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City of Montgomery  
City Council Business Session Minutes  
September 2, 2009

Present

Wayne Davis, Acting City Manager  
Terry Donnellon, Law Director  
Susan Hamm, Clerk of Council  
Frank Davis, Community Development Director  
Ellen Hall, Communications Coordinator  
Jim Hanson, Finance Director  
Amber Morris, Recreation and Communications Director  
Bob Nikula, Public Works Director  
Don Simpson, Police Chief

City Council Members Present

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

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City Council convened in Council Chambers for the business session 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. Joffe moved to dispense with the roll call. Mr. Steinbrink seconded. City Council unanimously agreed.

**SPECIAL PRESENTATION**

**Certificate of Appreciation to Dan McNeal**

Mrs. Hirsch read the Certificate of Appreciation in its entirety. She presented the certificate to Mr. McNeal for his contributions on the Environmental Advisory Commission.

City Council expressed its sincere appreciation to Mr. McNeal for his valued service as a member of the Environmental Advisory Commission.

**Presentation of Miami Valley Risk Management Association Safety Awards**

Mr. Mike Hammond, Executive Director of the Miami Valley Risk Management Association, recognized the Public Works and Recreation Departments for having no insurance losses in the last eight years. He presented the awards to Amber Morris, Recreation and Communications Director and Bob Nikula Public Works Director.

**GUESTS AND RESIDENTS**

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

**LEGISLATION FOR CONSIDERATION TONIGHT**

**Pending Legislation**

**An Ordinance Accepting Publicly Dedicated Property and Certain Easement Rights at 9797 Montgomery Road, Montgomery, Ohio**

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

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Mr. Steinbrink explained that if approved, this ordinance will accept an easement from Phillip Schutte, the owner of the property at 9797 Montgomery Road to allow for the installation of a new bus shelter. He further explained that since there is a limited amount of right-of-way behind the sidewalk in this area, the new bus shelter would have to encroach onto his property; therefore, it is necessary for City Council to accept the dedicated property and easement rights. He also explained that the dimensions of the easement will allow for the installation of the shelter and includes sufficient area for the new trash can, flower pots, and possibly a future water fountain.

The roll was called and showed the following vote:

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

**An Ordinance Amending Ordinance 16, 2006 Accepting Publicly Dedicated Property and Certain Easement Rights on Main Street at Remington Road, Montgomery, Ohio**

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

Mr. Suer explain that this ordinance, if approved, will amend Ordinance 16, 2006, accepting dedicated public right-of-way and an easement associated with the Montgomery Row development in the Heritage District. Ordinance 16, 2006 was adopted to 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. This amendment to the ordinance would slightly reduce the size of the dedicated right-of-way and create an additional easement along Main Street to accommodate the required 10' streetscape.

The roll was called and showed the following vote:

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

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

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

Ms. Roesch explained that if approved, this ordinance will amend the 2009 Appropriations Ordinance to appropriate funds in the amount of \$550,000. The proposed \$550,000 supplemental appropriation is necessary for the timely construction of the Neuilly-Plaisance Plaza improvements. She further explained that the reason the amount of \$550,000 is being transferred from the Capital Improvement Fund to the Tax Increment Financing Fund is because the Tax Increment Financing revenues have been delayed from being collected by the City. She also explained that this delay has occurred because the tax exemptions for the parcels in the Triangle Development was filed on November 14, 2006 to the Ohio Department of Taxation and was not approved until June 24, 2009. She also noted that in 2010 the City will recover the Tax Increment Financing revenues, which should have been collected for tax years 2006, 2007, 2008 and 2009 and at that time, the funds will be transferred to the Capital Improvement Fund.

The roll was called and showed the following vote:

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

**An Ordinance Establishing Terms of Office for the Board of Tax Review**

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

Mr. Combs explained that this ordinance, if approved, will establish terms of office for the Board of Tax Review. He further explained that at the Financial Planning Committee of Council meeting on June 1, 2009, the Committee discussed establishing terms of office for the Board of Tax Review. He also explained that the Committee has recommended three year staggered terms, which will make the Board of Tax Review consistent with the other Boards and Commissions.

The roll was called and showed the following vote:

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

**An Ordinance Accepting Publicly Dedicated Property And Certain Easement Rights Abutting 7667 Pfeiffer Road, Montgomery, Ohio**

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

Mr. Suer moved to amend the title to read as follows:  
“An Ordinance Accepting Publicly Dedicated Property And Certain Easement Rights Abutting 7667 Pfeiffer Road, Montgomery, Ohio”

He further moved to amend Section 1 of the ordinance to indicate that the entire lot section is being granted to the City as a property donation as opposed to being an easement as was referenced in the ordinance that was read previously by City Council.

Mr. Joffe seconded. City Council unanimously agreed.

Mr. Suer explained that this ordinance, if approved will accept a dedication of land to increase the Pfeiffer Road right-of-way. He further explained that the owner of the property at the southeast corner of Pfeiffer Road and Peachtree Lane is subdividing his lot to create an additional building lot. As part of this subdivision, the owner’s civil engineer has noted that a 10.03’ x 173.98’ strip (.0399 acres) along Pfeiffer Road should be dedicated to the City as right-of-way.

The roll was called and showed the following vote:

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

**New Legislation**

155 **A Resolution Authorizing an Assessment Against 10223 Hightower Court, Montgomery, Ohio**

156

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

159

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

161

162 Mr. Steinbrink explained that if approved, this resolution will authorize an assessment for the cutting of noxious  
163 weeds at 10223 Hightower Court. He further explained that the City has been forced to maintain the property  
164 located at 10223 Hightower Court since its owners abandoned the property. He also explained that Section 302.11  
165 of the City of Montgomery Property Maintenance Code provides that all weeds and plant growth in excess of 6  
166 inches shall be cut and destroyed within five (5) days after service of a notice of violation. If the owner fails to  
167 comply with the notice within the time allotted, the City may begin minor nuisance abatement. The owner of the  
168 property at 10223 Hightower Court has been notified and has failed or refused to take action within the time  
169 allowed pursuant to the notice. The City, after submitting the notice, has entered upon the property to cut the  
170 noxious weeds at a cost of \$290. The City now desires to assess a lien upon the property for the cost incurred by  
171 the City to cut the noxious weeds, and an additional administrative fee of \$25. He noted that the adoption of this  
172 resolution will allow for the assessment to be included in the upcoming property tax bills that will be mailed in  
173 January.

174

175 The roll was called and showed the following vote:

176

177 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)

178 NAY: (0)

179 ABSENT: (0)

180

181 **A Resolution Authorizing an Assessment Against 7614 Trailwind Drive, Montgomery, Ohio**

182

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

184

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

186

187 Mr. Suer explained that this resolution, if approved, would authorize an assessment for the cutting of noxious  
188 weeds, the draining of a swimming pool and repair of a fence surrounding the pool at 7614 Trailwind Drive. He  
189 further explained that the City has been forced to maintain the property located at 7614 Trailwind Drive since its  
190 owners abandoned the property. Section 302.15 of the City of Montgomery Property Maintenance Code provides  
191 that swimming pools shall be maintained in a clean and sanitary condition, in good repair and free of stagnant  
192 water. Section 302.11 provides that all weeds and plant growth in excess of 6 inches shall be cut and destroyed  
193 within five (5) days after service of a notice of violation. He also explained that Section 302.14 of the Property  
194 Maintenance Code provides that all fences shall be maintained in good repair at all times. If the owner fails to  
195 comply with the notice within the time allotted, the City may begin minor nuisance abatement. The owner of the  
196 property at 7614 Trailwind Drive has been notified and has failed or refused to take action within the time allowed  
197 pursuant to the notice. The City, after submitting the notice, has entered upon the property to drain the swimming  
198 pool, repair and replace the fence and cut the noxious weeds at a cost of \$1,230.48. The City now desires to assess  
199 a lien upon the property for the cost incurred by the City to drain the swimming pool, repair and replace the fence  
200 and cut the noxious weeds, and an additional administrative fee of \$25. He noted that the adoption of this  
201 resolution will allow for the assessment to be included in the upcoming property tax bills that will be mailed in  
202 January.

203

204 Mr. Brent Brisben, 8918 Terwilligers Trail, indicated that he recently purchased the house through a sheriff's sale  
205 and has been making improvements to the property. He asked if City Council could have the cost incurred by the  
206 City assessed to the property owner and not the property.  
207

208 Mr. Donnellon explained that these assessments are against the properties and not the owners. He further  
209 explained that the owners and/or attorneys were notified, and properties were posted. He also explained that these  
210 assessments will be included in the upcoming property tax bills that will be mailed in January.  
211

212 Mr. Combs thanked Mr. Brisben for the work he has done to improve the property.  
213

214 Ms. Roesch asked about disclosure rights.  
215

216 Mr. Steinbrink indicated that he has gone through the process of purchasing properties through sheriff's sales and  
217 has been surprised by what turns up on property tax bills after the closing.  
218

219 The roll was called and showed the following vote:  
220

221 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)

222 NAY: (0)

223 ABSENT: (0)  
224

225 **A Resolution Authorizing an Assessment Against 6145 Samstone Court, Montgomery, Ohio**  
226

227 Mr. Joffe moved to read the resolution by title only. Mr. Steinbrink seconded. City Council unanimously agreed.  
228

229 Mr. Joffe read the resolution by title only and moved passage. Mr. Steinbrink seconded.  
230

231 Mr. Joffe explained that if approved, this resolution Information has been supplied previously on this resolution  
232 that will authorize an assessment for the cutting of noxious weeds and removal of dead trees at 6145 Samstone  
233 Court. The City has been forced to maintain the property located at 6145 Samstone Court since its owners  
234 abandoned the property. He further explained that Section 302.10.2 of the City of Montgomery Property  
235 Maintenance Code provides that trees, which are dead, afflicted with decay, disease or insect infestation or  
236 otherwise considered dangerous shall be removed or appropriately treated. Section 302.11 provides that all weeds  
237 and plant growth in excess of 6 inches shall be cut and destroyed within five (5) days after service of a notice of  
238 violation. If the owner fails to comply with the notice within the time allotted, the City may begin minor nuisance  
239 abatement. The owner of the property at 6145 Samstone Court has been notified and has failed or refused to take  
240 action within the time allowed pursuant to the notice. The City, after submitting the notice, has entered upon the  
241 property to remove the trees and cut the noxious weeds at a cost of \$367.04. The City now desires to assess a lien  
242 upon the property for the cost incurred by the City to remove the trees and cut the noxious weeds, and an additional  
243 administrative fee of \$25. He noted that the adoption of this resolution will allow for the assessment to be included  
244 in the upcoming property tax bills that will be mailed in January.  
245

246 The roll was called and showed the following vote:  
247

248 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)

249 NAY: (0)

250 ABSENT: (0)  
251

252 **A Resolution Authorizing an Assessment Against 6865 Cooper Road, Montgomery, Ohio**  
253

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

255  
256 Mr. Combs read the resolution by title only and moved passage. Mr. Joffe seconded.

257  
258 Mr. Combs explained that this resolution, if approved, will authorize an assessment for the cutting of noxious  
259 weeds at 6865 Cooper Road. The City has been forced to maintain the property located at 6865 Cooper Road since  
260 its owners abandoned the property. He further explained that Section 302.11 of the City of Montgomery Property  
261 Maintenance Code provides that all weeds and plant growth in excess of 6 inches shall be cut and destroyed within  
262 five (5) days after service of a notice of violation. If the owner fails to comply with the notice within the time  
263 allotted, the City may begin minor nuisance abatement. The owner of the property at 6865 Cooper Road has been  
264 notified and has failed or refused to take action within the time allowed pursuant to the notice. The City, after  
265 submitting the notice, has entered upon the property to cut the noxious weeds at a cost of \$75. The City now  
266 desires to assess a lien upon the property for the cost incurred by the City to cut the noxious weeds, and an  
267 additional administrative fee of \$25. He further noted that the adoption of this resolution will allow for the  
268 assessment to be included in the upcoming property tax bills that will be mailed in January.

269  
270 The roll was called and showed the following vote:

271  
272 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)  
273 NAY: (0)  
274 ABSENT: (0)  
275

276 **A Resolution Authorizing an Assessment Against 5600 Cooper Road, Montgomery, Ohio**

277  
278 Mr. Steinbrink moved to read the resolution by title only. Ms. Roesch seconded. City Council unanimously  
279 agreed.

280  
281 Mr. Steinbrink read the resolution by title only and moved passage. Mr. Joffe seconded.

282  
283 Mr. Steinbrink explained that this resolution, if approved will authorize an assessment for the cutting of noxious  
284 weeds at 5600 Cooper Road. He further explained that the City has been forced to maintain the property located  
285 at 5600 Cooper Road since its owners abandoned the property. He also explained that Section 302.11 of the City  
286 of Montgomery Property Maintenance Code provides that all weeds and plant growth in excess of 6 inches shall  
287 be cut and destroyed within five (5) days after service of a notice of violation. If the owner fails to comply with  
288 the notice within the time allotted, the City may begin minor nuisance abatement. The owner of the property at  
289 5600 Cooper Road has been notified and has failed or refused to take action within the time allowed pursuant to  
290 the notice. The City, after submitting the notice, has entered upon the property to cut the noxious weeds at a  
291 cost of \$75. The City now desires to assess a lien upon the property for the cost incurred by the City to cut the  
292 noxious weeds, and an additional administrative fee of \$25. He noted that the adoption of this resolution will  
293 allow for the assessment to be included in the upcoming property tax bills that will be mailed in January.

294 The roll was called and showed the following vote:

295  
296 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)  
297 NAY: (0)  
298 ABSENT: (0)  
299

300 **A Resolution Authorizing an Assessment Against 5950 Cooper Road, Montgomery, Ohio**

301  
302 Ms. Roesch moved to read the resolution by title only. Ms. Roesch seconded. City Council unanimously agreed.

303

304 Ms. Roesch read the resolution by title only and moved passage. Mr. Joffe seconded.  
305

306 Ms. Roesch explained that this resolution, if approved, will authorize an assessment for the cutting of noxious  
307 weeds at 5950 Cooper Road. She further explained that the City has been forced to maintain the property located at  
308 5950 Cooper Road since its owners abandoned the property. She also explained that Section 302.11 of the City of  
309 Montgomery Property Maintenance Code provides that all weeds and plant growth in excess of 6 inches shall be  
310 cut and destroyed within five (5) days after service of a notice of violation. If the owner fails to comply with the  
311 notice within the time allotted, the City may begin minor nuisance abatement. The owner of the property at 5950  
312 Cooper Road has been notified and has failed or refused to take action within the time allowed pursuant to the  
313 notice. The City, after submitting the notice, has entered upon the property to cut the noxious weeds at a cost of  
314 \$100. The City now desires to assess a lien upon the property for the cost incurred by the City to cut the noxious  
315 weeds, and an additional administrative fee of \$25. She further noted that the adoption of this resolution will allow  
316 for the assessment to be included in the upcoming property tax bills that will be mailed in January.  
317

318 The roll was called and showed the following vote:  
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320 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)  
321 NAY: (0)  
322 ABSENT: (0)  
323

#### 324 **A Resolution Authorizing the Sale of a 1989 Seagrave Fire Engine** 325

326 Mr. Joffe moved to read the resolution by title only. Mr. Combs seconded. City Council unanimously agreed.  
327

328 Mr. Joffe read the resolution by title only and moved passage. Mr. Combs seconded.  
329

330 Mr. Joffe explained that if approved, this resolution will authorize the City Manager to sell the 1989 Seagrave  
331 fire engine to the Franklin Township Fire Department. He further explained that with the arrival of the new  
332 Summit fire truck, staff requested that the Government Affairs Committee of City Council consider declaring  
333 the 1989 Seagrave fire truck as surplus equipment. The vehicle was declared as surplus, and can be sold to  
334 another government entity at a minimum price of \$25,000. This minimum price was established from value  
335 estimates received from a respected manufacturer. He also explained that the Franklin Township Fire  
336 Department has expressed an interest in purchasing the vehicle and has submitted a letter of intent to purchase  
337 the engine for the agreed upon price of \$25,000.  
338

339 The roll was called and showed the following vote:  
340

341 AYE: Combs, Harbison, Hirsch, Joffe, Roesch, Steinbrink, Suer (7)  
342 NAY: (0)  
343 ABSENT: (0)  
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#### 345 **ADMINISTRATION REPORT** 346

347 Mr. Wayne Davis, Acting City Manager reported on the following items:  
348

- 349 • The Planning, Zoning and Landmarks Committee will meet on Tuesday, September 8, 2009 at 4:30 p.m.  
350 at City Hall.
- 351 • The Government Affairs, Parks and Recreation, Public Works and Law and Safety Committees have  
352 cancelled their meetings for the month of September.  
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- As a reminder, City Council will meet on Wednesday, September 23, 2009 not the 16, 2009 as we have five Wednesdays this month. A public hearing will also be held at 6:00 p.m. that evening on the livestock recommendation from the Planning Commission
- The installation of the brick paver sidewalks on the Montgomery Road Phase II project is now complete. Installation and energizing of the refurbished streetlights south of Ted Gregory Lane will continue next week with completion of that phase of the project expected around September 15, 2009. Street tree installation could begin as early as next week.
- The Hamilton County Solid Waste District sent the list of communities with the highest recycling rates for the first half of 2009. Several communities have shaken up the ranking, including Montgomery. Montgomery received the highest recycling rate at 28.44%. As a note, the recycling rate reflects the ratio of the weight of recycled waste to that of total waste.

Mr. Wayne Davis noted that the Financial Planning Committee of City Council met on August 31, 2009 to review the 2010-2014 Operating and Capital Improvement Budget. City Council needs to schedule their annual review.

City Council agreed to schedule the annual review of the City's 2010-2014 Operating and Capital Budget and Capital Improvement Program on Tuesday, September 29, 2009 at 5:00 p.m.

Mr. Wayne Davis explained that at the August 21, 2009 City Council work session, Mayor Harbison noted that she had been asked by representatives of the Library Levy Campaign if the City of Montgomery would publicly endorse the Library Levy. He further explained that City Council asked staff to investigate how City Council has handled previous ballot issues, especially the light rail sale tax increase ballot issue. After some investigation staff found that on October 23, 2002 City Council made a motion encouraging citizens to become knowledgeable of the Metro Moves Plan. City Council also restated their long-standing support of light rail, but stated that City Council refrains from endorsing positions concerning ballot issue.

City Council agreed to send a letter to the Chair of the Library Levy Campaign Committee informing the Committee that the City of Montgomery City Council refrains from endorsing positions concerning ballot issues in the region; however, City Council will encourage its citizens to become knowledgeable of and informed on the Library levy issue.

**MAYORS COURT REPORT**

Mayor Harbison reported that the total Mayor's Court collections for the month of August, 2009 were \$20,034.00.

Mr. Steinbrink moved to accept the Mayor's Court collections for the month of August, 2009. Mr. Joffe seconded. City Council unanimously accepted the collections.

**MINUTES**

Ms. Roesch moved approval of the May 20, 2009 work session minutes. Mr. Steinbrink seconded. City Council unanimously approved the minutes.

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**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. Steinbrink moved to adjourn. Mr. Joffe seconded.

City Council unanimously agreed.

City Council adjourned at 7:58 p.m.

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Clerk of Council