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City of Montgomery
City Council Work Session Minutes
August 22, 2007

Present

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

Council Members Present

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

Council convened in Council Chambers at 7:15 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. Niehaus seconded. City Council unanimously agreed.

GUESTS AND RESIDENTS

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

LEGISLATION FOR CONSIDERATION TONIGHT

Mayor Harbison explained that on August 8, 2007, the City Council met as the Initiative Petition Review Committee and conducted a public hearing regarding the proposed Montgomery Road park initiative petition.

Mr. Donnellon explained that at the meeting on August 8, 2007, the Initiative Petition Review Committee went through the petition, discussed the validity of the petition and talked about trying to resolve some of the language conflicts to be able to put this question clearly on the ballot. He further explained that Mr. Jenner had expressed an interest on behalf of the initiative petition committee to immediately try and work out those language issues. A meeting was held on Wednesday, August 15, 2007, to discuss some of these issues where Mr. Donnellon expressed his concerns to see if everyone could get to some kind of compromise legislation. The process allows the city to come to compromise legislation; City Council will adopt that legislation; and then the initiative question itself becomes law within the city in the form that is agreed upon, and does not have to go to the ballot. At the last meeting, City Council said that their recommendation was to try and tie together the issue of acquisition of the property with the issue of funding the acquisition of the property with a park levy. At this meeting, representatives of the City and representatives of the Initiative Petition Committee, walked through the petition, and through the areas of concern. The city representatives shared with Ms. Pillich and Mr. Jenner, the budget projections that the city was operating from, where the city felt that there was a need to supplement the purchase price with a levy. What was shown was a projected purchase cost of \$3.5 million, which is not based upon a formal appraisal of the property, but based upon an idea of what minimum property value might be on comparable residential sales along Montgomery Road. What also was factored in there, what would have to be guessed at this time, was the development cost for the property and litigation cost, which could include attorney

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54 fees and expert witness fees if the city is forced into eminent domain litigation with the property owners to
55 acquire the property for parkland. With this information, a total package was created for the city to use in the
56 analysis of \$3.5 million and what was shown was where that \$3.5 million impact on the budget would consume
57 the reserves in year 2010, which would cause the city to start looking at other revenue sources to rebuild the
58 reserves. Mr. Donnellon continued to explain that what was being proposed was to look at adding a revenue
59 source by way of a levy so that the city is not forced to either adjust the budget significantly or to start eating up
60 the reserves for which the city has already made some commitments. He continued to explain that the meeting
61 was adjourned with the agreement that the group would look over the budget projections. It was also agreed that
62 the petitioners would look over the questions that he had raised relative to the language within the petition. He
63 continued to explain that it was his understanding and from the response he received from Ms. Pillich, which he
64 has filed a copy of with the Clerk of Council, is that the petitioners do not want to tie the funding source into the
65 question of the acquisition of property (a copy of the letter is attached). He continued to explain that what he
66 was not unsure about is whether the objection is to have any exterior funding source or if the objection is to
67 having a funding source question on the ballot with the question of acquisition. The letter did indicate some
68 willingness to address those question within the petition itself. He continued to explain that City Council and
69 the petitioners have the opportunity tonight to work out these concerns, which could include putting the issue to
70 the ballot with corrected language to clearly pose the question, or come up with a compromise that would let
71 people know that there is a cost involved. He continued to explain that no one has ever argued against there
72 being a benefit for this piece of property as a included in the inventory of parks within the community and no
73 one would argue that if the property was donated to the city, it would not be a benefit, nor if the city could
74 purchase the property very cheaply, it would be a benefit. In a cost benefit analysis, what it ultimately boils
75 down to is this discussion of cost, which includes the cost currently within the budget and the cost long term
76 with acquisition. The city does not know the cost associated with acquisition and it would not be appropriate for
77 the city to speculate on what the acquisition cost may be if the city is going to end up in litigation, so the cost
78 that the city can control in the cost benefit analysis is the source of revenue. He asked if the petitioners were
79 saying that they will never tie the two together or are they disagreeing with tying it in with the 1.25 mil levy.
80

81 Ms. Connie Pillich, 9910 Forestglen Drive, stated that she was one of the petition committee members and that
82 she would like to respond to Mr. Donnellon's single question about what they view and what their opinion is of
83 the tax levy. She explained that the committee has no opposition to the city putting a levy on the ballot, or to the
84 city's choice of various funding schemes. The committee is not willing to tie the levy into the same piece of
85 legislation as the acquisition. She continued to explain that when the committee crafted this Natural Parkland
86 Initiative, the committee did have one paragraph that talked about funding and when they went into looking at
87 creating this initiative, they did not go into this with their eyes closed. They went through a lot of the city's
88 financial records, that the city provided them, and they looked at them and had three professionals look at them,
89 (i.e. not her), and what they saw was what they perceived as some flexibility and also, based on their experience
90 with the city for the different spending priorities the city has used in the past ten years, they felt that it would be
91 inappropriate for them to tie the city's hands as to exactly how they would fund this acquisition. She continued
92 to explain that they thought it would be more appropriate for the city to evaluate this in the contexts of the
93 Finance Committee, which is where you look at numbers, at budgets, at the projections, and costs and see where
94 there might be savings, exterior funds, and interior funds. They obviously noticed that there was the \$11 million
95 reserve and they looked at that but for them to tell the city exactly how the city needs to fund the park
96 acquisition, they felt was unnecessarily tying the city's hands and they thought the city could use it's resources
97 and it's strengths to figure this out on it's own, therefore, they are not comfortable with tying it to the levy.
98 Most of the people in their group and the experts that they consulted do not agree that a levy would be the only
99 way to provide the funds for this acquisition and she understands that there is a difference of opinion. She
100 accepts that and she thinks that it is alright to talk about that, and if the city thinks that it is the best thing to do to

101 let the voters decide, then she thinks that is what the city should do, but as far as the committee is concerned, the
102 Natural Parkland Initiative Committee, they don't want to have this acquisition forced into a tax levy.
103
104 Mr. Donnellon asked who the experts were that the committee relied upon.
105
106 Ms. Pillich indicated that she could get Mr. Donnellon a list of their names.
107
108 Mr. Donnellon asked if Ms. Pillich could not remember their names.
109
110 Ms. Pillich indicated that she could not remember their company names.
111
112 Mr. Donnellon asked if three different companies evaluated this.
113
114 Ms. Pillich indicated that she did not know exactly how many.
115
116 Mr. Donnellon asked if someone else told Ms. Pillich that other people looked at it. He also asked Ms. Pillich if
117 that was what she was implying.
118
119 Ms. Pillich indicated that she met with the reviewers herself.
120
121 Mr. Donnellon asked if Ms. Pillich if could not remember who they were.
122
123 Ms. Pillich indicated that she could not remember the company names.
124
125 Mr. Donnellon asked Ms. Pillich is she could remember the individual's names.
126
127 Ms. Pillich indicated that she could get Mr. Donnellon those names for him.
128
129 Mr. Donnellon explained that his own frustration is that the City Council has to make a decision tonight and that
130 Ms. Pillich is telling City Council that they have to make this decision and that she is relying on outside experts
131 without telling City Council who they are and City Council does not know whether or not these people have the
132 same level of expertise in public finance as those who have walked through the process and have made the
133 projections.
134
135 Ms. Pillich indicated that she could probably get Mr. Donnellon those names. She further indicated that she had
136 her phone with her; however she was not sure that she could reach them.
137
138 Mr. Donnellon noted that Ms. Pillich indicated that the experts had indicated that there was flexibility in the
139 budget for this acquisition. He asked if she could share with City Council where this flexibility is located.
140
141 Ms. Pillich stated that she personally could not, but maybe someone in the group could.
142
143 Mr. Donnellon asked if Ms. Pillich could look in her phone and see if she could obtain the names.
144
145 Mr. Myron Wolff, 10729 Deerfield Road, explained that if this was a business and stock was traded and you
146 were trying to support the earnings, there is probably a lot of different things a company would do when things
147 get tough. He further explained that generally there are possibilities that maybe the city needs to look at; if there
148 is some fluff in the budget and sometimes there are times when the city has to do more with less. He also

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149 explained that in the 2006 comprehensive audit, it shows that the city had a \$13 million surplus in the general
150 fund and that he thought that what it boils down to is what the priorities are. He continued to explained that the
151 city talks about how there is apparently a commitment relative to how those reserves are going to be spent in the
152 future because these projections show that the reserves are going to decline from \$13 million in 2006 to \$3
153 million in 2011 or 2012 and when you look at the city's wish list, it indicates that there are definitely competing
154 priorities. He continued to explain that as various other people have already stated, "Let the voters decide", and
155 if they decide that this land should be purchased then it would be up to the city to figure out or create a blue
156 ribbon committee where perhaps those people can help assist in putting a financial package together.

157
158 Mr. Donnellon indicated that his question must not have been understood because his question was that this
159 group has told the city that Mr. Wolff and other experts have reviewed the budget and based upon that review a
160 determination was made that there is flexibility in the budget to acquire this property. He asked where that
161 flexibility is that they are relying on, so that City Council can respond to it. He continued to explain that there
162 were a lot of people at the last meeting who expressed their frustration that we are not talking concrete concepts
163 and concrete numbers.

164
165 Mr. Wolff stated that budgets are not necessarily always chipped in stone. He further stated that he thought that
166 when you look at the numbers in the last ten years, in 1997, there were about 80 full-time equivalent employees,
167 with 55 full-time and 35 part-time and today, the city has, according to the last annual report, about 105
168 equivalent full-time employees and the city is the same size.

169
170 Mr. Donnellon asked Mr. Wolff if he was proposing that the city cut staff.

171
172 Mr. Wolff indicated that it is up to the city to decide; how they fund it and what the real priorities of the city are.

173
174 Mr. Donnellon indicated that City Council has laid the priorities in the budget and he was just asking again, and
175 not based on the 1997, where in the budget, that they reviewed, did they identify the flexibility that the city can
176 acquire this parkland.

177
178 Mr. Wolff stated that there is \$13 million in reserves.

179
180 Mr. Donnellon asked at what year end was there \$13 million.

181
182 Mr. Wolff stated in December 31, 2006.

183
184 Mr. Donnellon asked what the projected reserves would be on December 31, 2007.

185
186 Mr. Wolff indicated that he did not know, however he thought that it would in the \$12 million to \$13 million
187 range.

188
189 Mr. Donnellon asked Mr. Wolff if he did not see the budget projections that were given to the committee last
190 week.

191
192 Mr. Wolff indicated that he had not seen those, but he has seen some stuff that was on the website.

193
194 Mr. Donnellon asked Mr. Wolff if he was indicating that he disagrees with the spending priorities the city has
195 set up for these reserves.

196

197 Mr. Wolff stated that he did not know how the city was spending the reserves down; however, he did know that
198 the city had a wish list and there are a lot of different interesting things on the list.
199

200 Mr. Donnellon asked Mr. Wolff if in factoring this budget, if they put a price tag on this wish list and
201 determined that the city should reprioritize and not spend on the wish list.
202

203 Mr. Wolff indicated that it was an option and he thought that if this is brought to the voters, that the voters will
204 decide how the city spends the money.
205

206 Mayor Harbison asked Ms. Hilvert if she would address the employee count, because this is incorrect.
207

208 Mr. Wolff stated that he was taking the information from the audits and that he thought that the city's source
209 documents should be correct.
210

211 Ms. Hilvert explained that the city had 53 full-time equivalent employees in 1995 and has 66.5 full-time
212 equivalents in 2007. She further explained that there are an additional 30 part-time firefighters, which are not
213 included in the full-time equivalents because they work various schedules, with some of them working 8 hours a
214 month and others working 20 hours a week. She also explained that it is difficult to identify them as full-time
215 equivalents, so that is an asterisk in that number, as are any type of seasonal employees that the city hires for the
216 summer.
217

218 Mr. Wolff stated that we could sit here and go tit for tat; however, he did not think that it was really the solution
219 and he thought that if City Council wanted to sit down and put their heads together, that reasonable people are
220 generally able to work things out. He further stated that he did think that this group never intended to tell City
221 Council how or where they might cut or where they take in account or accommodate reserves. He explained
222 that as the revenue stream increases then allocate some of those dollars for the funding of this acquisition. He
223 further explained that it is not uncommon for places like this to take a cut and that a five percent cut in a \$10
224 million or \$12 million budget for two or three years is not a large sacrifice.
225

226 Mayor Harbison explained that this City Council put in place practices, back in 2000, to build into the budget
227 surpluses that would cover the budget for a year, should the city have a major downturn. She further explained
228 that City Council has repeatedly stated that this what this money is set aside for and when the city lost
229 Cincinnati Eye Institute last year, the city did not miss a beat with the services to the citizens, road
230 improvements and sidewalk projects were kept on track, because the city has the reserves. She also explained
231 that those are prudent financial decisions City Council has made and sound fiscal principles that City Council
232 has built the city on.
233

234 Mr. Wolff stated that the question is how large a reserve does the city really need, if you have a \$10 million
235 budget and a \$13 million reserve, then the city has an access of \$3 million. He further stated that he does not
236 question the value of the reserves, but at the same time, if the city is going to have one year's worth of reserves,
237 and in 2011, the city is projecting \$4 million, then there is an inconsistency in what we are talking about here.
238

239 Ms. Hilvert explained that the reason the city is showing declining fund reserves in the future is because the city
240 is in danger of losing various state funding sources. She further explained that the tangible personnel property
241 tax is going away, the State Legislator has threatened for many years to eliminate the estate tax and the city was
242 scheduled to have that removed from the budget in 2007; the city has added that back in for this year, as well as
243 the next two years; however, the State Legislators continue to state that it will be removed, so there is a reason
244 for the declining fund balances. She also explained that the earning taxes are projected at two percent in the

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245 outer years, and the city is basically at zero percent for 2007 in terms of the city's tax increase over previously
246 years, so the estimate for two percent may be bad. She continued to explain that the city projects on the best
247 estimates into the future; the city does not do only a one year budget, as many communities do, but the city
248 budgets for four forecast years that allows the city to look at trends and react to those trends, so that the city is
249 not finding ourselves in a situation where it is an emergency and that is the purpose of the five year budgets that
250 the city does and the trends speak for themselves in terms of the information that has been given.

251
252 Ms. Pillich stated that she was not sure what you are was getting at with these questions, because you are getting
253 into a lot of details about the budgets and funding and she thought that the city has a Finance Committee where
254 that is suppose to go on. She further stated that she does recall, Ms. Hilvert talking at a Finance Committee
255 about the Cincinnati Eye Institute leaving, but the city was still doing well and had not really suffered any
256 consequences.

257
258 Ms. Hilvert stated that to say that the city suffered no loss of revenue from the loss of the Cincinnati Eye
259 Institute does not make sense.

260
261 Ms. Pillich noted that she had recorded Ms. Hilvert's comments and we can to go on and on about this, but she
262 thought it was kind of a nice thing that Ms. Hilvert should have been proud of that there are other sources of
263 revenue that made up for that shortage.

264
265 Mayor Harbison asked Ms. Pillich if she was able to come up with the names that Mr. Donnellon had asked for.

266
267 Ms. Pillich stated that she would like to know what he wants, because they talked to Fidelity, Mr. Wolff's
268 company, but she did not know what he wanted and how this has anything to do with the issues tonight. She
269 further stated that we can go back and forth on how to carve things out of the budget, and how we can look for
270 new sources and we can, but is that what we are here for tonight or are we to put this issue on the ballot.

271
272 Mr. Donnellon explained that it is unfortunate that the city is forced to discuss these issues because rather than
273 ramping up with first having discussion of finance and discussion of what should be acquired, the city is up to
274 step four, which is acquiring property, and City Council has to make an intelligent decision and a responsible
275 decision tonight if the city is going to ask the people to commit to buying the property, to make sure there is a
276 funding source for that property. He further explained that everything has a price that is too high that everyone
277 says "I'm sorry I cannot pay you that for that property". He asked if there was a ceiling that they all saw to this.

278
279 Ms. Pillich indicated that they did not discuss this. She further indicated that Mr. Donnellon might recall several
280 weeks ago when Mr. Steinbrink first discussed and presented the legislation about the tax levy, she came up and
281 asked what other options City Council was considering and she has not heard any discussed at any City Council
282 meetings. She also indicated that if that is City Council's choice then that is City Council's choice, but she
283 thought that City Council has had a lot of time to start discussing that and not to start doing that at 7:30 on the
284 night before it goes to the Board of Elections. She further indicated that she was wondering why City Council
285 suddenly wanted to start talking details when they were ready to start doing that weeks and weeks ago.

286
287 Mr. Steinbrink stated that Ms. Pillich was not ready to discuss any details right now.

288
289 Ms. Pillich stated that the city should not have waited until 7:30 the night before it goes to the Board of
290 Elections, and she thinks that the city had a chance for the Finance Committee to work on it and that is what she
291 expected to happen. She further stated that to her, the city goes to the accountant, to the finance officer and the

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292 City Council members that are responsible for the Finance Committee and work on this and the city brings
293 people to the table and explore alternatives.
294

295 Mr. Donnellon asked what about the other language within the petition that would clearly frame this question to
296 the public and what the group was willing to do with that.
297

298 Ms. Pillich asked Mr. Donnellon if he was talking about the endowment.
299

300 Mr. Donnellon explained that he was raising the question that the group has a commitment written in the
301 petition that the city will create an endowment specifically for this park, which is a special fund. He asked what
302 was the purpose of an endowment or special fund for this park. He further explained that special funds are very
303 difficult to undo once they are started in a city's budget. He asked if the group was in agreement to take that
304 issue out of this, so everyone is focusing on acquiring a park or not acquiring a park.
305

306 Ms. Pillich stated that anytime you talk about an agreement, everyone has to give a little something, so what is
307 the group going to get if they give this up.
308

309 Mr. Donnellon stated that he would put his entire requests on the table and then Ms. Pillich could give him the
310 wish list that she wants. He explained that the group has language in the petition for an endowment that is a
311 special fund; there is no reason for that park to have a special fund. He further explained that the city has a
312 Parks and Recreation Commission Fund and if that park is acquired, it can be part of that budget where it can be
313 budgeted and cared for as part of that park. He continued to explain that the petition also includes that a special
314 trust be created just for this park. The city has language in Chapter 50.01 of the code, which preserves and
315 protects the parkland and he did not know why the city had to create special trust for this park. He continued to
316 explain that the petition also includes the redefining of the role of the Parks and Recreation Commission just for
317 this park. By Charter the Parks and Recreation Commission gives advise to the administration relative to the
318 development and maintenance of the parks, why does this park require that the Parks and Recreation
319 Commission have complete control of this park. He asked why this piece of legislation is set up so that it can
320 only be repealed by a vote of the people.
321

322 Ms. Pillich noted that she has been in contested situations and none of them have centered around a piece of
323 land like this; usually it is around peoples rights, their liberty, their children, and things that are much more dear
324 and basic. She further noted that in those types of situations, she expected it to be hot, but she does not
325 understand the heat over this. She also noted that she has seen City Council handling difficult situations before
326 and what she has heard come from them before is the leadership that we will get through this; people disagree
327 and that is how human beings are, but we will get through this. She further noted that she did not understand the
328 heat, the ridicule, the faces and she does not understand.
329

330 Mayor Harbison stated that a lot of the ridicule that has been fueled in the room has been by Ms. Pillich's group
331 towards City Council and they have taken it; however, as Ms. Pillich told City Council in one session, it was
332 their job. She further stated that Mr. Donnellon has asked Ms. Pillich some questions and City Council was yet
333 to hear the answers.
334

335 Ms. Pillich indicated that she was getting to that, and if anyone in their group has misbehaved then she
336 apologized on behalf the group; however, the group does hold City Council to a higher standard. She explained
337 that this petition does not change the purpose or powers of the Parks and Recreation Commission. This was
338 written after reviewing the City Charter and the powers of the Parks and Recreation Commission and all this
339 says is that what the City Charter tells us that the Parks and Recreation Commission direct everything that has to

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340 do with the parks. They are the guiding policy makers and they make their recommendations to the City
341 Council and she sees nothing in the petition that is contrary to that. She continued to explain that the group did
342 not feel that strongly about the trust; however, the purpose of putting the park into a trust would be for safe
343 keeping and the very name of a trust indicates that it something that you can feel secure in and you would not
344 worry about it for the long run. She continued to explain that a nature park would not be that expensive to
345 maintain, because it is mostly nature and compared to the other parks, would not have a lot of active space and
346 open passive parkland that needs to be manicured and cut. She continued to explain that the idea that she
347 explained to Mr. Donnellon when they met was that the theory behind the endowment was that they thought it
348 would be more comfortable for the city and the citizens if an endowment could be created to handle the ongoing
349 cost and expense of the park; to take it off shoulders of the citizens. She continued to explain that the Pioneer
350 Park levy established a special park fund to build a park, so creating an endowment would not be a big step
351 away from that type of fund. She continued to explain that Section 8 of the petition is the area that everyone
352 gets all excited about, which states "repeal by electors only". The group felt that voters should make this
353 decision and City Council has the power to put an issue on the ballot and if there comes a point where the
354 purposes of this initiative becomes untenable, undoable, insurmountable or for whatever reason it needs to be
355 changed, just put it back on the ballot. One of things they were pleased about when they started working this
356 project was that most of them had not participated in democracy like this before and it was very educational,
357 interesting and a lot of hard work to get here, but there is nothing wrong with participating in democracy and
358 letting the voters decide. She continued to explain that she knows Mr. Donnellon is concerned about how long
359 that might take, but it is not going to be that difficult for City Council to do that, since they have the authority to
360 put something on the ballot unlike the citizens who have to go out and get signatures. She continued to explain
361 that they collected over 700 signatures and clearly that means a lot of people were listening or interested and
362 wanted to participate in democracy.

363
364 Mr. Donnellon asked if the answer was no and that the group is not willing to change any of the language.

365
366 Ms. Pillich stated that she really wanted to help and most cases settle and she thinks that it is much better if
367 everyone comes to the table and participates in the decision and it is better for everyone and it starts to heal the
368 wounds and lets everyone start to move on. She further stated that she is not persuaded that we need to do that,
369 but if City Council wants to talk about it for a few more minutes then she would be happy to do that and she
370 would like to get her other committee members to talk about it, but right now she cannot say that she has the
371 authority to change it.

372
373 Mr. Donnellon asked if the answer was no.

374
375 Ms. Pillich indicated that she had given her answer.

376
377 Mr. Donnellon asked if Ms. Pillich is asking City Council to adjourn this issue and come back to it when Mr.
378 Lennard arrives.

379
380 Ms. Pillich indicated that she did not know if Mr. Lennard would be able to be here, because his wife has soccer
381 practice and he has a little one.

382
383 Mr. Donnellon asked Ms. Pillich, who the other member of the committee was she was waiting on.

384
385 Ms. Pillich stated that Mr. Jenner is here.

386

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387 Mr. Donnellon indicated that he was confused because he thought that Ms. Pillich had said when your other
388 member of the committee gets here you can discuss it.
389

390 Ms. Pillich noted that Mr. Donnellon misunderstood that what she said was he gets up here next to her. She
391 further noted that if City Council would like to talk about it, she would not mind, because she likes exploring
392 things and she would like to find something, but what did City Council think that they would get out of it or
393 what would be the consideration for them.
394

395 Mr. Donnellon stated that at one level he found that kind of question offensive, that City Council was being
396 asked; what it was going to give to you citizens so you can do the right thing with the ballot language. He
397 explained that it is like; I'm up here and I need to be paid something or given something when he was just trying
398 to get this question framed, so that when people vote on it; they know clearly what they are voting on; should
399 the city acquire this land or not; and they are not confused by should the city create a trust or not; or should the
400 city create an endowment or not; or should the city change the role of the Parks and Recreation Commission or
401 not; or should the city create a law that cannot be changed or repealed like any other law in the community by
402 the Charter. He continued to explain that he was trying to have that question clearly placed upon the voters and
403 trying to put it in a position, if there is an election protest filed by a citizen, that it can sustain that challenge, and
404 trying to put it in a position that if it is challenged any other time or by any other litigation, the city can stand up
405 and say this was a question simply put and simply answered. He continued to explain that he was trying to meet
406 the challenge of the statue that says that a initiative shall only have one subject and he is trying to uphold the
407 Charter that says the legislative powers are reserved to a City Council of seven members and preserve that right
408 that those seven members have by Charter. He continued to explain that he did not know what else the group
409 was demanding by saying; settle and give me something.
410

411 Ms. Pillich stated that Mr. Donnellon was asking them to change the language.
412

413 Mr. Donnellon indicated that was correct.
414

415 Ms. Pillich stated that she just re-read the petition and it does not mandate a trust, it just says that City Council
416 would be empowered to create the trust.
417

418 Mr. Donnellon stated that the language could be taken out because it is superfluous.
419

420 Ms. Pillich indicated that could be left in because it does not make a difference.
421

422 Mr. Donnellon stated that it could make a difference if someone disagrees with creating a trust for the city. He
423 further stated that if the question is about acquiring the property then let's put that question out there; vote yes;
424 vote no; let's not complicate it with buying it and then put it in a trust.
425

426 Ms. Pillich stated that she was sure that it could be made into one sentence, but she thought that it was
427 appropriate first of all to put in a little bit more detail than one sentence.
428

429 Mr. Donnellon explained that it may be one sentence when it goes to the ballot, but wouldn't the detail be in the
430 whereas clauses articulating why this park should be acquired and then simply stating the question on the ballot,
431 should the City Council go forward and acquire land and identify the particular parcel numbers; vote yes; vote
432 no.
433

434 Ms. Pillich indicated that it might be the language that appears on the actual ballot, but it does not seem to her
435 that legislation is always written in such simple language.

436
437 Mr. Donnellon asked Ms. Pillich if that was the question that her group wanted on the ballot.

438
439 Ms. Pillich indicated that the question is should the city buy the land, but the petition was drafted to have all
440 these rights with it.

441
442 Mr. Combs stated that he was confused because when Pioneer and Weller Parks came in there was no discussion
443 of special provisions: trusts, special termination provisions, buy back provisions, or buy out provisions. He
444 further stated that the commitment that City Council has historically taken, and he thought that everyone here
445 has great respect for the city history, is that they would never turn their back on that commitment. He also
446 stated that in his mind and everyone else's mind here, it would have to be an absolute crisis that would cause
447 anyone to consider selling parkland, because it is too hard to come by. He explained that the problem he is
448 having with this process, is that the initiative gets dumped roughly two months before the election cut off date,
449 where Pioneer Park was planned out for at least two or three years. The Parks and Recreation Commission was
450 involved, the Committee charged them with that responsibility, and there was a broad base of support in the
451 community, because people know and understood, by the time it reached the ballot, what it was for, what they
452 were getting, and how much it was going to cost. He further explained that it has been stated again tonight that
453 the group does not have an idea of what that cap cost is.

454
455 Ms. Pillich indicated that she would not know that.

456
457 Mr. Combs explained that this is what planning this thing over a period of a few years would sort out.

458
459 Ms. Pillich indicated that if the city took a few years that the land would not be a nature woods anymore.

460
461 Mr. Combs stated that he understood that, but his point was, if it is planned and you build community support
462 for an idea, you have a better chance of helping people understand what it is all about.

463
464 Ms. Pillich stated that it would be more appropriate for Mr. Jenner to speak on Pioneer Park, since he was
465 involved in it and is very well versed in the history.

466
467 Mr. Jenner, 9223 Village Green Drive, noted that he was one of the initiative petitioners for Pioneer Park. He
468 explained that at the last meeting Mr. Niehaus had some history that he expressed about Pioneer Park. He
469 further explained that the difference between what they are trying to do now and Pioneer Park is like night and
470 day, because the city owned the land that Pioneer Park was to be built on. Mr. Comer Bond and his friends and
471 neighbors on Montgomery Road were trying to get the city to rezone their land commercial. The Mayor at the
472 time, Mr. Gene McCracken, and City Council would not go along with that. They came up with an initiative
473 petition; tax reduction, which in effect took money away from Pioneer Park. Now the city had already
474 committed to buy it, but they could not pay for it. At a Parks and Recreation Commission meeting at
475 Terwilliger Lodge, Jon Bormet, the City Manager at that time, came up with a proposal that was to build 27 one-
476 third acre lots on the flat land of Pioneer Park and then give the Parks and Recreation Commission and the city,
477 the pond and the nature preserve in the back. He also explained that he had gotten into the Parks and Recreation
478 Commission because he was a soccer coach and a baseball coach and they were playing most of their games in
479 Blue Ash, and he was upset because more and more people were going to Blue Ash to play and he could
480 envision the day when Blue Ash would send them packing or charge them an exorbitant amount of money to
481 play there. They talked to their City Council representative, who went to City Council, who explained that the

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482 city needed large baseball and soccer fields and the city needed land to build their own fields and stand up on its
483 own two feet. The first was Dulle Park where a soccer field was built. The city also took the home that the
484 Dulles' lived in and built a lodge, which is Terwilliger Lodge. The city at the time also purchased the O'Keefe
485 property, which is the lower part of Pioneer Park. He continued to explain that the Parks and Recreation
486 Commission was not aware that the city was negotiating for the other land; had they known this in advance, they
487 would not have spent the money that they did to redo a residential structure to make it commercially viable. The
488 Parks and Recreation Commission would have much rather built a new lodge overlooking the pond at Pioneer
489 Park. He continued to explain that he was really astounded at Mr. Donnellon and City Council's approach to
490 this by saying; how come we don't know how much this costs; how come we don't have a plan. We are trying
491 to be proactive to get the last 10 acres of land and develop the land for a park. He continued to explain that he
492 has been here for twenty four years and that land has been vacant for twenty four years, and if the city ties it up
493 and buys it tomorrow, he could wait another twenty four years for the city to do something, he really did not
494 care. It will be 102 degrees tomorrow and he never remembered it being 102 degrees in Montgomery. Part of
495 the problem is all this concrete, all these building, all these air conditioners and all the traffic going up and down
496 Montgomery Road. What's the matter with doing our part in a little green space, clean air, and making things
497 cooler. He noted that he is not necessarily a tree hugger, but he is all for parks; active, passive and he does not
498 have a problem with passive parks; the thing is, this is a whole different program. He further noted that when
499 the Parks and Recreation Commission talked to Mr. Bormet and they basically had a meeting a Terwilliger
500 Lodge until about 12:30 at night and they sent him packing, and the main reason was the 27 one-third acre lots,
501 and the city was taking the flat land that the Parks and Recreation Commission wanted for ball fields and the
502 Park Commission said absolutely not, and that this deviation would only create problems, and they would not
503 would not go along with this program. At 12:30 that night, he and Janeanne Archiable stood in the parking lot
504 for another hour trying to figure out what to do. They came up with this initiative petition idea; they got
505 hundreds of people in town involved, and the city now has a park. A lot of people got involved and a lot of
506 people worked on this and it passed by 126 votes. It was paid off early, and Ms. Hilvert did a good job; she
507 refinanced at a lower rate and paid it off early, and he thought it was great. He continued to explain that this is a
508 whole different ball game; the city has some vacant land, and all they want the city to do is just tie it up and he
509 did not care how the city did it, if they can get an option or something that stops anyone from developing it, that
510 is all they want the city to do, is tie that thing up. He noted that the city seems to have more money than brains
511 because everyone is talking about hiring someone to do an ADA concept, hiring this or hiring this. The city has
512 had a great volunteer program over the years and all the city has to do is go down to the architect department at
513 the University of Cincinnati and say hey would some of your kids or all of your kids like to work on a project?
514 The city has this land: would you like to come up with something in a way of a nature preserve, make it a
515 contest, it does not have to be done right now. He continued to explain that he was a scout master and they did a
516 lot of eagle projects in Pioneer, Dulle, Weller and Johnson Nature Preserve; all it cost the community for the
517 material. Eagle Scouts need projects, and they can do these trails in a nature preserve like no one else and they
518 do a good job. All they have to do is roll a roller over dirt, gravel and you can compress it enough so you can
519 get a wheel chair across it and the city does not have to hire an ADA guy or anything else. He continued to
520 explain that if the city needs help, there are books that are three inches thick about ADA specifications. All the
521 city would have to do is refer to them or they can talk to the University of Cincinnati and he was sure that they
522 would be very happy to be involved. They are always looking for something to do in the community. The city
523 does not have to throw a ton of money at it, but the city does have to tie up this land. Years ago Swaim Park
524 Golf Course was being offered to the city to take care of their park needs, and the city could have been ten years
525 ahead of Blue Ash with a public golf course and the city could have used this as a revenue source and the city
526 lost it. The money that the city could have bought all 88 acres was peanuts in today's terms, so he does not want
527 to let this go and he thought that this is worth the fight to go forward with putting this thing on the ballot and
528 City Council is pushing them about what's this is going to cost, and what's your plan. First off, they cannot
529 negotiate for the city, and if they did, it would screw it up for the city to negotiate and they would get arrested

530 for fraud because they do not represent the city; they are not elected and they cannot do that. He continued to
531 explain that they have ideas as to what this thing goes for by getting on the website and looking at comparable
532 pieces of property, but this is City Council's job, not their job. As far as coming up with a plan, that is Parks
533 and Receptions Commissions job, they have an idea, but that is their job and if the city wants to hire an
534 architect and work them, then that is fine. He continued to explain that Pioneer Park already had a plan in place:
535 the land was owned, they knew what the cost was, they came up with the millage, they had a date of how long
536 the bonds would last, and they had all these answers. This is a whole new ball game; this is the city's last
537 chance to get the last ten acres, the last ten acres in town.

538
539 Mayor Harbison indicated that Pioneer Park also had a funding source attached to it on the ballot. She further
540 indicated that at the last meeting, Mr. Jenner had specifically said that he would do what ever it would take,
541 legally, to turn this into a park. She asked Mr. Jenner if there was a ceiling that his group has in mind that even
542 he would feel is ludicrous for the city to spend for this parkland.

543
544 Mr. Jenner asked why he would say anything about this at a public meeting, and if he told her \$10 million or
545 \$20 million, what does it mean?

546
547 Mayor Harbison stated that City Council would like to know. She further stated that he has stated that he does
548 not know how much it is going to cost and they do not know where the city is going to get the money from and
549 it is up to City Council to figure it out. That is their job, but if he wants City Council to raid the city's accounts
550 to do this then he is on a slippery slope. She asked if there was a figure that even in his mind would be too high.

551
552 Mr. Jenner indicated that a \$100 million would be too high.

553
554 Mr. Donnellon stated that this, pure and simple, was a question of acquiring the land, and as the attorney, all he
555 is asking is to put that question before the people and then go on with the initiative. We can then go on with the
556 debate of the funding, but let's make it a simple ballot question, if it is going to the ballot, so we don't have to
557 worry about a post-election protest, or pre-election protest. He further stated that it should be a simple question;
558 should City Council take all reasonable and appropriate steps to acquire the property across the street. He asked
559 why not put that question before the voters.

560
561 Mr. Jenner asked for a five minute recess to talk to some of the members.

562
563 Mr. Donnellon indicated that they could and that City Council could move on to the other items on the agenda.

564
565 **ESTABLISHING AN AGENDA FOR SEPTEMBER 5, 2007**

566
567 **PENDING LEGISLATION**

568
569 **NEW LEGISLATION**

570
571 **A Resolution Authorizing The City Manager To Enter Into A Contract With Bob McDorman Chevrolet,**
572 **Inc. For The Purchase Of A 2008 Chevrolet Silverado, 2500 HD**

573
574 Mr. Nikula explained that this is a replacement vehicle that was projected for the 2007 budget and will be
575 replacing a ten-year old pick-up truck that is in the fleet, a Dodge Dakota, and replacing it with a Chevrolet
576 Silverado. It is in line with the budget request of \$27,000 and the city was able to obtain this price through the
577 State of Ohio Cooperative Purchasing Program. He further explained that it is staff's recommendation that City

578 Council authorize the City Manager to enter into a contract with Bob McDorman Chevrolet for the purchase of
579 this vehicle.

580

581 Mayor Harbison asked if this was included in the budget.

582

583 Mr. Nikula indicated that it was.

584

585 Mr. Combs asked how old was the current truck, and if he knew the mileage on this vehicle.

586

587 Mr. Nikula indicated that the current truck is ten years old and the mileage is around 65,000.

588

589 **ADMINISTRATION REPORT**

590

591 Ms. Hilvert reported on the following items:

592

593 • There will be a dedication ceremony for the Robert Novak memorial garden area this Saturday at 3:00
594 p.m. This memorial garden is located just to the left of the city building. Vice Mayor Suer worked with
595 the Novak family and friends to come up with an idea to recognize Mr. Novak for his service to the
596 community and the family raised supplemental funds to add to what the city normally contributes for
597 former mayors who have passed.

598

599 • Two public meetings are scheduled next week for the review of the 10 year parks master plan. This is a
600 confirmation phase and it is not a meeting on the final plan. City Council will recall that this plan is
601 being developed by a gentleman, who has solicited public comments, ideas and thoughts relative to
602 improvements or enhancements that the public would like to see to the parks. That is the phase that the
603 city is in at this point and the next step is to go back to the public and ask if we heard you correctly.
604 These meetings are scheduled for Monday, August 27, 2007 at 6:30 p.m. at Terwilliger Lodge and
605 Wednesday, August 29, 2007 at 6:30 p.m. at City Hall. Once the public input section is completed, the
606 consultant will be able to complete the master plan, present it to the Parks and Recreation Commission,
607 and then present it to City Council by the October work session.

608

609 • The Planning Commission has voted to recommend to City Council that the Interim Development
610 Control District (IDC), that was created almost a year ago for the property that encompasses Market
611 Place Lane up to Hopewell Road, be extended for an additional six months. City Council will need to
612 hold a public hearing on the extension of that request. The IDC is scheduled to expire in November
613 2007. City Council is scheduled to have that public hearing on September 19, 2007.

614

615 • The Finance Committee of City Council is scheduled to meet on Tuesday, September 4, 2007 at 5:30
616 p.m., which was re-scheduled because of the Labor Day holiday.

617

618 • The Planning, Zoning and Landmarks Committee of City Council is also scheduled to meet on Labor
619 Day; however, the staff does not have any items for the agenda. Mr. Steinbrink indicated that he did not
620 have any items, so the Planning, Zoning and Landmarks Committee of City Council will be cancelled.

621

622 Ms. Hilvert explained that Mr. Steinbrink has received a public records request from Mrs. Ricci on a cost
623 benefits analysis on the Vintage Club. Ms. Hilvert further explained that she and Mr. Wayne Davis have some
624 information on this, and since this is a complicated process, she thought that she could contact Mrs. Ricci and
625 schedule a meeting to review this information, so she has an understanding of it.

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Mr. Steinbrink indicated that he would like to attend the meeting.

LAW DIRECTORS REPORT

Mr. Donnellon deferred his report.

COUNCIL COMMITTEE REPORTS

Mr. Combs reported that the Financial Planning Committee of City Council met on Wednesday, August 8, 2007 and met with Mr. Wayne Bastin, the lead auditor from Bastin and Company who conducted the city's annual financial audit for 2006. Mr. Bastin reported that the city is doing a good job; there was one technological concern that will be corrected later this year or 2008. The committee also received the results of the 2006 Comprehensive Annual Financial Report with excellent results and the committee was very satisfied with the results. The committee also received a report from Mr. Matthew Vonderhorst on the broadband assessment. There are certain fiber optic issues that have to be addressed and we are looking at the big picture where the city will be able to expand the WiFi access to everyone, not just the local commercial businesses. We are talking about benefiting everyone in the community.

Mr. Suer reported that the Government Affairs Committee of City Council met yesterday and discussed the 2007 Board and Commission member survey that was conducted. He, City Council Member Roesch, and Ms. Hilvert will be meeting in the near future to go over those surveys in more detail to come up with a list of things to follow up on. The committee also had some discussion on a program that is coming up and being sponsored by the Environmental Advisory Commission. This program is called Energy Challenge and it is going to be a voluntary program that Montgomery residents can take part in. Residents will look at the energy use in their homes and track it and see how that can be reduced over a year's period of time. The Commission will tabulate the results and select a few people who have done the best job at energy reduction. The committee also discussed putting some police vehicles through the surplus process. He reminded everyone that the city would be holding the parks master plan meetings next week on August 27, 2007 and August 29, 2007 and he wanted to emphasize that this will be another opportunity for residents to attend and go over their ideas, or put forth new ideas, or talk about the ideas that have already been mentioned for the enhancement of the parks. He wanted to make sure that everyone in the audience understood that these are concepts, because he read something in the paper that made it sound like the city was going to do all these thing tomorrow and this is not accurate; these are concepts at this point. The consultant has worked with many cities on park plans and with his gathering of information from citizens, he was able to develop a list of potential enhancements. One of the concepts is an amphitheatre, but the city is not building it; is just a concept. These ideas that he has put together will be presented next week. He will be providing an overview and a power point presentation and it is rather interesting. The consultant will show how all the parks in the existing system can have different things done to enhance them. This is a concept plan; it is envisioned as a ten-year plan and there is no guarantee that the city will do all of these, seventy five percent of them, or even half of them; he had no idea because right now they are just concepts.

Ms. Roesch reported that there was an OKI meeting and she had sent a letter to the City Manager about an open house. If anyone is interested in attending the Butler County Open House, the date has been changed. There was a Beautification Commission meeting last week and the beautification award winners have all been notified and will receive their awards at the September work session. The Blue Ash/Montgomery Symphony had a board meeting in July. They were the back up for Bernadette Peters at the Aronoff Center on Saturday and will be back up for Peter Cetera this Friday at the Taste of Blue Ash.

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Mr. Joffe reported that the Law and Safety Committee of City Council met yesterday and there were two items that they discussed. The first one related to an item that was discussed about six months ago regarding a concern that had been brought forward by a resident about undocumented aliens, and this specifically revolved around the pending Homearama construction at that time. The individual was comforted by what he observed in the process that took place there, so there was nothing at that point that the committee felt needed to be done, other than study a Federal Pilot program, which provided, amongst other things, a data base of information through which authorities could verify the status of individuals. The committee, at the time determined that it was not in the city's interest to follow that program, but the committee did ask staff to study it and the Law Director did provide the committee with a report on research that had been done. Following that meeting, little had changed since the time that the committee discussed it; however, the committee did ask staff to look into amending language in the contracts with respect to stipulating that a contractor should be in compliance with immigration laws. The second item that was discussed was a request from a resident to regulate the use of cell phones while driving. The committee was provided research that there were only two states that had in fact introduced legislation. California has enacted legislation that will take affect in July of next year. The committee felt that this is something, given enforcement issues, that should be handled at the State level and a communication went out to the individual who raised the question.

Mayor Harbison reported that she would be attending the Cincinnati Human Relations Commission meeting tomorrow evening and if any of the staff have any input they would like her to take, let her know. She also sent out an email that Mrs. Barb Daniel had contacted her about the sudden death of Mr. Ed Daniel's brother. If anyone would like to provide a donation she would like to wrap it up tonight after the meeting so she can get it sent.

MINUTES

Mayor Harbison indicated that the packet included minutes from the May 23, 2007 work session, June 6, 2007 business session, June 27, 2007 business session and July 18, 2007 work session. She further indicated that if anyone had any changes, they were to let the Clerk of Council know before the September 5, 2007 business session.

OTHER BUSINESS

Mayor Harbison asked if there was any further business to discuss in public session.

Mayor Harbison asked if someone wanted to check with the petitioners.

Mr. Donnellon explained that the Petitioner Committee is looking at a draft of some legislation that would put on the ballot the question: "should the following parcels of property be acquired for parkland?". City Council will then take all reasonable and appropriate steps to acquire that property if that question is answered in the affirmative by a majority of the voters. He further explained that City Council is making a commitment to purchase that property and framing the question that goes to the ballot; so if it passes, the city will then move forward with the commitment to purchase the property. That is the language that the petitioners are looking at to substitute for the initiative that still gives City Council the option and he has told the petitioners that they may exercise that option to put the levy on the ballot as well. If they will not tie it together, City Council's concern is that the people need to know there is a cost involved with purchasing the property. He continued to explain that the petitioners' questions back to City Council and he has to pose it in public because this is a public body and a public meeting; is that they want to know if City Council would be willing to just pass legislation tonight that

722 says that City Council will take all reasonable and appropriate steps to acquire the property and then spend the
723 time to look for sources as to how to acquire the property and if necessary, later, put a levy on the ballot. He
724 expressed to them his own concerns in that this seems like a very simple issue; when City Council take steps to
725 say that they are going to acquire property, the city is now treading in Chapter 163 of the Ohio Revised Code,
726 which is eminent domain and he did not know if City Council had enough information to start that process
727 tonight to make that commitment to buying it. His other concern is that this starts the clock very quickly on
728 eminent domain and that process, once it is started, requires the city to appraise the property, exchange offers,
729 and if City Council then in the next few months decides it cannot afford it and doesn't want to buy or some other
730 issues come up, under the current statute, if you abandon appropriation proceedings, the property owner is
731 permitted at that time to say "here is my bill"; however, how much they would have spent during the time the
732 city is studying, it he did not know. He continued to explain that his concern is if City Council passes that
733 tonight, it seems like it brings it to a conclusion, but it may open another Pandora's Box. This is not an issue of
734 "does the city want the land as parkland or not". The question that City Council is facing is "what is the cost"
735 and that is why City Council has indicated that they believe that the levy is appropriate. City Council will still
736 have to go back and study and make a determination of the funding source because the levy is only going to
737 produce a specific sum of money that will allow the City to borrow a specific sum of money and without
738 knowing what the number is and how high that number may be, the city may still fall short. He continued to
739 explain that is the question that the petitioners are posing to City Council while they are considering the question
740 that he has given them, in the way he framed it does not start the city down the path of Chapter 163. He asked if
741 this is something that City Council is interested in doing in saying that City Council will the take the risk, make
742 the commitment, buy the property and not identify at this point in time how the city will pay for it?
743

744 Mr. Combs stated that the city has a clear issue and he delineated this in an article he wrote last month. The city
745 has no clear indication from voters in the 2005 survey expressing a need for additional parkland and only six out
746 of 312 responses received from input on the comprehensive park master plan indicated an interest for additional
747 parkland; not withstanding the fact that the survey was on the website and there were public meetings. He
748 further stated that he feels that he has a fiduciary responsibility to 10,000 people and not 700. He also stated
749 that he is not getting a sense that there is a ground swell of support for this idea and if the city is going to make a
750 multimillion dollar commitment, then he thought that the city needed voter support.
751

752 Mr. Suer indicated that this proposal is too open-ended, he is not comfortable with it and he cannot support it.
753

754 Mr. Niehaus explained that he has a number of questions; the first being why would the city want to buy it and
755 the city could say "yes we are going to buy it" but the city should have a reason for buying it other than not to
756 put this on the ballot. He further explained that considering the people that the city has dealt with in the past
757 over the owners of the land, and the probability that the city would have to go to eminent domain, what ground
758 would the city have for saying that it is a necessity. He also explained that if the city says that it will make an
759 attempt to buy it at whatever means, he really thought that the city would be looking at eminent domain with
760 those people because it has never been any other way.
761

762 Mr. Skopin stated that he could not hear that and he had missed the last five minutes, because he had not been
763 notified that City Council had started talking.
764

765 Mr. Donnellon explained that the petitioners had specifically asked him if he would come back and talk to City
766 Council about their proposal and he cannot do that without City Council being in session. He further explained
767 that this is simply a question of buy it or not. The issue is if the city goes to buy this property, it is going to end
768 up in litigation. The city has to set the table correctly for the litigation, if he puts this issue on the ballot, acquire
769 it or not acquire it and the voters vote yes then that gives him a very compelling argument in court for the

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770 necessity. It would be a simple solution for City Council to say “tonight lets go buy”, but without the funding in
771 place, he has started the clock on eminent domain and he has not taken the appropriate steps to identify a
772 necessity and he is running into a problem and is trying to resolve it with a solution. The solution being put it on
773 the ballot will let the voters decide yes or no; in fact the legislation tonight that he proposed very simply frames
774 the question “should the city acquire the undeveloped wooded property on the east side of Montgomery Road
775 from approximately Schoolhouse Lane to the Safety Center, being auditors parcel numbers and naming the
776 parcel numbers and then there is the question yes or no. The legislation also states that if this passes in the
777 affirmative, City Council will initiate steps to acquire the property. If the mandate comes from the people that
778 say “yes we want you to go acquire”, the only time the city has a problem is if they won’t pass the levy that is
779 attached as a separate issue; the city is then in the position of figuring out how it is going to buy it.

780
781 Mr. Steinbrink explained that everyone has talked about wanting to allow the public to vote on this to give the
782 city a true indication whether or not they want this as a park. He further explained that he felt that a majority of
783 the people would say yes they want a park; however, he was not so sure that a majority of the people would say
784 that they want a tax levy or that they want to give up services for this park. He also explained that there are two
785 separate questions and he thinks that this would be his intention in proceeding, so the city can get those
786 answered by the public and then the city knows what it has to do.

787
788 Mr. Donnellon asked the petitioners where they were on the proposed language that he had given them. He
789 asked if it was agreeable language because, what he needed to do, was to adjourn and have the Clerk of Council
790 type it up.

791
792 Ms. Pillich indicated that they were still working on it; however, they came back in because they learned that
793 City Council was talking about it and they wanted to hear what City Council was saying. She further indicated
794 that she had sent Mr. Donnellon away with something and she was hoping that he would come back after he
795 talked with people.

796
797 Mr. Donnellon stated that he had to talk with City Council with microphones. He explained that the consensus
798 seems to be that City Council does not feel that it would be appropriate to just pass legislation tonight to say that
799 the city will acquire the property, because of the danger of walking into the eminent domain process right away.
800 The feeling being if the city allows the voters to make that determination on the ballot as proposed to the
801 language that he gave them, it would give the city a stronger argument in court as to the determination of
802 necessity and allows the city to then initiate the process to acquire it. He further stated that City Council is still
803 of the mindset that even if the city puts their question as he has re-framed it on the ballot, they think that a
804 separate issue needs to be on the ballot as to a park levy. City Council has not had discussions as to the specifics
805 of the levy going to the ballot, whether it is .75, 1.0 or 1.25; however, there needs to be an understanding where
806 we are going with the first question.

807
808 Ms. Pillich explained that the question Mr. Donnellon brought to her and the committee was to look at some
809 legislation that he had drafted which may not be complete, but was substantially complete. This legislation, if
810 passed tonight, would be the issue placed on the ballot in November and that legislation would ask the voters
811 “should the city buy the following parcels of land and identifies the parcels”. What the petitioners would like to
812 see instead would be for the city to pass legislation that says “they would like to buy this land”. She further
813 explained that the city could then proceed with putting the levy on the ballot. People could then talk about the
814 levy and evaluate whether it was appropriate or not, too much, too little, the right thing or the wrong thing, and
815 if the levy passes, then the city has a dedicated revenue stream. She continued to explain that if the levy does
816 not pass, then she thought that we should come to the table and look to see if we can find some alternative
817 sources. Given the language in the legislation, Mr. Donnellon has removed the endowment, trust, and electorate

818 power. She continued to explain that the committee was strongly attached to the trust or the endowment
819 language; however, they were things that the committee created because they thought that the city might want to
820 use those things for it. Neither of those provisions are things that would tie the hands of City Council and City
821 Council would still have the power to determine the size and character of the endowment. The committee
822 believes that the legislation they crafted passes scrutiny; is valid as written and is valid by law. She indicated
823 that what the committee would ask is if City Council wants the committee to withdraw their petition, to go
824 ahead and pass the committee's version, as a piece of legislation adopted by the city, because it gives the city the
825 flexibility that the city hoped that the committee would put into their version.

826
827 Mr. Donnellon asked if the answer is no the petitioners will not compromise.

828
829 Ms. Pillich indicated that the answer is no; however, they appreciated the opportunity to discuss that and the
830 opportunity to discuss the issues.

831
832 Mr. Cleary, 8313 Turtlecreek Lane, indicated that he did not understand what it is that is going to happen here
833 tonight. He further indicated that he could not vote on anything in November that would cause the city to buy
834 some property that is going to cost him additional tax money. He also indicated that he was mystified as to the
835 tactics that went on here tonight. It reminded him of 1997 -1998 when the last minute kind of things came in
836 when City Council was getting ready to vote on something important and suddenly someone comes in with "oh I
837 got a phone call at 4:30 this afternoon and we got some new information, but I cannot tell you the source of it."
838 He further indicated that he would not vote for something that forces the city to buy property if he did not know
839 how it was going to be funded or if he knew it was going to cost him money as a taxpayer.

840
841 Mr. Donnellon explained that this is one of the blessings and curses of an initiative; the blessing of an initiative
842 is that it allows the people in the community, when they feel a law should be passed, to petition City Council to
843 pass that law; the curse of the initiative is once you affix your signature to that petition, you are empowering
844 three people to make the final decision for you. Another blessing is the democracy power that the people have;
845 the curse of the petition is you don't often get a law in a format that you can put forward and say yes or no.
846 What he has been told is that the Petition Committee says "we wanted our language on the ballot" and City
847 Council's only choice at this point in time is to, as an administrative function, put that language on the ballot.
848 That does not end the fight and if people feel that the language is confusing, they can file an election petition
849 with the Board of Elections, and ultimately the Secretary of State, to invalidate the process before it gets to the
850 ballot. He continued to explain that he has expressed his opinion as to how it ties City Council's hands and
851 questioned the constitutionality of it, and his choice on fighting the constitutionality of it is if it passes in
852 November, the city would go to court on clarifying the law and not focus upon acquiring the property. The city
853 has proposed the simple question of yes or no on buying the land and City Council has been told by a majority
854 of the committee; "no they will not accept it as a compromise; they want City Council to buy the property",
855 which is their compromise. City Council has expressed that they don't want to make that commitment because
856 it is binding the city today, without an identified funding source, and potentially walking the city into an
857 acquisition of real estate without having an adequate study as to the necessity, which is required under Chapter
858 163 for the city to buy property. He continued to explain that he did not know what the motivation was; he just
859 knew what the result is.

860
861 Mayor Harbison explained that City Council's role tonight is to vote on whether to amend the language, adopt it
862 as city law as it stands, or determine it to be invalid. City Council has run out of the timeframe on determining
863 the petition to be invalid. City Council can negotiate with the petitioners on some other action that would satisfy
864 their needs as an alternative initiative, which is what City Council has been trying to do tonight, and that is why
865 the waters have been muddied because City Council is trying to negotiate in an open forum. The other choice

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866 City Council has is to refer this matter to ballot for voter consideration and that is what City Council is in the
867 process of taking input from the public. She further explained that the City Charter does not allow City Council
868 the option of turning the initiative petition down. City Council has asked the petitioners if they would be willing
869 to amend some language. They do not want to do that, they came back to the City and said that they would take
870 the legislation off the table and not send it forth to the ballot, if City Council would agree to go ahead and
871 purchase the property tonight, and then the city would figure out the rest as it goes along. The petitioners are
872 allowing City Council to go ahead and put the levy on the ballot tonight, but they want a firm commitment
873 tonight from this City Council to go ahead and buy the property. That is the question that the petitioners
874 brought back to City Council and that is why City Council reconvened because City Council has to discuss it in
875 an open forum.
876

877 Mr. Skopin, 9863 Forestglen Drive, indicated that it was a pleasure to find out what motivated City Council.
878 Months ago, the Vice Mayor was watching traffic one day and he and Mr. Skopin had a little informal chat, and
879 he did not expect Mr. Suer to be held to this. Mr. Suer said when he saw a piece of land like that vacant, the
880 intent of City Council is to see it developed, have it be productive, tax dollars coming in, and Mr. Skopin
881 respected that and that is the way some people think. You see something, you figure out how to use it, you get
882 the job done, and you make money. You see a house you decide I can build a million dollar house on that land,
883 I'll tear that house down, that person will never realize that they are paying \$200,000 for a piece of land that the
884 house is built on, where if they bought their neighbors they would pay about \$70,000. He further indicated that
885 the citizens are saying we are surrounded by interstate 275, we are surrounded by Cross County, we have
886 interstate 71 at our door step, and we have more traffic out here. If he would build a Porsche dealership we will
887 be able to burn a lot more fossil fuel, but we will not have a way of cleaning the air. We are asking you to keep
888 that piece of land as it exists right now, unaltered; we can buy it and forget it for the next fifty years. That is
889 more important than making a buck, than getting more revenue, and than having the best looking streets in the
890 suburbs. He also indicated that he knew, and City Council knows too, that if City Council decides to buy it and
891 that was the highest priority, City Council would find the money. He knew because if he did not want to buy his
892 kid something he would tell them; if I buy you that bike there will not be food on the table, there will not be
893 medical benefits, he would not be able to clothe them, they would have to go to school nearly naked. He doesn't
894 buy that. He also indicated that he does not represent CALM right now, because he is not. He is angry to think
895 of the arrogance and pushiness of people who want to cram down the throats of the voters; garbage will be sky
896 high in streets, snow; you won't even get out of your driveway let alone down the streets.
897

898 Mr. Suer noted that he would like to clarify something for the record; he did have a conversation with Mr.
899 Skopin when he was spending numerous afternoons and mornings out on the curb observing the traffic at the
900 Forestglen intersection. The reason he was doing that was, again, he was under the impression that safety was a
901 major concern being brought forward by the Forestglen residents, in fact, led by Ms. Julie Bradley. Safety was
902 emphasized very heavily, and so he was out there attempting to look at the traffic flow and to see what was
903 going on with traffic, turns and so forth and so on. He further noted that when he had his conversation with Mr.
904 Skopin, he remembered very distinctly, in fact he just told Mr. Robell about it tonight, Mr. Skopin approached
905 him and asked why Mr. Suer was there; and Mr. Suer said he was watching the traffic and he was trying to
906 understand this intersection, because a number of people had said that City Council does not understand the
907 intersection. Mr. Skopin said to Mr. Suer that he was wasting his time and that it was not about traffic and
908 safety; it was about preserving the woods. Mr. Skopin also indicated that he did not care anything about the
909 traffic or safety, he just did not want anything to happen to the woods. Mr. Suer told Mr. Skopin that in his
910 opinion, if there is an undeveloped piece of land like this, there are various parties and individuals who are
911 looking at it or will be looking at it and come up with some scheme on what they want to do with it. It is
912 unlikely, unless someone donates it to the city or something; that it is going to sit there unattended for years and

913 years. There is a possibility that someone will want to take it and make it more productive by putting buildings
914 on it. Now, he did not say to Mr. Skopin that the city wanted to see every piece of property developed.
915

916 Mr. Firor, 9925 Forestglen Drive, indicated that he was a little confused because what he knew the CALM's
917 intentions were to put a simpler wording on the ballot; yes or no, should the city buy the land would be ok; as
918 long as it is not tied to a tax levy in the same issue. He further indicated that the city could ask for a tax levy,
919 but if it doesn't pass, the city still buys the land. He also indicated that he personally thought that it should go to
920 a vote, but without the initiative, buy the land, being quelled if the tax levy does not pass. If the tax levy does
921 not pass, then other funding should be found. That way it gives everyone the options and there are other
922 methods of funding. He further indicated that it would seem that when you pull an allnighter and you still have
923 patients the next day, you still try to figure out how to heal them and that is what leaving the woods there is; just
924 getting it to stay there, healing the situation, where is the common ground. He just wanted to state that because
925 it seems like there is some confusion going; turn it into a referendum right now and he was not sure that
926 everyone is hearing everything correctly and he thought that this still needed to be discussed.
927

928 Mr. Donnellon explained that unfortunately that is what we just did discuss. He further explained that the
929 question that was proposed to the initiative committee, which was rejected, was to put on the ballot a stand-
930 alone issue that says "buy the property yes or no,". He also explained that City Council still may put a second
931 issue on the ballot that would have to be voted upon, "park levy yes or no,". If the "buy the land, yes" passes
932 and additional "tax no" fails, then City Council would have to go back to the drawing board. He continued to
933 explain that one of those issues may be that if City Council cannot find that funding source, they have to say
934 they cannot buy the property because they cannot afford it. He continued to explain that what was proposed
935 here thirty minutes ago and rejected by the initiative committee, was making it a simple "buy it, yes or no,"
936 putting it on the ballot that way and City Council making their decision whether they want to put a park levy on
937 the ballot. He asked Mr. Leonard and Mr. Jenner, if they were in agreement. You don't have to say you support
938 the park levy; you just have to focus on the issue of making this piece of legislation say "initiate the steps to
939 acquire the property if it is a yes".
940

941 Mr. Combs asked, if there were no other comments, would City Council like to entertain a motion.
942

943 Mayor Harbison indicated that she thought City Council was waiting for a response from Mr. Leonard or Mr.
944 Jenner.
945

946 Mr. Combs indicated that Ms. Pillich had left, so he assumed that was their decision.
947

948 Mr. Donnellon indicated that it only takes two of the three committee members.
949

950 Mr. Leonard, 10426 Londonridge Court, indicated that what they had decided and he did not think there is any
951 confusion on the city's part, is that the committee would accept the ordinance if passed by City Council tonight,
952 to buy the land no question not to go to the vote and he thought that was pretty clear. He further indicated that
953 what Mr. Firor was saying was not the committee's position.
954

955 Mayor Harbison asked Mr. Combs if he wanted to entertain a motion.
956

957 Mr. Combs indicated that he would like to take this in reverse order, and propose a funding ordinance in the
958 event that City Council proceeds with phase two. He proposed that if the voters of Montgomery do pass
959 legislation at the next general election to purchase the property between Schoolhouse and the Montgomery

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960 Safety Center, the city has a funding mechanism in place for a 1.25 mil and asked that it be approved as a ballot
961 issue.

962

963 Mr. Donnellon asked if the motion was to put the 1.25 mil levy on the ballot in November. He explained that it
964 might help if City Council would explain what the 1.25 mil would generate as far as funding, so people know
965 when it is on the ballot, what kind of money it would be generating and what kind of cost would be involved to a
966 household and why the City Council wants to support a 1.25 mil levy.

967

968 Mr. Combs indicated that in revenue, there would be just under \$600,000 generated by a levy of this size. He
969 further indicated that there is great uncertainty as to cost and thought that the \$3.5 million is the minimum level.
970 He knew that the city was buying litigation if it buys this property and that it is not going to come easy. He also
971 indicated that litigation will involve eminent domain and there will be at least two or even four legal issues
972 come up in this case. The right to take will be challenged, the evaluation will be challenged and this also opens
973 the door for the city's zoning code to be challenged, and the city does not have a great track record on zoning
974 challenges. He explained that litigation will be costly; however, the property will remain green, but that opens
975 the door to extra costs while the property owner's property is tied up in litigation. There will be legal bills,
976 appraisal fees and it will be a premium price: what the top end is, he does not know and that is why he was
977 posing the question earlier; what is that magic number under which we want to keep this project? He further
978 explained that \$100 million is silly, but is \$10 million silly? It's a lot of money and City Council does not know
979 what the final number is going to be and if they challenge the zoning code and the zoning is determined to be
980 inappropriate as a "D-2" or "D-3" but commercial, the value goes up. He also explained that all of that is in
981 play with litigation and the city does not control the outcome. These are economic, political, and legal realities
982 and he thought that the city needs to be adequately prepared for that eventuality and that this why he thought
983 that the 1.25 mil is absolutely essential.

984

985 Mr. Donnellon explained that the city had asked for certification for a twenty-year levy because that would be
986 equivalent to bonding. The 1.25 mil would generate just under \$600,000 per year in revenue and under current
987 rules, it equates to the city being able to borrow \$6 million, so the city would have a fund of \$6 million available
988 for the acquisition and development of this park. He further explained that the cost to a homeowner on a
989 \$100,000 market value is \$36.96 per year, so the average home, valued at \$300,000, would be approximately
990 \$108 or \$109 per household per year. He also explained that what City Council would have to do is add to the
991 agenda a resolution of necessity to certify a 1.25 park levy to the ballot. He continued to explain that to go into
992 detailed discussion as to where that \$6 million fits in to the purchase and the development of the property and
993 what is the value of the property, City Council does not know. At \$3.5 million, which is the number that has
994 been bandied about as the minimum cost, the city can barely buy that with the .75 mil. So if the city went with
995 the .75 mil and the city starts adding more cost, then it is back to the budget. He continued to explain that it was
996 expressed by the City Council at the last meeting that the reason for the 1.25 mil is that it is easier to rollback if
997 suddenly the city is successful in the purchase price than it is to ramp up or to go back and say now it needs an
998 additional levy.

999

1000 Mayor Harbison asked if she had consensus with putting a resolution on the agenda.

1001

1002 City Council indicated that they all agreed.

1003

1004 Mr. Combs moved to place the following piece of legislation on the agenda for consideration tonight:

1005

1006 **A Resolution Providing for the Submission to the Electorate of a 1.25 Mil Property Tax Levy for Parks**
1007 **and Recreational Purpose**

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Mr. Niehaus seconded.

City Council unanimously agreed.

Mr. Donnellon explained that so everyone understands, City Council has to have legislation available and he has multiple levy legislations available, so this is no surprise. He further explained that he also has multiple legislation that combines the two together and legislation available that was proposed to the Petitioner Committee to cover all opportunities and combinations.

Mr. Combs moved to read by title only. Mr. Suer seconded. City Council unanimously agreed.

Mr. Donnellon read the following title:

A Resolution Providing for the Submission to the Electorate of a 1.25 Mil Property Tax Levy for Parks and Recreational Purpose

Mr. Donnellon indicated that this is in the form that the Auditor’s office and Board of Elections requires, which simply says that this is a twenty-year levy, 1.25 mil, and first collection will begin with tax year 2007 and calendar year 2008.

Mr. Combs moved passage as read by Mr. Donnellon. Mr. Niehaus seconded.

The roll was called and showed the following vote:

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

Mayor Harbison asked for a motion to send the initiative petition to the ballot.

Mr. Donnellon indicated that City Council would need to add legislation to the agenda for consideration tonight. Mr. Donnellon further indicated that he was going to make one more appeal. He stated that he was going to advocate to City Council, that if this passes, they were going to have to go to court to clarify this ballot issue. He further stated that at the last meeting, City Council talked about the validity of the initiative petition and whether or not to vote it as invalid. City Council was told by the initiative committee that they would work with the city to find language to make it valid. The timeframe has now passed to go back and invalidate it, the timeframe is not passed for an election contest action before the Board of Elections and Secretary of State. City Council cannot initiate litigation to challenge its constitutionally until it passes, because it is a moot until that point in time; however, if this would pass, the precedent of having a piece of legislation that says “only the citizens can repeal this” is horrendous for this community. The Charter specifically says “that the legislative powers are reserved to the City Council” and the Attorney General’s opinion and it may be old, but it is still valid, says “that an initiative action is like no other law; it gets repealed, amended and revoked by the City Council”. He continued to explain that a case, which came down in May, a comparable issue, from the Oklahoma Supreme Court where a group of individuals put an initiative out there to rezone property and say it could not be rezoned again for ten years. The Supreme Court said that they could not do that, and that it is invalid. The Supreme Court said that the power is reserved to the legislative body; it makes changes as are

1056 necessary and you cannot pass laws that tie someone up in the future and, as he is advocating, you can not pass a
1057 law that says “every time there is a question on it, it would go back to the citizens.” He continued to explain
1058 that he knew it was advocated earlier, “what is wrong with that is that it is very practical” and if that property is
1059 tied up until next November, while it goes back to the citizens again and says, “should we acquire the property
1060 or not because we cannot afford it” and then the citizens say, “go ahead and acquire the property again” and then
1061 the city is back another November saying, “we cannot afford it,” when does this stop? That is why City Council
1062 needs to have the ability to make decisions and he was advocating the City Council needs to have that ability
1063 because how can he sit at a table and negotiate a purchase price when that person on the other side of table
1064 knows that he has no authority except to pay what they are demanding, unless the people vote on it again. He
1065 continued to explain that the City Council heard a couple of weeks ago, reminding him of his Real Estate 101
1066 class that he should know that takes a willing buyer and a willing seller and if he took the willing buyer out of
1067 the equation, if he cannot have the ability to say “if you will not work with me, my City Council will back away
1068 from it”. Why this has to be some law he did not know, but if it passes, City Council will have to take steps to
1069 get this law clarified. He continued to explain that this was his only intention tonight was to get this question
1070 clarified. He apologized to City Council because if he had known this was going to happen, he would not have
1071 sat up here two weeks ago and said “I have a lot of concerns with it, but I would not advocate for you to
1072 invalidate it because the people should have to right to make the choice.” If he could rewind the clock two
1073 weeks, he would tell City Council to throw this thing out because it is going to cost the city money and does not
1074 put the question out there that he has been told repeatedly from the podium the question that is the question to be
1075 put on the ballot. He asked the Petition Committee if he was now suppose to certify this petition as it is written
1076 to the Board of Elections.

1077
1078 Mr. Leonard indicated that he is no legal expert, and he has said that before. He further indicated that the
1079 Petition Committee was willing to negotiate in good faith; this disastrous provision possibly could have been
1080 negotiated a week ago; however, it was his understanding that the proposal put forth was that the initiative
1081 needed to be tied to the tax levy. He also indicated that now all of sudden, it is a disastrous provision and we are
1082 down to the last second and the Initiative Petition Committee is being asked to negotiate in an open forum, in
1083 public, and being accused of all these sayings. He also indicated that the Initiative Petition Committee believes
1084 that they came to the table as a reasonable negotiating partner and there was no other reasonable negotiating
1085 partner on the other side of table, and now they are the bad guys. He further indicated that from his perspective,
1086 and it is just an opinion, just like any lawyer’s opinion, is that this is not right; this is not the way City Council
1087 should be treating its citizens. They have put forth an initiative, they went through the process, hit the streets,
1088 did grassroots and it is being painted that somehow they created the strategy of forcing the City Council by their
1089 timing of the initiative, and it is just not true. They did not have a grand master plan that said “we are going to
1090 put City Council’s backs to the wall”. They did what they could in the timing that they were allowed. He also
1091 indicated that he knows Mr. Combs, who is very knowledgeable of law and a good public servant, has a problem
1092 with the grassroots process and that is understandable, because you want things to be clean cut and you want
1093 things to have clean edges and, unfortunately, it is not the way it works with grassroots. But from his
1094 perspective, the Initiative Petition Committee has given City Council the information and in his opinion, City
1095 Council decided to ignore it, waited to the last minute to come to the table to force the Petition Committee to
1096 agree to something that they could not agree to. He further indicated that Ms. Harbison said that City Council
1097 asked the committee to amend some language; the committee does not have the opportunity to amend the
1098 language and then put it on the ballot.

1099
1100 Mayor Harbison indicated that the Petition Committee does have that opportunity.

1101
1102 Mr. Leonard noted that it was his understanding that they did not.

1103

1104 Mayor Harbison stated that the Initiative Petition Committee does have that power.
1105
1106 Mr. Donnellon indicated that they were talking two different levels and he want to get it clear as he explained to
1107 everyone. He explained that the Petition Committee has the ability to negotiate with the city to propose an
1108 alternate issue to go to the ballot, which is what City Council proposed.
1109
1110 Mr. Leonard noted that they could not just amend language on the initiative.
1111
1112 Mr. Donnellon explained that the committee could not to submit an amended petition tonight and say “put this
1113 one on the ballot”.
1114
1115 Mr. Leonard indicated that the way he interpreted, Ms. Harbison’s comments was that all the Petition
1116 Committee would have to do is change some language.
1117
1118 Mr. Donnellon stated that he knows it is late, but he did not appreciate Mr. Leonard accusing him of not coming
1119 to the table in good faith with his group, since Mr. Leonard was not there to hear what was discussed.
1120
1121 Mr. Leonard indicated that he was sorry and it was inappropriate. He further indicated that he was not raising
1122 his voice to him; that he was just stating his opinion. He was not accusing anyone and he already said that he
1123 stated that it was third party; however, he trusted his partners. He also indicated that he was stating it the way he
1124 saw it.
1125
1126 Mayor Harbison indicated that she had a question for Mr. Leonard, that he stated that he does not want City
1127 Council’s backs to be against the wall.
1128
1129 Mr. Leonard indicated that it was not their intention.
1130
1131 Mayor Harbison asked Mr. Leonard if he would be willing to withdraw the petition to work further on it and put
1132 it on at a later time, maybe in the spring or next fall.
1133
1134 Mr. Leonard indicated that it was interesting the Mayor Harbison brought it up right now, because it could have
1135 been brought up a couple of weeks ago. He further indicated that he could not agree to that.
1136
1137 Mayor Harbison asked Mr. Donnellon to explain what went on, because the reports City Council received were
1138 different from Mr. Leonard’s. She stated Mr. Leonard may have trust in his committee; however, Mr.
1139 Donnellon has City Council’s complete trust in negotiating City Council’s best interests and the city’s best
1140 interests.
1141
1142 Mr. Donnellon explained that they spent time going through the petition and he pointed out the areas of concern.
1143 He pointed out the areas that may lead to litigation and what he indicated was that City Council was interested,
1144 as they expressed their recommendation, in tying these two together in a 1.25 mil levy and putting that question
1145 on the ballot. Simply, City Council would pass legislation committing to take reasonable steps to acquire the
1146 land if the levy passes. They then adjourned the meeting after almost two hours with the agreement that the
1147 Initiative Petition Committee was going to talk and get back in touch with him. He further explained that he got
1148 a letter faxed to him yesterday from Ms. Pillich on behalf the Initiative Petition Committee saying “no, we are
1149 not interested in tying to two together and that those who signed the petition saw an opportunity to set the city’s
1150 spending priorities so to obtain the health and aesthetic benefits that this nature park will provide”. He was
1151 quoting from the letter, which was filed with the Clerk of Council.

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1152

1153 Mr. Leonard asked what was different than what he said.

1154

1155 Mr. Donnellon explained that what Mr. Leonard had said was he came in without any good faith attempt to
1156 negotiate this and now he is trying to cram it down your throat. He further explained that he unfortunately does
1157 not get an opportunity to address City Council on this issue except in this forum. He came to the petitioners and
1158 gave to them the ballot language and he took an opportunity to make phone calls to find out the ballot language,
1159 took the opportunity write it up very clearly so that the petitioners would see what he was proposing. He asked
1160 where in that continuum was he not operating in good faith with him.

1161

1162 Mr. Leonard stated that it was because there is one day to certify this and here they are negotiating details. He
1163 further stated that Ms. Harbison just said City Council has the complete faith in Mr. Donnellon and you are
1164 saying that you don't have to opportunity to discuss it with them except in this forum. He asked Mr. Donnellon
1165 if this is how he negotiates land deals.

1166

1167 Mr. Donnellon explained that he has to start in a public meeting and this is not the way to negotiate land deal,
1168 but you have to start in a public meeting. City Council has to start in a public meeting before they can adjourn
1169 for an executive session. This is not an appropriate discussion for an executive session, and the courts have said
1170 so. There are very limited things he can take into executive session, so he does not get the opportunity to
1171 address their counter-proposal to them, except when they are City Council. He further explained that this
1172 petition was filed in mid-July and there is a process that he has to go through. He continued to explain that he
1173 has to go through having it certified, and it got certified by the Board of Elections July 17, 2007, which gives
1174 him a window of time between July 17, 2007 and August 22, 2007 to meet, hold a public hearing, find out what
1175 the public's concern is, sit down with the committee, try to find an alternative, bring it back to City Council,
1176 have the legislation and have it voted on. He continued to explain that he did not choose the date that the
1177 Initiative Petition Committee filed it; he did not choose the date to start this, and he did not choose August 23,
1178 2007 as the date in which it has to be filed.

1179

1180 Mr. Leonard stated that neither did the Petition Committee.

1181

1182 Mr. Donnellon explained that City Council is not trying to corner the committee; what City Council trying to
1183 say is "let's get this thing in the shape it should be to put on the ballot for the people to vote on it." He further
1184 explained that what he heard from the group was that they agreed, that endowments are an unnecessary part of
1185 it, the trust is an unnecessary part of it, but the committee will not get off the issue of repeal-ability and that is
1186 going to be where this whole thing is going to get hung up. He also explained that if he correctly heard Mr.
1187 Leonard in his conversation, he was indicating that might have been something too that they were willing to
1188 work with, but it is just too late.

1189

1190 Mr. Leonard indicated that he would say that was right.

1191

1192 Mayor Harbison stated that the committee had two weeks where multiple meetings could have taken place and it
1193 was her understanding that there was a meeting cancelled, re-scheduled and people were supposed to get back
1194 with Mr. Donnellon on Monday, and that did not happen until he got the letter faxed to him.

1195

1196 Mr. Donnellon asked how it is too late. He explained that it takes Mr. Leonard and Mr. Jenner to go into that
1197 room, talk and come back. He further explained that it only takes two of the three and unfortunately, one of the
1198 three is gone.

1199

1200 Mr. Leonard stated that unfortunately it is just not as simple as that, and legally it is three people, but they
1201 represent a larger group and we feel as though we also represent the people who actually signed the petition.
1202

1203 Mr. Donnellon indicated that if that was the case, then he wanted to wind the conversation back two weeks ago
1204 and why was it even suggested that the committee would talk about language if the committee felt that it had to
1205 engage in conversation with the other 750 people who signed this petition.
1206

1207 Mr. Leonard indicated that he was not saying that every provision would require that. He further indicated that
1208 he was just giving his opinion and he is not a professional politician, and not a lawyer. He also indicated that
1209 the provision that Mr. Donnellon was talking about, speaking for himself, if he wrote it, he would not have put it
1210 in; however, this is where we are today.
1211

1212 Mr. Donnellon stated that Mr. Leonard and Mr. Jenner were put at the top of this petition and they are only two
1213 of the three that can answer these questions and the only two that can make this decision, whether to start this or
1214 stop it.
1215

1216 Mr. Leonard noted that he would submit to Mr. Donnellon that they could have had this conversation last week
1217 rather than having a conversation about taxes.
1218

1219 Mr. Niehaus explained that Mr. Leonard had started this petition and City Council is recognizing him as the
1220 authority with that group. He further explained that Mr. Leonard and the two other people have bought off that
1221 responsibility, just like these people did when they ran for City Council and if you don't have the nerve and you
1222 don't have fortitude to make that decision now, then you don't belong there. He further explained that the group
1223 took on that responsibility when they went out those petitions and you bought it off and you darn well better
1224 keep it up. He continued to explain that Mr. Leonard was going to have to live with it and you are living with it
1225 tonight and now he knows where City Council sits when they have to make these decisions.
1226

1227 Mr. Jenner noted that they appreciated Mr. Niehaus' civics lesson; however, they were going to let it stand as
1228 the Initiative Petition Committee agreed to earlier and are going forward.
1229

1230 Mayor Harbison asked for someone to call the question.
1231

1232 Mr. Donnellon indicated that City Council would need to make a motion to put this on the agenda and a voice
1233 vote to add it to the agenda.
1234

1235 Mr. Combs moved to add the following piece of legislation to the agenda. Mr. Niehaus seconded. City Council
1236 unanimously agreed.
1237

1238 **A Resolution Referring the Natural Parkland Initiative to the General Election Ballot**
1239

1240 As the designated reader, Mr. Donnellon read the resolution in its entirety.
1241

1242 Mr. Niehaus moved passage. Mr. Suer seconded.
1243

1244 Mayor Harbison stated that this is the will of the people to send it forward, and that if the purchase of that
1245 property is warranted, then it should be before the people. She further stated that she would only hope that if the
1246 people choose to vote on the ballot in fall that they also be fiscally responsible enough to vote for the levy to
1247 fund it. No matter what the initiative petition group believes or does not believe, the city's reserves are not

1248 raided to where the city does not have money for a crisis in the future. She also stated that she hoped that
1249 everyone would take that message back to their groups.

1250
1251 Mr. Suer explained that he was actually disappointed with the process tonight or what they had to go through,
1252 because he had hopes at the end of the public hearing that things could be worked out. He further explained that
1253 there was that opportunity where the language could have been straighten out and the thing could have been put
1254 together in such a way that the residents of Montgomery would have had a more simple piece of legislation to
1255 deal with on the ballot. He also explained that the residents could have then made a more educated decision on
1256 what they wanted to do. Now what the city has, is a lot of confusion on election day and it is not going to be a
1257 very clean process. He continued to explain that all this could have been averted if there would have been a
1258 little bit of compromise on the part of the petitioners and the willingness to work on the language.

1259
1260 Mr. Combs indicated that the petitioners bad planning became City Council's emergency and this is very
1261 unfortunate. The language he is opposed in Section 8, he finds to be in conflict with the City Charter. He
1262 further indicated that the other two provisions that are throwaways, the endowment and the trust, everyone has
1263 agreed that they are not a big deal, but now they are still a big deal and he does not understand even taking those
1264 provisions out. He also indicated that the city is now buying additional litigation, due to a lack of compromise
1265 and the only reason he would support this at all is to put it before the voters, in whom he has great confidence
1266 and it is unfortunate that it has come to this point and the city is embarking on a course that is going to cost the
1267 city more money.

1268
1269 Mr. Joffe explained that he would like to reiterate what Mr. Combs already said. He further explained that he
1270 also feels very disappointed and he thinks that City Council was lead to understand by Mr. Jenner's approach at
1271 the public hearing, that the interest of this group and, he would suspect that was the interest of signatories to the
1272 petition, was for the acquisition of the parkland. He also explained that a very simple proposal was put out
1273 tonight, which said; let's have that clear question on the ballot, because that would have clearly fulfilled the
1274 intent of the Petition Committee and the signatories. He continued to explain that he was also disappointed that
1275 the committee could not see their way clear to embody that very simple and straightforward approach.

1276
1277 Mr. Donnellon indicated that at the last meeting, he had told City Council that he heard from all but one
1278 property owner. He further indicated that property owner wrote him a letter, since the last meeting, which is the
1279 owner of the middle section of property that Twin Lakes had worked out a purchase agreement to acquire the
1280 property to allow the city to move the access point away from Forestglen and create a great access, or single
1281 access point for almost all the parcels of land over there. He also explained that Mr. Hinkley's very short letter
1282 is thanking Mr. Donnellon for his kind letter of July 25, 2007, inquiring about the possibility of donating to the
1283 City of Montgomery their parcel of land along Montgomery Road for park use. *For a variety of reasons, we are*
1284 *not interested in making a donation. In fact, they just recently collapsed a deal to sell the land, feeling that the*
1285 *value is greater than what was offered. We would entertain any reasonable offers to purchase, although we are*
1286 *not activity selling the parcel at the current time,(copy of letter is attached).*

1287
1288 The roll was called and showed the following vote:

1289
1290 AYE: Combs, Joffe, Harbison, Niehaus, Suer, Steinbrink (6)
1291 NAY: (0)
1292 ABSTAIN: Roesch (1)
1293 ABSENT: (0)

1294
1295 Mr. Donnellon indicated that he would deliver it to the Board of Elections tomorrow.

1296
1297 Mayor Harbison asked if there was any further business to discuss in public session. There being none, she
1298 asked for a motion to adjourn.
1299
1300 Mr. Steinbrink moved to adjourn. Mr. Suer seconded.
1301
1302 Council unanimously agreed.
1303
1304 Council adjourned at 9:40 p.m.
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Clerk of Council

AUG-21-2007(TUE) 13:30

WEBB & PILLICH, LLC

(FAX)5139859322

P. 002/002

Webb&Pillich LLC

Attorneys

7815 Cooper Road - Suite A
Cincinnati, Ohio 45242
Tel: 513.792.9322
Fax: 513.985.9322

Terrence M. Donnellon, Esq.
Donnellon Donnellon & Miller
9079 Montgomery Road
Cincinnati, Ohio 45242
VIA FACSIMILE 891-7125

RE: Natural Parkland Initiative

Dear Terry,

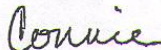
Thank you for meeting with Don and me last week. We truly appreciate the chance to discuss things with you and to try to find some common ground. My notes indicate that the city council would be willing to pass some legislation that would commit the city to purchasing the land identified in the Natural Parkland Initiative (NPI), but only if the tax levy passes in November. In return, we would have to withdraw the NPI.

Our group met and discussed the offer at great length. We agreed that, given the right consideration, we might allow some changes to the NPI related to the endowment and trust. But legislation that is contingent on the passage of a tax levy – a levy that we see as unnecessary – is not sufficient. The people who worked so hard on this project and the people who signed the petitions did not anticipate this type of contingency. Instead, they saw an opportunity to set the city's spending priorities so as to obtain the health and aesthetic benefits that this nature park will provide.

We would need a firm commitment from the city to purchase the land. The source of funding has to be separate and distinct from this commitment. If the city wishes to pass legislation that would commit it to purchasing the land either with levy funds if the levy passes or by other means (reserves, budget cuts, private funding, future installment payments, etc) should the levy fail, then we would be likely to accept that.

Again, thank you for your time last week and for the effort to discuss the issues with us.

Sincerely,



Constance M. Pillich
Attorney

L E Steele Properties LLC
5000 Drake Rd.
Cincinnati, Ohio 45243
513-403-0521

Terrence Donnellon ESQ
Donnellon, Donnellon & Miller
9079 Montgomery Rd.
Cincinnati, OH 45242-7711

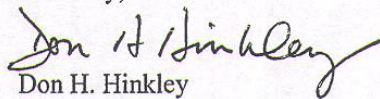
August 8, 2007

Dear Mr. Donnellon,

Thank you for your kind letter of July 25, 2007 inquiring about the possibility of our donating to the City of Montgomery our parcel of land along Montgomery Road for park use.

For a variety of reasons we are not interesting in making a donation. In fact, we recently collapsed a deal to sell the land feeling that the value is greater than what was offered. We would entertain any reasonable offers to purchase, although we are not actively selling the parcel at the current time.

Sincerely,



Don H. Hinkley
Managing member