost to proceed
61 with the demolition of the Business Club building and the removal of heating oil tanks at that location.
62

63 The roll was called and showed the following vote:
64

65 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)
66 NAY: (0)
67 ABSENT: (0)
68

69 **ADMINISTRATION REPORT**
70

71 Ms. Hilvert reported on the following items:
72

- 73 • A ceremony will be held on Sunday, April 5, 2009 at 2:00 p.m. at St. Barnabus Church to commemorate
74 the 10th anniversary of the April 9, 1999 tornado. Additionally, a moment of remembrance will be
75 observed on Thursday, April 9, 2009 at 9:00 a.m. near the memorial at the Sycamore High School
76 property.
77
- 78 • The Government Affairs Committee will meet on Tuesday, April 21, 2009 at 2:30 p.m. at City Hall.
79 The Parks and Recreation, Public Works, and Law and Safety Committees have cancelled their
80 meetings for the month of April.
81
- 82 • A special thanks is extended to our ICMA workshop presentation team who traveled to Chicago to the
83 ICMA Midwest Regional Summit this week to present our program entitled "Leading from the Sandbox
84 to the Orchestra Pit" and featuring the work of Daniel Pink's book "A Whole New Mind." Those
85 presenters included Wayne Davis, Paul Wright, Brian Riblet, Terry Willenbrink and Jerry Beitman. The
86 Midwest Summit provides continuing education to the leadership of state associations throughout the
87 eight-state region as well as other ICMA members who wish to attend. It continues to be a honor for the
88 staff to be asked to present at these programs.
89
- 90 • The Montgomery Road Streetscape Replacement Project began this week. To date, all of the street trees
91 on the east side of Montgomery between Remington and Cooper Roads have been removed. Four of
92 these trees were small enough that they could be removed and transplanted elsewhere in the community;
93 all other trees were simply cut down as they were too large to relocate or attempt to save as part of the
94 project. Montgomery Inn has indicated that it will not be constructing the outdoor dining area;
95 therefore, additional work will need to be undertaken to complete Ted Gregory Lane as a part of this
96 contract. Because this work requires a change order in excess of ten percent of the original contract, it is
97 necessary for City Council to authorize the additional expenditures under this contract. Therefore, staff
98 will be requesting that City Council consider adopting a resolution to authorize the required \$55,000
99 modification to the existing contract to complete the work along the south side of Ted Gregory Lane.
100 Additionally, the supplemental ordinance will need to be amended to include a \$55,000 supplemental
101 appropriation. This amendment will represent the funding needed to complete the additional costs
102 associated with the streetscape removal and replacement work.
103

104 Ms. Hilvert requested an executive session to discuss matters related to labor negotiations, purchase of real
105 estate and pending litigation.

106
107 **MAYORS COURT REPORT**

108
109 Mayor Harbison reported that the total Mayor's Court collections for the month of March, 2009 were \$18,792.

110
111 Mr. Combs moved to accept the Mayor's Court collections for the month of March, 2009. Mrs. Hirsch
112 seconded. City Council unanimously accepted the collections.

113
114 **OTHER BUSINESS**

115
116 Ms. Hilvert explained that the City has received a notice from the Ohio Department of Liquor Control
117 asking whether the City wishes to request a hearing on a new "D5I" liquor license for China Domain
118 Inc., Casual Wok & Sigma Bistro. She further explained that a "D5I" liquor license may be issued to the
119 owner or operator of a retail food establishment or food service operation licensed and operates as a
120 restaurant or meets all of the following requirements:

- 121 • It is located in a municipal corporation or a township with a population of one hundred thousand
122 or less
- 123 • It has inside seating capacity for at least one hundred forty persons.
- 124 • It has at least four thousand square feet of floor area.
- 125 • It offers full-course meals, appetizers, and sandwiches.
- 126 • Its receipts from beer and liquor sales, excluding wine sales, do not exceed twenty-five percent of
127 its total gross receipts.

128 She also explained that it has at least one of the following characteristics:

- 129 • The value of its real and personal property exceeds seven hundred twenty-five thousand dollars
- 130 • It is located on property that is owned or leased by the state or a state agency, and the owner or
131 operator has authorization from the state or the state agency that owns or leases the property to
132 obtain a "D5I" permit.

133 She noted that the holder of a "D5I" permit has to have an independent audit performed at the end of one
134 full year of operation following issuance of the permit in order to verify the requirements of the division.
135 She also noted that the Police Department has indicated that there is no objection on their part to the new
136 "D5I" liquor license, based on the operations at the current location and the background of the owners of
137 China Domain Inc., Casual Wok & Sigma Bistro.

138
139 Mr. Joffe moved to not request a hearing on a request from China Domain Inc., Casual Wok & Sigma
140 Bistro for a new "D5I" liquor license. Mr. Combs seconded. City Council unanimously agreed.

141
142 Mr. Donnellon explained that the City has received an inquiry from a resident on Schoolhouse Lane who wishes to
143 raise a few chickens in her backyard to provide fresh eggs. He further explained that this request caused the staff
144 to review the Code and found that the City has no restriction in the Zoning Code and no restriction in the General
145 Code to prevent anyone from having animals on their residential property. Section 90.04 of the Code of Ordinance
146 restricts animals and requires domestic farms animals or fowl to be fenced, confined, tethered or otherwise suitably
147 restrained. This Code section was adopted in 1976 and may have been more applicable at that time when there
148 were larger open tracts of land within the City. Now that we are almost completely developed, some restriction
149 against farm animals may be appropriate. He also explained that staff is currently researching other cities'
150 regulations, as well as those from the Health Department and Extension Service. He noted that the question being
151 posed to City Council is whether or not the City wants to adopt restrictions to prevent farm animals in the

152 residential subdivision. He further noted that if City Council decided to adopt restrictions, the first step in the
153 process would be to impose criminal restrictions. The second step in the process would be to refer this matter to
154 the Planning Commission which would consider what rules need to be in place concerning the regulation of
155 domestic farm animals and exotic animals within the City of Montgomery.

156
157 Mr. Combs asked if the staff had done any research on restrictions that were established by the various
158 subdivisions and/or homeowners associations.

159
160 Mr. Donnellon indicated that the staff is currently in the process of obtaining copies of the various subdivision
161 and homeowner association's restrictions.

162
163 Mr. Steinbrink moved to initiate the process to amend the Code to adopt restrictions preventing farm animals in
164 residential subdivisions. Mr. Combs seconded. City Council unanimously agreed.

165
166 Mr. Steinbrink moved to refer this matter to the Planning Commission to consider what rules need to be in place
167 concerning the regulation of domestic farm animals and exotic animals within the City of Montgomery. Mr.
168 Combs seconded. City Council unanimously agreed.

169
170 Mayor Harbison asked if there was any further business to discuss in public session. There being none, she
171 asked for a motion to adjourn into executive session to discuss matters related to labor negotiations, purchase of
172 real estate and pending litigation.

173
174 Mr. Combs moved to adjourn into executive session to discuss matters related to labor negotiations, purchase of
175 real estate and pending litigation. Mr. Steinbrink seconded.

176
177 The roll was called and showed the following vote:

178
179 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)
180 NAY: (0)
181 ABSENT: (0)

182
183 City Council adjourned into executive session at 7:34 p.m.

184
185 City Council reconvened into public session at 7:57 p.m.

186
187 Ms. Roesch moved to direct staff to obtain a status report from Bear Creek Capital on their request for an
188 equivalency on a General Development Plan, conditionally approved by Planning Commission on November 3,
189 2008 and heard by City Council in a public hearing on December 17, 2008. Mr. Combs seconded. City Council
190 unanimously agreed.

191
192 Mayor Harbison asked if there was any further business to discuss in public session. There being none, she
193 asked for a motion to adjourn.

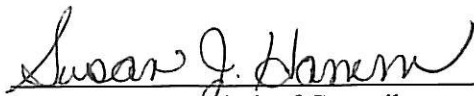
194
195 Mr. Suer moved to adjourn. Mr. Combs seconded.

196
197 City Council unanimously agreed.

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199 City Council adjourned at 7:58 p.m.

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Clerk of Council