

City of Montgomery
City Council Work Session Minutes
March 21, 2007

Present

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

City Council Members Present

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

City Council Member Absent

Barry Joffe

City Council convened in Council Chambers for the work session at 7:00 p.m. with Mayor Harbison presiding.

ROLL CALL

Mayor Harbison asked that the roll be called.

The roll was called and showed the following Council Members present:

PRESENT: Harbison, Combs, Niehaus, Roesch, Steinbrink, Suer
ABSENT: Joffe

Mayor Harbison noted that Mr. Joffe was absent due to business. She asked for a motion to excuse Mr. Joffe.

Mr. Steinbrink to excuse Mr. Joffe. Mr. Combs seconded. City Council unanimously excused Mr. Joffe.

GUESTS AND RESIDENTS

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

SPECIAL PRESENTATION

Mayor's Proclamation to Dale Unroe Jr.

Mayor Harbison read the proclamation in its entirety. She explained that on February 21, 2007 Mr. Dale Unroe Jr. witnessed suspicious behavior of a man exiting Blue Star Cleaners in Montgomery. Realizing that he witnessed a robbery in progress, he carefully observed the suspects involved and their vehicle and went to the extent of photographing the vehicle as it exited the parking lot. He then took the information to the Montgomery Police, which led to the arrest of the suspects who had been involved in at least six other felony thefts from businesses in the tri-state region.

City Council expressed its sincere appreciation and gratitude to Mr. Unroe for his assistance to the Montgomery Police Department.

Mayor Harbison presented the proclamation to Mr. Unroe Jr.

ESTABLISHING AN AGENDA FOR APRIL 4, 2007

Pending Legislation

An Ordinance Amending Section 50.02 of the Code of Ordinances Governing the Disposal of Real Estate Pursuant to an Urban Renewal/Urban Redevelopment Plan or Through the Montgomery Community Improvement Corporation (2nd Reading)

New Legislation

A Resolution Accepting a Bid and Authorizing the City Manager to Enter into a Contract with Brock & Sons, Inc. for the Construction of the Jolain Drive Sidewalk Project

Mr. Bob Nikula, Public Works Director, explained that staff is requesting that City Council adopt a resolution accepting a bid and authorizing the City Manager to enter into a contract with Brock & Sons, Inc. for the construction of the Jolain Drive Sidewalk. He further explained that the City is in the 7th year of a multi-year construction plan for sidewalk installation on various streets throughout the city. This five foot wide concrete sidewalk will serve as a pedestrian connection along the north side of Jolain Drive between Tollgate Lane and Knollbrook Terrace. He also explained that during the design phases of this project, public information was solicited, with 10 property owners providing suggestions, which were incorporated into the bid specification and design. He noted that this project is in the amount of \$104,322 and is included in the city's capital improvement program for 2007 and is within the budgetary estimate for the project.

Mr. Suer asked if Brock & Sons, Inc. had ever performed work in the City of Montgomery.

Mr. Nikula indicated that this would be the first time in city, however he had worked with them in the City of Fairfield.

Mr. Niehaus asked why there was such a difference in the bids between J. Daniels & Co. and Brock & Sons, Inc.

Mr. Nikula stated that he was not sure why the J. Daniels & Co. bid was so high.

A Resolution Authorizing an Agreement Between the City of Montgomery and the Board of Hamilton County Commissioners Relative to the Improvement of Remington Road from Montgomery Road to the Montgomery/Indian Hill Corporation Limits

Mr. Bob Nikula, Public Works Director, explained that City Council is being asked to adopt a resolution authorizing the City Manger to enter into an agreement with the Board of Hamilton County Commissioners for roadway and traffic improvements on Remington Road east of Montgomery Road extending to the Montgomery/Indian Hill corporation limits. In August 2006, staff submitted an application to the Hamilton County Engineer for a project to improve roadway drainage, pavement resurfacing and associated improvements to Remington Road. This project application requested funding approval through the Municipal Road Fund (MRF), which identifies specific roadways within the City of Montgomery that are included on the Comprehensive Map of the Roadways of Hamilton County that are eligible for the funding of improvement projects through the MRF. Passage of this legislation will allow the project to move forward through the bidding process. After bids are received staff will complete a review of all bids and present its findings to City Council. If a contract is recommended and authorized, the proposed project improvements then become eligible for funding of \$85,750 provided through the Municipal Road Fund, which is administered through the Hamilton County Commissioners and Hamilton County Engineer.

Mr. Suer asked about the timeframe of this project.

Mr. Nikula indicated that due to the fact that all roadway resurfacing funding available in the 2007 Capital Improvement Program is earmarked for other projects, it will be necessary for this project to be recommended for funding in the 2008 Capital Improvement Program budget.

Mr. Suer asked about the proposed completion of the project.

Mr. Nikula noted that construction would begin in early 2008 construction season and be completed by the end of June, 2008.

Mr. Suer congratulated Mr. Nikula on obtaining grant funding for so many projects.

A Resolution Adopting Rules and Procedures for Council

Mr. Terry Donnellon, Law Director, explained that this resolution would amend the Rules and Procedures of City Council. He further explained that that recently, the Government Affairs Committee undertook a review of the current City Council Rules of Procedure. He explained that he made the following minor changes:

- Executive sessions are available not only to City Council, but all public bodies. So that there is no confusion, he noted that executive sessions, although rare, would also be available to our Boards and Commissions if they meet the statutory requirements as set forth within the Rules. Additionally, there are times where not only the Ohio Revised Code, but Ohio law recognizes an executive session exception.
- The second change occurs in Article IV relative to *Legislation*. Our Charter permits that legislation be read by title only, if approved, on a motion by five members of Council. He noted the correction and cleaned up the language so it is clear how an ordinance is presented for a second and third reading. In that same article, he has also corrected some of the language regarding legislation preparation.
- The third change related to Minutes and Guest comments that appears in Article VII where he updated the language to acknowledge business meeting conflicts, and left in language that a City Council motion to excuse a member would be an option and not mandatory.

He further explained that in Article III(4), *Minutes*, he has corrected the section to acknowledge that this Minutes rule applies not only to City Council and its committees, but the Boards, Commissions and the sub-Committees. He also added the statement from Ohio case law to acknowledge that Minutes should contain sufficient facts and information to permit the public to understand the action and the rationale behind such action. He also explained that the reason for the change in the Rules was to clarify when minutes become a public record. Ohio Sunshine law, R.C. § 121.22, requires that Minutes be prepared, filed and maintained as a public record. Minutes, once prepared, are accessible to the public. He further noted that the purpose behind this new rule was to define the line when Minutes become acceptable for public review. It is easiest, and supportable, that Minutes are not available for public review until such time as City Council has had the opportunity to review and approve them. The same would hold true for the Boards, Commissions and Committees.

He also explained that the second comprehensive change concerns the audience participation set forth in Article V, *Meeting Procedures*. He added language in the first section to acknowledge that persons wishing to be heard may comment relative to items not appearing on the agenda or which are not pending for study or action by another Committee or Commission. He added a second sentence indicating that if a matter is pending in another forum, the person should be referred to that public body for comment. He noted that it would be his

recommendation that after City Council adopts these changes, language to that effect appear in the agenda item for Guests and Residents before City Council and all of its Boards and Commissions. He has noted that change as well in paragraph 2 so that this rule, once adopted, will apply to all City Boards.

Mr. Suer noted that this is normally a housekeeping function to review the rules, however, after the Government Affairs Committee reviewed the rules with staff, the committee has recommended updating the rules to refine the process for developing and publishing minutes, clarifying what rules apply to Boards and Commissions clarifying the process for legislation to be presented to City Council, and updating meeting procedures governing audience participation.

A Ordinance Amending Ordinance No. 20, 2006, Which Ordinance Established the Procedure for the Receipt and Disposition of Personal Property

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

Mr. Steinbrink asked how the reasonable value would be determined.

Mr. Donnellon indicated that reasonable value would not necessarily mean fair market value. Fair market value can only be determined through Kelly Blue Book or, in this specialized market, through an internet auction site. Reasonable value would be the recommended exchange price from the staff approved by the Government Affairs Committee of Council.

An Ordinance Granting an Access Easement Within Safety Center Lot to Twin Lakes In Ohio, Not For Profit Corporation

Ms. Roesch explained that she would be abstaining from discussions and voting on this matter, since the law firm she works for represents the applicant.

Mr. Frank Davis, Community Development Director, explained that City Council is being asked to adopt an Ordinance granting an ingress/egress easement to Twin Lakes for its development on Montgomery Road, south of the Safety Center. He further explained that on February 19, 2007, the Planning Commission approved the final development plan for Twin Lakes proposed new garden homes on the undeveloped property south of the Safety Center. As part of the site plan, a private drive is to access Montgomery Road across from its intersection with Forestglen Drive. In order to properly align the intersection and provide an appropriate turning radius for cars exiting the drive traveling north, the radius encroaches onto the southwest corner of the city-owned Safety Center property. He also explained that Twin Lakes is requesting that the city grant Twin Lakes an access easement of .028 acres (1,240 Sq. Ft.) to allow construction of the access drive. To authorize the use of this property, City Council would need to pass an ordinance granting a permanent access easement to Twin Lakes.

Mr. Combs asked if the city had ever granted this type of easement.

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Mr. Davis explained that City Council recently granted Great Traditions a Storm Water Sewer Easement for the Vintage Club development.

Ms. Hilvert noted that an access easement had been granted to Cincinnati Bell for the access to a vault located on the Hopewell Cemetery property. She further noted that various easements were granted in connection with the construction of the Triangle property.

Mr. McCracken, 9850 Forestglen Drive, asked if City Council had a chance to look at the location and design of the access to Montgomery Road. He requested that City Council look at all the information presented to the Planning Commission.

Mr. Crittenden, 9869 Forestglen Drive, noted that there is a unanimous opposition of the residents to the location of the proposed access point. He further noted that the residents strongly support the proposed option "C", which proposes a cut in the median.

Mrs. Crittenden, 9869 Forestglen Drive, asked that City Council not grant this access easement to Twin Lakes. She asked that the procedure for granting this easement be explained.

Mr. Kaesemeyer, 8708 Arcturus Drive, noted that this is a private drive and will be maintained by Twin Lakes. He asked if there would be financial compensation and, if not, he felt that this is a mistake. He further asked if Twin Lakes would be filing for non-profit status on this piece of property. He also noted that since this is a private drive it should be limited to right turn "only".

Mrs. Bradley, 10113 Woodfern Way, highlighted the neighbors concerns with safety. She requested that City Council contact Melissa Horning with the Sycamore School District and Laura Bailey with the postal service.

Mrs. Recker, 9948 Forestglen Drive, noted that she had asked to receive copies of the minutes from the Montgomery Road Task Force Committee and copies of the KZF study. She further noted that she was informed that the minutes do not exist and was finally given a copy of the first volume of the study on Friday. She further noted that on page 27 of the study it states that "the median landscape areas serve several purposes. They separate opposing traffic with a physical barrier to enhance safety, they reduce the number of left turn conflict points and they control the placement of future access points to Montgomery. Access to all properties is maintained by the utilization of wide medians to permit U-turns."

Mr. White, 10205 Glenash Court, noted that in the KZF study it talks about adopting an ordinance to limit access points on Montgomery Road. He asked if an ordinance had ever been adopted.

Ms. Pillich, 9910 Forestglen Drive, suggested that City Council strongly consider the long term effects it will have on not only the surrounding community, but to the city as a whole. She further asked that City Council consider all the documents submitted to the Planning Commission. She also asked that City Council consider if this is right for the city, is it legal, is it ethical, does it meet the values of the city and are they willing to be held accountable for their decision.

Ms. Kilburn-Phillips, 9926 Forestglen Drive, asked if the city had talked to the property owner about donating the property to the city instead of selling it to a private developer. She further asked if the city had considered purchasing the property with taxpayer dollars. She stated that this matter should be a decision made by the taxpayers. She further stated that four-way intersections are dangerous.

Mr. Wiwi, 9843 Forestglen Drive, asked if he could obtain a drawing of the easement, so that he could see the physical alignment.

Mayor Harbison explained that tonight City Council will consider adding this ordinance to the April 4th business session agenda and will assign it to a City Council member for first reading that evening. She further explained that an ordinance requires three readings and that discussions will be held at each meeting that the ordinance appears on the agenda.

Ms. Hilvert explained that there have not been any discussions on receiving compensation for granting this easement. She further explained that typically the city does not receive compensation for granting easements. She also explained that the city has not received any information that Twin Lakes is filing for tax exemption on this piece of property.

Mr. Donnellon noted that an access easement had been granted to Cincinnati Bell for the access to a vault located on the Hopewell Cemetery property. He further noted that the city did receive compensation of one gravesite.

Mr. Combs extended his thanks to Mrs. Crittenden for her email on senior drivers. He noted that this City Council would make the best decision for the community.

Mr. Suer noted that traffic congestion on Montgomery Road has increased over the years; however, traffic volumes cannot be just controlled on Montgomery Road. He further noted that he took a strong look at this intersection and he believes that this access point will be nothing but another access point with cars entering and leaving Montgomery Road. He also noted that the concerns regarding older drivers are a State of Ohio issue and maybe the state should consider testing every older driver in the State of Ohio. He stated that he is concerned that the city would be zeroing in on this small number of residents, instead of the entire community.

Mr. Steinbrink indicated that City Council is considering the granting of an easement, not the development of this project. He further indicated that City Council will be considering what is best for the public interest and the proper alignment of the access point.

Mayor Harbison stated that City Council will be considering what is right for the entire community not just one, ten or thirteen residents.

Ms. Kilburn-Phillips noted that concerns are not just with older drivers, it's the danger that comes with four-way intersections.

Ms. Connie Schmitt, Vice President of Marketing for Twin Lakes, noted that Twin Lakes was filing for tax exemption on the nursing care and assisted living property. She further noted that these properties would be issued restricted deeds and each homeowner would be paying property taxes.

Mr. Combs noted that he would be out of town and unable to attend the Wednesday, April 18, 2007 work session.

ADMINISTRATION REPORT

Ms. Hilvert reported on the following items:

- Board and Commission Chair updates will begin Wednesday, April 18, 2007. This program is designed to enhance communication between City Council and the Board and Commissions and features a 15 minute update from the chair of each board and commission. These updates should be completed by the May 23, 2007 work session.

- The Park Planning process is at the half way point in collecting feedback and input from the community. There have been a series of three public hearing meetings where input from about 35 people was gathered on all parks, including the pool and the nature preserve, as well as the green spaces on the corner of Pfeiffer and Montgomery and Hopewell and Montgomery. Another series of meetings are well underway with the stakeholders groups, including non-profits, schools, commissions, sport users, faith-based groups and others. For anyone not able to make a meeting, there is an option available on the website to allow for input to be sent directly to Jess Parrott, our contracted planning partner, to include in the final statement. The next phase is to meet with City Council and staff members to gather their thoughts and ideas on the future of the parks. This meeting will take place during the first two weeks of April with a target date of April 15th to conclude this fact-finding phase of the planning process.
- The City has received a nomination for designation of portions of Pioneer Park and the creek in Dulle Park as a Montgomery Landmark. The nomination was received from Kay Gaffney, Dick Conklin, Mary O'Driscoll, Gene McCracken, Don Jenner, Brett Leonard, and Jim Dunlop. Staff is reviewing the application to determine the exact definition of area proposed for the designation. The applicant has requested this be forwarded to the Landmarks Commission for consideration at its April meeting.
- The city will be beginning labor negotiations with the FOP bargaining unit in May.
- Work on the special chipping brush collection continued this week. It is projected that the first round of collection will most likely be completed on March 31, 2007. Under this projection, the second and final special brush chipping collection would then begin on April 2, 2007 and continue until completed. The regular spring brush collection program is scheduled to begin on April 16, 2007.

LAW DIRECTOR'S REPORT

Mr. Donnellon stated that the homeowner's cited to Mayor's Court on violation of the city's "Keg Law" have agreed to perform community service hours.

CITY COUNCIL MEMBERS REPORTS

Mr. Combs noted that the Financial Planning Committee of City Council is scheduled to meet on Monday, April 2, 2007 at 5:30 p.m. He further noted that he attended one of the Comprehensive Park Planning public meeting.

Mr. Suer explained that he attended the Sycamore Community School District Planning Commission meeting where they discussed what organization will be participating in the Planning Commission next year. He further explained that Ms. Becky Cole has submitted her resignation notice as Chair of the Sister Cities Commission. Ms. Marcallene Shockey has been elected as the new chair of the Sister Cities Commission. He also explained that the Arts Commission hosted the 20th annual Photography Reception and Exhibition on Sunday, March 18, 2007 at Universalist Church. Approximately 250 photographs were exhibited at the event.

Mr. Niehaus noted that he attended two of three Comprehensive Park Planning public meetings, but the attendance at these meetings were low.

Ms. Roesch stated that she attended the OKI meeting and a BAMSO Board meeting.

Mr. Steinbrink indicated that staff is completing the draft of the comprehensive community plan, which will be presented to the Planning Commission at their April 16, 2007 meeting.

MINUTES

City Council reviewed the minutes from the February 21, 2007 work session and March 7, 2007 business session.

OTHER BUSINESS

Ms. Hilvert explained that the City has received notice from the Ohio Department of Liquor Control asking whether the city wishes to request a hearing on a new D-3 liquor license for Pizzadoris LTD dba Pomodoris Pizza. She further explained that City Council may recall that recently the city assisted Pomodoris in its application for an economic development liquor license transfer. This is an additional liquor license to supplement the D-1, D-2, and D-6 licenses transferred through the recent process.

Mr. Combs moved to not request a hearing on the new D-3 liquor license for Pizzadoris LTD dba Pomodoris Pizza. Mr. Niehaus seconded. City Council unanimously agreed.

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

Mr. Steinbrink moved to adjourn. Mr. Suer seconded.

City Council unanimously agreed.

City Council adjourned at 9:37 p.m.

Clerk of Council