

City of Montgomery
City Council Work Session Minutes
December 20, 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
Amber Morris, Recreation Director
Bob Nikula, Public Works Director
Don Simpson, Police Chief
Matthew Vanderhorst, Customer Service Director
Tom Wolf, Assistant Fire Chief
Paul Wright Fire Chief

City Council Members Present

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

City Council convened in Council Chambers for the work 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. Steinbrink moved to dispense with the roll call. Mr. Combs seconded. City Council unanimously agreed.

SPECIAL PRESENTATION

Mayor's Proclamation to the Sycamore High School Football Team

Mayor Harbison read the proclamation in its entirety and presented the proclamation to Coach Scott Datillo of the football team.

City Council expressed its congratulations to the student-athletes and the coach for their hard work, devotion and dedication during the 2006 football season.

GUESTS AND RESIDENTS

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

LEGISLATION FOR CONSIDERATION TONIGHT

An Ordinance to Amend General Appropriations for Current Expenses and Other Expenditures of the City of Montgomery, State of Ohio, During the Fiscal Year Ending December 31, 2006

Ms. Hilvert explained that this ordinance represents the City's annual budgetary "housekeeping" ordinance and is designed to address any budget areas that have exceeded their original appropriations and must have additional funds appropriated. She further explained that the proposed amendments are to the Triangle Redevelopment Project where the budget is exceeded by \$46,000 because of several additional small projects necessary to complete the redevelopment, and the Capital Improvement, Weller Road Improvement Project where the budget is exceeded by \$213,973 due to the City's approach to partner with Greater Cincinnati Water Works and the Hamilton County Engineer's Office to create a more comprehensive capital project, addressing

infrastructure needs in the area. As a result, after the 2006 budget was adopted, Water Works contributed \$152,473 and the Engineer's Office contributed \$61,500 to the project. Both contributions, totaling \$213,973, were credited to the refunds and reimbursement account and now must be appropriated to the Capital Improvement Fund.

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

Mr. Combs read the ordinance by title only and moved suspension of the rules. Ms. Roesch seconded.

The roll was called on the suspension of the rules and showed the following vote:

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

Mr. Combs moved passage of the ordinance. Mr. Niehaus seconded.

The roll was called and showed the following vote:

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

An Ordinance Amending Ordinance No. 14, 2006 with Respect to Property Declared to be a Public Purpose and Declaring an Emergency

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 suspension of the rules. Mr. Joffe seconded.

The roll was called on the suspension of the rules and showed the following vote:

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

Mr. Steinbrink moved passage of the ordinance as an emergency. Ms. Roesch seconded.

Mr. Donnellon explained that this ordinance is the latest ordinance to update and revise the Tax Increment Financing legislation to be able to implement the Vintage Club Tax Increment Financing for tax year 2006. He further explained that the State of Ohio substantially revised the Tax Increment Financing laws at the beginning of this year. The Department of Taxation is only now beginning to interpret the new law with the year-end submission for these Tax Increment Financing districts. Under the procedures, the Department of Taxation is requiring that all taxes be paid current at the time the application is submitted. They are interpreting "current" to mean that the taxes must not only be paid through the current billing cycle, but through the current calendar year. All taxes are paid in arrears in the State of Ohio, so if a Tax Increment Financing is submitted during calendar year 2006, at the time of its submission, all taxes must be paid through that date, even though the taxes have not been certified for collection until January 1, 2007. This is causing some confusion with developers and

can be particularly confusing when property is assessed at its old values and has not yet been assessed for its new transfer value. He also explained that with this payment accelerated into the current calendar year, Great Traditions had to weigh whether or not they wished to have the Tax Increment Financing effective for tax year 2006, or as stated in the original legislation, commencing January 1, 2008. This has two impacts upon them. The first is requiring a current payment during this calendar year at the time the application for exemption would be submitted; the second is that by accelerating the Tax Increment Financing legislation to this calendar year, they lose one year of tax exempt status at the end of the Tax Increment Financing cycle. Great Traditions has decided to make it effective for tax year 2006. Therefore, City Council will need to re-adopt the Vintage Club Tax Increment Financing legislation indicating that transfers will begin in 2006.

The roll was called and showed the following vote:

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

Mr. Niehaus moved that the following piece of legislation be added to agenda for consideration tonight. Mr. Steinbrink seconded. City Council unanimously agreed.

A Resolution Authorizing the City Manager to Enter into a Labor Agreement with the Montgomery Firefighters IAFF Local 4391, for Wages and Benefits from April 1, 2006 through March 31, 2009

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.

Ms. Hilvert explained that if approved, this resolution would authorize the City Manager to execute the labor agreement with the Montgomery Firefighters IAFF, Local 4391. This agreement culminates more than a year of negotiations with the Montgomery firefighters, which ultimately progressed through the mediation, fact-finding and conciliation processes.

The roll was called and showed the following vote:

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

ESTABLISHING AN AGENDA FOR JANUARY 3, 2007

Pending Legislation

An Ordinance Granting a Storm Sewer Easement Within Weller Park to Vintage Club Associates, LTD (3rd Reading)

New Legislation

A Resolution Authorizing the City Manager to Enter into a Contract with Whiteboard Broadband Solutions, LLC, for Professional Services Related to the Citywide Broadband Infrastructure Assessment

Mr. Matthew Vanderhorst, Customer Service Director, requesting that City Council authorize the City Manager to enter into a contract with Whiteboard Broadband Solutions, LLC for a City-wide Broadband Infrastructure Assessment. The City of Montgomery is interested in pursuing quality economic development opportunities for the community and identifying the information infrastructure necessary to support such development. To effectively provide an information infrastructure that would support these ongoing initiatives and those indicated in goals 3, 4 and 5 of the 2006 Strategic Plan, the City of Montgomery must develop a broadband plan that will result in a comprehensive information conveyance strategy for the City.

Mr. David Matusoff, President of Whiteboard Broadband Solutions, LLC, presented a brief presentation on his company and summarized that Whiteboard would assist the City of Montgomery to inventory the current broadband, fiber and infrastructure assets that exist in the City today, and then develop an information infrastructure plan that will position the City for the future.

Mr. Niehaus asked what things the City would gain from this proposal.

Mr. Matusoff indicated that City would gain access to the Ohio's Third Frontier Network, a dedicated high-speed fiber-optic network linking Ohio colleges and universities with research facilities to promote research and economic development. He further indicated that the plan will also create an integrated wireless and fiber initiative for the City of Montgomery. He also explained that Whiteboard Broadband Solutions will look at connecting to the Cincinnati Education Research Fiber ring as a potential mechanism to provide connection to the Third Frontier Network based upon what is learned through the assessment. This model has worked effectively with other municipalities and State organization. Whiteboard Broadband Solution will develop the best solution to connect to the Third Frontier Network preferences. In addition to developing the plan, Whiteboard Broadband Solutions will meet with the critical stakeholders on behalf of or in conjunction with the City of Montgomery to accomplish this task.

Mr. Niehaus asked what the initial opportunities would be for the City.

Mr. Vanderhorst explained that it would open up communication for the fire and police departments that they don't have now. He further explained that this plan would also include the development of a strategy to create a "virtual healthcare park" within the City of Montgomery to provide an economic development incentive to expand healthcare-related businesses along the Montgomery Road corridor. Providing access to fiber optics for current and potential healthcare facilities located in this corridor can provide a competitive advantage for the City and healthcare-related facilities locating in the City by providing them with direct access to healthcare facilities and researchers across Ohio.

Mr. Suer stated that he was very interested in the healthcare portion of this proposal. He asked if there has been any interest expressed by the healthcare providers.

Ms. Hilvert indicated that the City has talked with them about this proposal, however, before creating a partnership with them, the City wanted to gain more information on this proposal.

A Resolution Authorizing the City Manager to Enter into a Contract with Schottenstein, Zox and Dunn Co., LPA for Professional Services Related to Cable Television Franchising

Mr. Donnellon explained that this legislation would authorize the City Manager to enter into a contract with Schottenstein, Zox and Dunn Co., LPA to assist the City in negotiating a renewal of the Franchise Agreement with Time Warner. The franchise terminates in April 2009, but the City is within the statutory window for renewing the franchise with Time Warner. He further explained that Schottenstein, Zox and Dunn provides

expert services in this area and the City's renewal will also include the flexibility to seek other franchise operations for the City. With the ever changing landscape in telecommunication equipment, the franchise renewal will also maintain our flexibility to develop WIFI services and other services which may come on the horizon during the franchise period. He also explained that the City has worked extensively with Schottenstein, Zox and Dunn on communications-related issues, including the development of the City's right of way ordinance.

A Resolution Authorizing the City Manager to Enter into a Contract with The Impact Group for Professional Services Related to the Development of a Comprehensive Communication Program

Ms. Morris, Recreation Director, explained that the staff is requesting that City Council authorize the City Manager to enter into a contract with The Impact Group for the development of a comprehensive communications program in 2007 and 2008. She further explained that in the 2006 Strategic Plan, the City identified as one of its primary goals the development of a comprehensive communication program. The City is looking for a tailored, comprehensive communication, public relations and marketing plan that is flexible, detailed, and can be implemented in a prioritized approach. This plan will be designed to build a consistent, positive, and an effective image of the City and service enhancements that will enable the City to achieve this image.

A Resolution Authorizing the City Manager to Enter into a Contract with Leisure Services Management Inc. for Professional Services Related to the Development of a Comprehensive Park Master Plan

Ms. Morris explained that staff sent out requests for proposals to six park planning firms that brought a variety of experiences and approaches to the table for the City to consider and align with the vision of the City. In order to evaluate the firms under consideration, staff has met with three of the potential firms to discuss and prioritize the components of a quality park plan. The following six bullet points were identified for the development of the park master plan:

- A parks and recreation audit – review of existing parks, amenities, facilities, events and program for maintenance and use patterns;
- Citizen input and engagement of residents, businesses, organization and schools on needs that could realistically be met through our park program;
- Best practices of other public and private entities and area trends that may be applicable here;
- A plan to address and prioritize gaps between current facilities and services and identified community needs;
- Identify opportunities and appropriate venues to promote our parks and programs; engage citizens as volunteers and supporters and maintain parks as a valued asset in this community; and,
- Resource assessment and allocation for maintenance, operations, and capital projects or improvements. Identify alternative revenue sources for each through non-traditional funding such as grants, planned giving, etc.

She further explained that the proposals were evaluated on the above requested criteria and through interviews to assess experience, attitude and environmental awareness. Leisure Services Management Inc. stood out as the best opportunity to work with a professional firm that detailed deliverables that align with the budget, timeline and goal identified as per of the City's vision. She also explained that the proposed contract shall commence January 2007 with the sum of the agreement being \$47,600, which will cover fact-finding, exploration, vision, sub-contracted work that includes mapping, graphic design, site investigation and GIS work.

Mr. Suer asked about the experience of the firm.

Ms. Morris explained that Leisure Services Management Inc. has 35 years of local parks and recreation experience and relies on a team approach in working together to meet challenges and guide future decision making regarding the plan for park improvement in facilities, services and usage. She further explained that they have in-house capabilities and alliances with marketing, graphic design, research, architectural and other firms that permit them to provide a turn-key approach to all related tasks. She also explained that they specialize in strategic master planning, grant writing and fundraising especially for park and recreation departments.

Mr. Suer asked if Leisure Services Management Inc. had met with the Parks and Recreation Commission.

Ms. Morris noted that two of the prospective firms were invited to speak to the Parks and Recreation Commission and explain the process and role of the commission in the assessment of the parks, services and development of a formal comprehensive park plan. She further noted that Leisure Services Management Inc., if awarded the contact, would be attending every meeting of the Parks and Recreation Commission until the project is completed.

A Resolution Authorizing the City Manager to Enter into a Contract with CDS Associates, Inc. for Professional Services Related to General Engineering and Architectural Services

Mr. Nikula explained that the City has had a contract for a number of years with CDS Associates Inc. to provide various civil engineering, traffic engineering and architectural design and review services and has been very satisfied with their services. He further explained that the proposed 2007 fee schedule from CDS Associates, Inc. is in keeping with their commitment to the City, utilizing its previous year's fee schedule. He also explained that as provided in 2006 and again this year, CDS Associates, Inc. has deleted the line item for billing of the "Principal" from the fee schedule. If for some reason the Principal is utilized, his work will be charged at the hourly rate of the Senior Manager.

A Resolution Authorizing the City Manager to Enter into a Contract with 32 Ford Mercury for the Purchase of Police Cruisers

Chief Simpson explained that he is requesting that City Council authorize the City Manager to enter into a contract with 32 Ford Mercury for the purchase of three (3) Ford Crown Victoria police vehicles through the State Cooperative Purchasing Program. He further explained that the purchase of these three (3) police vehicles is part of a scheduled rotation program to replace older police vehicles in the Police Department's fleet.

A Resolution Authorizing the City Manager to Accept a Bid and Enter into a Contract with Langenheim and Thomson for the Triangle Point Plaza Project

Mr. Nikula explained that he is requesting that City Council authorize the City Manager to accept a bid and enter into a contract with Langenheim and Thomson for the construction of the Triangle Point Plaza. He further explained that the bidding process for the Triangle Point Plaza Improvements is completed. As requested by City Council, the project was bid with a cast stone fountain and a customized bronze fountain as alternates. While the intent was to be able to purchase the customized bronze fountain, it is clear that the costs for such an item were more than what could be funded through the tax increment financing district funds and would require a supplemental appropriation from other city funding sources. He further explained that staff did some research into the concept of purchasing a stock bronze fountain to maintain the look the City was trying to achieve, rather than the more expensive customized fountain. He also explained that other options were discussed, which included a cast stone fountain with decorative bronze ornamentation, a marble option or a pool option with no upright fountain structure or a cast-iron fountain.

Ms. Hilvert noted that at the December 6th business session meeting, City Council discussed these options so that it could identify the appropriate course of action to pursue for this project. City Council directed staff to prepare two pieces of legislation on the matter-- the first piece would include the option of installing the customized bronze fountain and the second piece would include the option of installing an off-the-shelf bronze fountain. She further noted that if City Council elected to pursue the custom bronze fountain, it should adopt the resolution labeled "A" which would approve a contract with Langenheim and Thomson in the amount of \$460,644.50. If City Council elected to pursue the stock bronze fountain, it would adopt the resolution labeled "B" which approves a contract at the base bid of \$381,844.50 (which included the cast stone fountain) and which, upon execution, will have a change order authorized for an additional \$31,045 to cover the additional cost of the stock fountain. She also noted that both contracts would require a supplemental appropriation for this project.

Mr. Steinbrink indicated that he has concerns with the additional funding required for the purchase of the customized bronze fountain. Therefore he would be interested in pursuing the purchase of the stock bronze fountain. He further indicated that instead of appropriating additional funding for this project that City Council consider planning a public art project for the Neuilly-Plaisance plaza in the near future.

Mr. Joffe noted that he supported the decision of the Public Works Committee of City Council to recommend the purchase of the customized bronze fountain. He further noted that he is not married to the concept of purchasing of the customized fountain and based on the timeline, process and consensus of City Council, he would be comfortable with pursuing the purchase of the stock bronze fountain.

Ms. Roesch stated that she is interested in pursuing the customized bronzed fountain and with the supplemental appropriation for this project.

Mr. Niehaus indicated that he would support the purchase of the stock bronze fountain.

Mr. Suer stated that he felt that the stock bronze fountain would be an attractive fountain. He further stated that he also has concerns with the required additional funding. He also stated that he agreed with Mr. Steinbrink and would like City Council to consider planning a public art project for the Neuilly-Plaisance Plaza in the near future.

Mr. Combs noted that he agreed with everyone comments.

Mayor Harbison indicated that she would support the purchase of the stock bronze fountain. She further indicated that she would also be interested in pursuing a public art project for Neuilly-Plaisance Plaza and suggested that after next year, City Council start working on this project.

An Ordinance Enacting and Adopting the 2007 Recodification to the Code of Ordinances and Declaring an Emergency

Mr. Donnellon explained that this piece of legislation is an ordinance to update the City of Montgomery Code of Ordinances through the close of calendar year 2006. The ordinances adopted since March 23, 2005 were submitted to American Legal Publishing, which incorporated these changes in our Code, as well as updating our Code to include state law changes which impacted our traffic and criminal enforcement. He further explained that some of the highlights in the recodification included the update to the Land Usage Code through 2006. The Land Usage Code updates include the Planned Unit Development legislation and Interim Development Control District legislation, which were passed in this last calendar year. The Criminal Code update included state law changes specifically in the laws governing operating a vehicle while impaired or under suspension. There were

also updates for stop and identify rules and motorized devices to better regulate bicycles and scooters. Other new changes included were comprehensive updates in Chapter 137 to bring the Code into compliance with the new concealed carry law in the State of Ohio.

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, 2007 Related to the Montgomery Triangle Tax Increment Financing Fund

Ms. Hilvert explained that this ordinance will serve as a companion piece to the resolution authorizing the City Manager to accept a bid and enter into a contract with Langenheim and Thomson for the Triangle Point Plaza Project. She further explained that as indicated earlier the resolution represented the contractual legislation for the Triangle Park Project and this ordinance would provide for the additional \$113,000 appropriation.

ADMINISTRATION REPORT

Ms. Hilvert reported on the following items:

- The offices will be closed on Monday, December 25th and Tuesday, December 26th in observance of the Christmas Eve and Christmas holidays. City offices will also be closed on Monday, January 1st in observance of the New Year's Day holiday.

Ms. Hilvert requested an Executive Session to discuss matters related to Labor Negotiations.

LAW DIRECTORS REPORT

Mr. Donnellon reported that recently we had closed two cases in which the City was involved in litigation.

The first involved a wrongful death action in which the Fire Department and some of our paramedic/EMT's were sued as well as Jewish Hospital and several local physicians. Our own review indicated that our Department members responded appropriately and in no way contributed to the woman's death. The case was voluntarily dismissed by the Plaintiffs. Plaintiffs are pursuing solely the primary care physician.

The second case involved a lawsuit originating from a police action in Lockland. Several communities and their officers were sued for their participation in a drug sweep. Our own internal review indicated that our officer acted appropriately throughout the stop and search. A settlement was reached with all communities through mediation in the Federal Court. MVRMA contributed a small amount of money to cover attorney's fees and damages, and the City agreed to use this incident as part of their Department training to discuss what was done correctly and what may have been done incorrectly by others at the scene. The insurance carrier for another municipality involved in the incident paid the bulk of this claim.

CITY COUNCIL MEMBERS REPORTS

- Mr. Combs reminded everyone that the Financial Planning Committee meeting will be cancelled for the month of January.
- Mr. Suer explained that the City has a Records Commission that meets twice a year in a very short meeting to review the disposal of city records, which is regulated by Ohio law. The former citizen representative resigned from the committee earlier this year due to his moving out of town. To date, the city has been unsuccessful in soliciting another citizen volunteer, due largely to the very minimal

assignment responsibility, as well as a willingness to become familiar with Ohio law governing disposal of records. He further explained that as a creative solution, the staff has suggested that the appointment be one of the City's employees who resides in Montgomery as the citizen representative. He also explained that Matthew Vanderhorst has agreed to serve in this capacity until such time as another citizen volunteer could be identified.

Mr. Suer recommended the appointment of Mr. Matthew Vanderhorst to the Records Commission until such time as another citizen volunteer could be identified. City Council unanimously agreed with the appointment.

Mr. Suer noted that the comments received at the November 15, 2006 work session, on the draft 2007 City Council goals, have been incorporated into the documents and everyone should have received a copy. He further noted that at that meeting everyone agreed that they would like to take active roles in working with staff to implement the Strategic Plan and that each City Council member would take an active role in one or more areas of the Strategic Plan. Members agreed to report their preferences to the Mayor Harbison by the end of January, 2007.

- Mr. Steinbrink noted that the Planning, Zoning and Landmarks Committee will meet on Monday, January 8th at 4:30 p.m. at City Hall. He further noted that the Comprehensive Community Plan Review Ad-Hoc Committee will meet on Monday, January 9th at 5:00 p.m. at City Hall.
- Mayor Harbison indicated that she, Ken Suer and Cheryl Hilvert met with Dr. Adrienne James and representatives of the Sycamore Community School to begin a dialogue to enhance our communications with the school district. The group will meet again in April and has agreed to discuss items of mutual interest as well as work to identify ways in which we can work together as partners in the future.

MINUTES

City Council reviewed the minutes from the November 15, 2006 Work Session and December 6, 2006 Business Session.

OTHER BUSINESS

Ms. Hilvert explained that the City has been asked to provide a letter to the Ohio Department of Liquor Control to authorize the transfer of the economic development liquor license from Price Enterprises Inc. dba Pomodoris Pizza to Pizzadori LTD dba Pomodoris Pizza that has previously been approved at this location. Staff would appreciate receiving direction from City Council as to whether or not it has any objections to the transfer of this liquor license and the sending of such an endorsement letter. She further explained that the Police Department has indicated that there is no objection on their part to the transfer, based on the operations at the current location or the background of the owners of the Pizzadori LTD dba Pomodoris Pizza.

Mr. Niehaus moved to direct staff to provide a letter to the Ohio Department of Liquor Control endorsing the transfer of the economic development liquor license from Price Enterprises Inc. dba Pomodoris Pizza to Pizzadori LTD dba Pomodoris Pizza. Mr. Joffe seconded. City Council unanimously agreed.

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

Mr. Combs moved to adjourn into executive session to discuss matters related to labor negotiations. Ms. Roesch seconded.

The roll was called on the suspension of the rules and showed the following vote:

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

City Council adjourned into executive session at 8:41 p.m.

City Council reconvened into public session at 8:50 p.m.

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. Joffe seconded.

City Council unanimously agreed.

City Council adjourned at 8:51 p.m.

Clerk of Council