

January 15, 2021

TO: Mayor and City Council Members

FROM: Brian K. Riblet, City Manager 

SUBJECT: City Council Work Session of Wednesday, January 20, 2021

As a reminder, City Council is scheduled to meet in Work Session on Wednesday, January 20, 2021 at 7:00 p.m.

This meeting will be offered as a hybrid meeting, both in place at City Hall and by teleconference for those who cannot attend in person or feel safer sheltering at home. To participate in this meeting by teleconference please use the following phone number: 1-866-228-9900 with a passcode of 204938.

Work Session

1. Call to Order
2. Roll Call
3. Special Presentation
4. Guest and Residents
5. Legislation for Consideration this Evening
6. Establishing an Agenda for February 3, 2021 Business Session

Pending Legislation

- a. An Ordinance Modifying Section 132.14, Noise, of The Montgomery Code of Ordinances—(Vice Mayor Margolis, 2nd Reading) Information has been previously supplied on this legislation that, if approved, would enact modifications to the Noise Ordinance which include differentiating between general noise and construction noise, by defining “construction work” as “any type of work which requires a building and/or zoning permit”. Times for construction work would be limited to 7:00 a.m. – 9:00 p.m. (Monday through Friday) and 9:00 a.m. – 8:00 p.m. on Saturdays and Sundays. The proposed modifications maintain the hours of 7:00 a.m. – 11:00 p.m. for all other types of noise outside of construction work. In addition, the proposed modifications limit the sound permitted outside these hours to 60 decibels, as measured from the complainant’s property line. Since the original

presentation of the proposed modifications Staff has further researched the historical premise of the existing Noise Ordinance and has revised the modifications which are noted in the attached redlined version of the Ordinance.

This legislation was tabled at the October 21, 2020 Work Session. It is requested that the legislation be added to the February 3, 2021 agenda for second reading. The third reading would be at the March 3, 2021 with passage requested that night.

New Legislation

There is no new legislation.

7. Administration Report

8. Law Director Report

9. City Council Member Reports

- a. Mr. Cappel
 - i. Reappoint Elaine Cohen and Mark Laskovics to the Environmental Advisory Commission with terms ending January 31, 2024
- b. Mrs. Bissmeyer
 - i. Reappoint Mike Hawkins to the Civil Service Commission with a term ending January 31, 2024.
- c. Ms. Roesch
 - i. Reappoint Jane Hohn and Aaron Kellenberger to the Beautification and Tree Commission with terms ending January 31, 2024
 - ii. Reappoint Jody Lowe and John Tholking to the Parks and Recreation Commission with terms ending January 31, 2024
- d. Mr. Suer
 - i. Reappoint Gary Blomberg, Chris Skufca and Ed Steinebrey to the Board of Tax Appeals with terms ending on January 31, 2023
- e. Vice Mayor Margolis
 - i. Reappoint Tom Molloy to the Board of Zoning Appeals with a term ending on January 31, 2025
 - ii. Reappoint Larry Schwartz to the Landmarks Commission with a term ending on January 31, 2024
 - iii. Reappoint Michael Harbison and Dennis Hirotsu to the Planning Commission with terms ending on January 31, 2025
- f. Mayor Dobrozsi

10. Approval of Minutes- January 6, 2021 Public Hearing and Business Session.

11. Other Business

12. Executive Session

13. Adjournment

Should you have any questions or concerns regarding this information, please do not hesitate to contact me.

C: Connie Gaylor, Administrative Coordinator
Department Heads
Terry Donnellon, Law Director

January 20, 2021
City Hall

The City Council Work Session will commence in City Hall observing social distancing guidelines and also by teleconference immediately following the conclusion of the Updates. To phone in please use the following phone number: 1-866-228-9900 with access code 204938.

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C: Connie Gaylor, Administrative Coordinator
Department Heads
Terry Donnellon, Law Director

TO: Mayor Chris Dobrozsi
Members of City Council

FROM: Terrence M. Donnellon

RE: Modifying Section 132.14, Noise,
of the Montgomery Code of Ordinances

DATE: January 14, 2021

We did a deep review of our Noise Ordinance and the history of controlling noise within the City. The process of review started with regulating Construction Work and the noise generated from construction activities within the City, particularly teardown construction in the residential community. After reviewing Codes from other cities, it was determined that it would be appropriate to limit the hours during which construction can be conducted within the City.

During the time that we were reviewing the Code, a complaint arose during a Saturday afternoon from a loud outdoor party at the Marketplace. There was some confusion as to what the Code did or did not regulate when sounds could be heard in a residential area. It also brought us back to the very difficult task of prosecuting an offense and being able to prove that the noise was causing inconvenience or annoyance to persons of reasonable sensibilities. With the modernization and improvement in technology, we are now able to use handheld meters to measure noise and objectively set the standards above which we believe a noise would be unreasonable.

At the same time, we need to strike a balance between the business activities of a vibrant community and when such business activities, whether day or night, could be too loud and when we should have, for lack of a better term, *quiet time* in a residential community. Quiet time is not the absence of noise as we have ambient noise throughout the community.

Attached is a chart of comparative examples of noise levels from Industrial Noise Control, Inc. Research shows that these are consistent examples of noise at a level at which they are measured and at the level of which a person of reasonable sensibilities would consider the noise to be too loud.

As an example, 60 decibels (dBs), while it is half as loud as 70 dBs, is considered fairly quiet. Comparably, it is conversation in a restaurant or office. It is background music or an air conditioning unit at 100 feet. On the other hand, 70 dBs, particularly sound in the upper 70's, are annoyingly loud. Examples are passenger cars at 65 miles per hour measured at 25 feet. Freeway noise 50 feet from the pavement edge. Consider that we take additional measures to mitigate the noise from the Interstate Highways running through the community with our sound barriers. On that basis, we deem

highway traffic noise typically measured at 77 dBs to be too loud, whether day or night. Also, a radio or TV audio and a vacuum cleaner are typically measured 70 dBs. At night, a TV playing in the background can be annoying. During the day a TV playing in the background is simply white noise in our daily activities.

We are striking this balance to allow the daily activities of our lives until 11:00 PM at night to be 70 decibels at a peak, but once we arrive at 11:00 PM we want the community to be quiet and drop down to residential standards at 60 decibels.

We also need to determine a reasonable length from the property from which the noise will be measured. The previous Ordinance last amended in 1999 set the standard at 200 feet from the source of the sound. There was also some confusion as it set 200 feet from the property line of the property on which the source of the sound is located, whichever is less. That standard on a large lot can cause us to issue a citation to a property owner who is generating a loud sound on his or her own lot. Measuring 200 feet from the property line is an easier standard and avoids neighbor-to-neighbor disputes. Typically, our single-family minimum lot frontage is 80 feet, so this would be measured on a lot two houses away. Obviously, the sound would be much louder at the next-door neighbor's home, but a zero lot line standard may be very difficult to manage.

We also have sound which is generated from motor vehicles traveling through the City. The 1999 Ordinance was intended to address motor vehicle noise and stated that noise which could be heard from a distance of 100 feet was unreasonable. Should we keep the standard for motor vehicles at 100 feet while we keep the standard for unreasonable noise between property lines to be 200 feet? These are decisions Council will need to make in the final Ordinance.

It is important that when we are issuing citations that we use the handheld measuring devices owned by the Police Department. Much like using a laser gun for enforcing speed limits, it provides an objective measurement, and we will be able to demonstrate in the court that the users are trained and that the device has been properly calibrated. At some point we may need a higher court to recognize that this is an objective basis for determining a citation, but it is a start and allows us to begin enforcement.

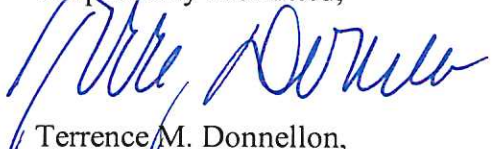
Will the police issue citations in all circumstances? The police have an option to respond to a complaint, measure the noise, then address the complaint with the property owner from where the noise is emanating. In the officer's discretion they could issue a warning asking the noise to be turned down. If the violation persists, a citation may be issued. If it is a persistent basis night after night, it likely would warrant a citation.

We need to keep in mind that there are applications which can be purchased through a cellphone which measure noise. These are not as sophisticated as the handheld devices which will be used by our Police Department. They also may not be properly measuring noise as the more sophisticated, scientific instruments calibrate the noise considering low frequency and high frequency rather than a pinpoint noise. Also, we would be reluctant to rely upon a citizen's personal complaint not knowing when they measured the noise, where they measured the noise, and how sensitive or

insensitive their microphone may be on their handheld device. The handheld device, though, may be the basis for receiving the complaint, but it is not the end of the complaint. The same can be true when someone calls us to a street and complains that a driver is going 50 miles per hour every morning up and down the roadway. It is their opinion, but it may not be sufficient to be the foundation to prosecute in court.

The Noise Ordinance for the City has evolved over several years. It started more than 25 years ago when there were numerous complaints concerning restaurants and particularly outside public address systems used by the auto dealerships. We have controlled the public address systems, but this broader Ordinance will control all noise, whether it is deliveries, construction noise or defective machinery. We avoid the argument as to whether or not the Ordinance is vague, which was a problem in 1995 when the standard was unnecessary or an unusually loud noise in such a manner as to disturb the peace and quiet of the neighborhood. This standard eventually evolved through court cases in and around the Greater Cincinnati area to provide a more objective standard which was noise likely to cause inconvenience or annoyance to persons of ordinary sensibilities. By adopting an objective standard, we are presuming that a noise is too loud when it exceeds these measurable levels. Additionally, these are not arbitrary levels, but are based upon scientific evidence as to what a reasonable person considers to be too loud.

Respectfully submitted,



Terrence M. Donnellon,
Law Director

TMD/lld

Enclosures

cc: Brian Riblet, City Manager
Connie Gaylor, Administrative Coordinator
Department Heads
File



Custom Engineered Solutions

- Pre-Assembled Structures
- Parti-Wall Modular Acoustical Panels
- Flexi-Sorb Noise Control Curtains
- Outdoor Noise Barriers
- Acoustical Test & Measurement Cells
- Power Sports Dynamometer Test Cells

Noise Control Materials

- Noise Barriers
- Flexible Noise Absorbers
- K-Foam
- Convuluted Foam
- Sorba-Glas Noise Absorber
- HVAC Duct Liner
- Noise Barriers & Composites
- Acoustic Foam Composites
- Sorba-Glas Composites
- Noise & Vibration Damping Materials

Noise Control Products

Home > Industrial Noise Control Library > Comparative Examples of Noise Levels

**Comparative Examples of Noise Levels
Comparative Examples of Noise Sources, Decibels
& Their Effects**

Noise Source	Decibel Level	Decibel Effect
Jet take-off (at 25 meters)	150	Eardrum rupture
Aircraft carrier deck	140	
Military jet aircraft take-off from aircraft carrier with afterburner at 50 ft (130 dB).	130	
Thunderclap, chain saw. Oxygen torch (121 dB).	120	Painful. 32 times as loud as 70 dB.
Steel mill, auto horn at 1 meter. Turbo-fan aircraft at takeoff power at 200 ft (118 dB). Riveting machine (110 dB); live rock music (108 - 114 dB).	110	Average human pain threshold. 16 times as loud as 70 dB.
Jet take-off (at 305 meters), use of outboard motor, power lawn mower, motorcycle, farm tractor, jackhammer, garbage truck. Boeing 707 or DC-8 aircraft at one nautical mile (6080 ft) before landing (106 dB); jet flyover at 1000 feet (103 dB); Bell J-2A helicopter at 100 ft (100 dB).	100	8 times as loud as 70 dB. Serious damage possible in 8 hr exposure
Boeing 737 or DC-9 aircraft at one nautical mile (6080 ft) before landing (97 dB); power mower (96 dB); motorcycle at 25 ft (90 dB). Newspaper press (97 dB).	90	4 times as loud as 70 dB. Likely damage 8 hr exp
Garbage disposal, dishwasher, average factory, freight train (at 15 meters). Car wash at 20 ft (89 dB), propeller plane flyover at 1000 ft (88 dB); diesel truck 40 mph at 50 ft (84 dB); diesel train at 45 mph at 100 ft (83 dB). Food blender (88 dB); milling machine (85 dB); garbage disposal (80 dB).	80	2 times as loud as 70 dB. Possible damage in 8 hr exposure.
Passenger car at 65 mph at 25 ft (77 dB); freeway at 50 ft from pavement edge 10 a.m. (76 dB). Living room music (76 dB); radio or TV-audio, vacuum cleaner (70 dB).	70	Arbitrary base of comparison. Upper 70s are annoyingly loud to some people.
Conversation in restaurant, office, background music, Air conditioning unit at 100 ft	60	Half as loud as 70 dB. Fairly quiet
Quiet suburb, conversation at home. Large electrical transformers at 100 ft	50	One-fourth as loud as 70 dB.
Library, bird calls (44 dB); lowest limit of urban ambient sound	40	One-eighth as loud as 70 dB.
Quiet rural area	30	One-sixteenth as loud as 70 dB. Very Quiet
Whisper, rustling leaves	20	
Breathing	10	Barely audible

[modified from <http://www.wenet.net/~hpb/dblevels.html>] on 2/2000
SOURCES: Temple University Department of Civil/Environmental Engineering (www.temple.edu/departments/CETP/engin10.html), and Federal Agency Review of Selected Airport Noise Analysis Issues, Federal Interagency Committee on Noise (August 1992). Source of the information is attributed to Outdoor Noise and the Metropolitan Environment, M.C. Branch et al., Department of City Planning, City of Los Angeles, 1970

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- Reverberation Control
- Machinery Sound Enclosures
- Acoustical Dividers & Partitions
- Decorative Noise Control



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ORDINANCE NO. , 20~~20~~21

**AN ORDINANCE MODIFYING SECTION 132.14, NOISE, OF THE
MONTGOMERY CODE OF ORDINANCES**

WHEREAS, in a recent survey, residents of the community voiced their concerns regarding excess noise generated from construction activities, particularly as older properties are repurposed with new residential construction; and

WHEREAS, the Administrative staff has reviewed these concerns with the Police Department and surveyed surrounding communities to make a recommendation to the Planning, Zoning and Landmarks Committee of Council to update Section 132.14, *Noise*, of the Code of Ordinances to regulate the hours of construction and to set a more objective standard for determining when excess noise is spilling over from a property; and

WHEREAS, after Staff reviewed the recommended changes with the Planning, Zoning and Landmarks Committee of Council, the Committee endorsed the recommendations from Staff which are incorporated herein; and

WHEREAS, in implementing this change, the Administration has researched the history of regulating unreasonable noise in the community and the option to update the regulations in light of new development in the community and the market push to provide more outdoor activities; and

WHEREAS, to enhance enforcement, the Administration has recommended, and Council agrees, that more objective standards should be incorporated within the Ordinance to better define when a noise should be considered to be unreasonably loud and disruptive to the community.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Montgomery, Hamilton County, Ohio, that:

SECTION 1. Section 132.14, *Noise*, of the Code of Ordinances shall be amended as follows:

There shall be added to subsection (A) entitled *Definitions* the following term:

CONSTRUCTION WORK. Any type of work which requires a building and/or zoning permit.

~~**SECTION 2.** Existing subsection (C) of Section 132.14 is hereby revoked and deleted with the following subsection (C) to be substituted:~~

~~*(C) — To mitigate excess noise, any Construction Work on a property within the City, whether residential or commercial, shall only occur between the hours of 7:00 AM and 9:00 PM, Monday through Friday, and between the hours of 9:00 AM and 8:00 PM on Saturdays and Sundays.*~~

~~**SECTION 3.** A new subsection (D) shall be added to Code Section 132.14 reading as follows:~~

~~*(D) — No person shall generate or permit to be generated unreasonable noise or loud sound that is likely to cause inconvenience or annoyance to persons of ordinary sensibilities between the hours of 10:00 PM and 7:00 AM, by reason of a sound generating or sound amplifying device. Any such broadcast sound in excess of 60 decibels, as measured at a position or positions at the complaint's property line closest to the noise source or at a*~~

~~location along the boundary line from which the noise is being generated, shall presumptively be deemed unreasonable noise.~~

SECTION 2. Existing subsections (B) and (C) of Section 132.14 are hereby revoked and deleted with the following subsection (B) to be substituted:

(B) No person shall generate or permit to be generated unreasonable noise or loud sound that is likely to cause inconvenience or annoyance to persons of ordinary sensibilities. A noise or sound shall be presumed to be unreasonable and/or too loud and likely to cause inconvenience and annoyance to persons of ordinary sensibilities under the following circumstances:

(a) Noise generated from any Construction Work on a property within the City, whether residential or commercial, outside of the hours of 7:00 AM to 9:00 PM, Monday through Friday, and the hours of 9:00 AM to 8:00 PM on Saturdays and Sundays.

(b) A noise or sound which can be measured at a level of Seventy (70) decibels (dBs) or higher at a location of Two Hundred (200) feet or more from any property line of the property from which the sound originates between the hours of 7:00 AM and 11:00 PM daily.

(c) A sound which can be measured at a level of Sixty (60) dBs or higher at a location of Two Hundred (200) feet or more from any property line of the property from which the sound originates between the hours of 11:00 PM and 7:00 AM the following morning.

(d) Sound generated or sound amplified from, or from within, a motor vehicle at such a level that the sound emitted from the motor vehicle can be measured to exceed Seventy (70) dBs during the hours of 7:00 AM until 11:00 PM, or measured to exceed Sixty (60) dBs during the hours of 11:00 PM until 7:00 AM the following morning when measured at a distance of One Hundred (100) feet from the motor vehicle from which the sound is emitted. These standards apply whether the vehicle is stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway within the City.

SECTION 43. Previous subsection (~~DD~~) of Section 132.14 shall now be subsection (~~CE~~), and subsection (~~EE~~) shall now become subsection (~~DF~~), provided, however, that within the new subsection (~~DE~~) the following exemptions shall be added:

(6) Any aircraft operated in conformity with, or pursuant to, federal law, federal air regulations, and air traffic control instruction.

(7) Noises resulting from excavations, installation or repairs of public utilities, bridges, streets or highway by or on behalf of a public utility, the City, County or State when public health, safety, welfare and convenience renders it impractical to perform such work during the hours of the day outlined in subsection (C) above for Construction Work.

SECTION 54. Other parts or sections of Section 132.14, *Noise*, of the Code of Ordinances is hereby ratified and reaffirmed.

SECTION 65. All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

SECTION 76. All sections, subsections, parts and provisions of this Ordinance are hereby declared to be independent sections, subsections, parts and provisions, and the holding of any section, subsection, part or provision to be unconstitutional, void or ineffective for any reason shall not affect or render invalid any other section, subsection, part or provision of this Ordinance.

SECTION 87. This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: _____

ATTEST: _____
Connie M. Gaylor, Clerk of Council

Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon, Law Director

These minutes are a draft of the proposed minutes from the Public Hearing. They do not represent the official record of proceedings until formally adopted by the City Council. Formal adoption is noted by signature of the Clerk within the minutes.

City of Montgomery
City Council Public Hearing Minutes
January 6, 2021

Present

Brian Riblet, City Manager
Terry Donnellon, Law Director
John Crowell, Police Chief
Gary Heitkamp, Public Works Director
Tracy Henao, Asst. City Manager/Acting Comm. Dev. Dir.
Katie Smiddy, Finance Director
Matthew Vanderhorst, Community and Information Services Director
Paul Wright, Fire Chief
Connie Gaylor, Clerk of Council

City Council Members Present

Chris Dobrozi, Mayor
Craig Margolis, Vice Mayor
Lee Ann Bissmeyer - teleconference
Mike Cappel - teleconference
Lynda Roesch - teleconference
Ken Suer

City Council convened its Public Hearing for January 6, 2021 at 6:45 p.m. in a hybrid meeting at City Hall and by telephone conference with Mayor Dobrozi presiding. This remote access meeting was allowed by emergency legislation adopted by the Ohio General Assembly and approved by the Governor. The emergency legislation added language to RC Section 121.22 allowing public meetings by telephone conference during the current pandemic and declared State of Emergency. As required by the statute, notice of the telephonic meeting was publicized more than 24 hours in advance to allow public access through the same conference call in service. The public was also given a backup number to call in the event there were technical difficulties. This Notice was posted on the City's website and a similar Notice was sent to The Cincinnati Enquirer.

Mayor Dobrozi explained the process for the Public Hearing to those in attendance and on the phone line. He explained that in a public hearing Council has the following options when considering an application:

- Approve the Recommendation
- Deny the Recommendation
- Remand the matter to Staff for more specific information or
- Take the matter under advisement and vote at another public meeting within thirty days.

Mayor Dobrozi explained that if City Council chooses the final option, it is suggested that they announce the date and time of the subsequent hearing when the matter will be discussed and considered for vote.

Mayor Dobrozi stated that as a reminder, the Code does not allow additional new evidence to be submitted for review during the public hearing. City Council is to limit its consideration to the information presented from the City, and any comments, pro or con, from the public.

Mayor Dobrozi asked Ms. Henao to present the background of the agenda item.

NEW BUSINESS

Application from Sycamore Community Schools to allow for the expansion of a conditional use for the construction of an addition for E.H. Green Intermediate School at 5200 Aldine Drive

Ms. Henao provided background to City Council regarding a request that City Council consider an application for an expansion of a conditional use and an equivalency for renovation and new construction at E. H. Green Intermediate School at 5200 Aldine Drive.

Ms. Henao explained that the school property straddles the jurisdictional boundary between the City of Blue Ash

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53 and Montgomery, with most of the building located in Blue Ash. E.H. Green Intermediate School has been
54 located on the property since 1962 with additions in 1989 and early 2000. The portion of the project that is in
55 Montgomery will entail demolition of a portion of the existing school building, addition of a bus parking lot and
56 the addition of a baseball diamond. The property is zoned 'A' Single Family Residential and schools are a
57 conditionally permitted use in the district. The surrounding properties are zoned Single Family Residential and
58 used for single family residences in both Montgomery and Blue Ash.

59
60 Ms. Henao explained that The Planning Commission met on October 19, 2020 for a concept plan discussion on
61 the project. At the meeting, the applicant familiarized the Commission with the project and received feedback on
62 a potential equivalency request to allow for additional vegetation along the shared property lines in lieu of interior
63 parking lot landscaping in the bus lot as well as feedback on the need for a fence around the play area on the bus
64 lot.

65
66 Ms. Henao stated that the Planning Commission considered the application for the expansion of a conditional use
67 and the Final Development Site Plan with an equivalency on November 16, 2020. After hearing testimony and
68 discussing the application, the Planning Commission voted unanimously to recommend approval of the expansion
69 of the conditional use permit and approve the Final Development Plan with a recommendation to approve the
70 equivalency request. The conditions recommended by the Planning Commission are shown below:

- 71
- 72 • Final stormwater calculations and plans be reviewed and approved by the City Engineer.
 - 73 • A copy of the NPDES permit from the Ohio EPA be supplied to the Community Development
74 Director.
 - 75 • A copy of the Post Construction Best Management Plan Inspection and Maintenance Plan (I & M
76 Plan) be properly recorded prior to issuance of the Certificate of Occupancy.
 - 77 • To meet the equivalency requirements, the required interior parking lot landscaping be located along
78 the driveway to the bus lot and be enhanced to fully landscape the bus parking lot and the elbow of
79 the driveway, to prevent lights penetrating the residents' homes.
 - 80 • Final approval of the landscape plan by the Community Development Director and the City Arborist.

81
82 Ms. Henao summarized her report by stating that the project is a significant development for Sycamore
83 Community Schools, which is one component of the facilities master plan which will involve renovations and/or
84 new construction on many of the campuses throughout the district. Only a small portion of the property is in the
85 City of Montgomery and the redevelopment of the site has received approvals in the City of Blue Ash. The
86 proposed plan meets the regulations in the Zoning Code except for the interior parking lot landscaping in the bus
87 lot. The Planning Commission has recommended approval of an equivalency for the interior parking lot
88 landscaping requirement and Staff believes that the addition of extra landscaping along the property line to
89 provide for a visual screen to the surrounding residential properties is a good solution to help mitigate any
90 negative impact. Therefore, Staff is in support of the recommendation of the Planning Commission.

91
92 Ms. Henao added that the landscape plan was revised and displayed the drawing to those in Council Chambers.
93 She explained that there were now Evergreens lining the entire property line. She stated that they consisted of
94 Norway Spruce and Green Giant Arborvitae.

95
96 Ms. Henao explained that she had received a letter from a property owners at 5201 Aldine Drive whose property
97 actually fell in the City of Blue Ash. She stated that she had responded to their letter and forwarded on to the City
98 of Blue Ash as well as Sycamore Schools. She stated that their letter requested information on the speed limit that
99 would be enforced by the City of Blue Ash as well as video from the City of Blue Ash's meeting.

100

101

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City Council Public Hearing Minutes

January 6, 2021

Page 3.

102 Frank Forsthoefel, Sycamore Community Schools- Mr. Forsthoefel identified himself as being on the phone line.
103 He extended his sympathies in the passing of Council Member Gerri Harbison. He stated that he was grateful to
104 the Planning Commission for their incredible feedback and was excited about the opportunity to see this project
105 come to fruition. He stated that this addition would transform the schools for generations to come. He stated he
106 was happy with the collaboration with the City and grateful for the Planning Commission approval of the plan and
107 is hopeful for City Council's approval that evening. He turned it over to Mrs. McKenzie from SHP and Mr. Chad
108 Lewis, Asst. Superintendent of Sycamore Schools.

109
110 Allison McKenzie of SHP thanked Mr. Forsthoefel and the Mayor for a great collaborative process and feels that
111 they have listened to homeowners who have expressed concerns and as a result made alterations to plans to
112 hopefully be the best neighbors they could be. She stated that she was there to answer any questions she could.
113

114 Mayor Dobrozi asked for comments from City Council.
115

116 Vice Mayor Margolis stated that he has listened to quite a few of the presentations and acknowledged that the site
117 was not ideal as there was an existing building that made it difficult to work within those constraints. He asked
118 Ms. Henao to describe how the Planning Commission spoke and drilled down to the buffering between the
119 residents and the school.
120

121 Ms. Henao explained that the Planning Commission did spend a significant amount of time discussing the
122 buffering between the properties on Stonehenge Drive and the proposed bus garage. She explained that headlights
123 were a concern but added that there would be no busses parking at that location only for pickup or drop off. This
124 area would then be used for outdoor recess during the school day. There was a lengthy discussion regarding a
125 fence being required or not. She explained that the Planning Commission preferred to see an Evergreen buffer
126 being placed on the school side of the property so it would be required to be maintained in perpetuity.
127

128 Vice Mayor Margolis added that he felt that a new school is a wonderful addition to the community and the
129 Sycamore School District.
130

131 Mr. Suer stated that he agreed with Vice Mayor Margolis and Ms. Henao that the Evergreen screening is a good
132 equalizing compromise and in the long run would benefit the surrounding neighbors. He stated that he agreed that
133 the overall plan is a benefit to the City even though the majority of it is in the City of Blue Ash. He stated that he
134 felt it would benefit the community and made Sycamore School District more viable for our community.
135

136 Mrs. Bissmeyer stated that she agreed with Vice Mayor Margolis and Mr. Suer. She stated that the best scenario
137 would have been for the school to have land to work with, but she liked the use of landscaping as a barrier. She
138 stated that the only area that looks to be out of compliance was the area to be used by the busses but that appears
139 to be an unsolvable problem.
140

141 Mr. Cappel stated that he liked the design and felt it was a great fit for the community. He asked the following
142 questions: Where does the stormwater go. Are the downstream areas subject to flooding.
143

144 Ms. Henao responded that the stormwater plans are under review by CT Consultants. She stated that there are
145 several detention basins that will be located on the site. She explained for more detail on that she would turn that
146 over to SHP as she was not a storm water expert however, they would be held to Hamilton County stormwater
147 regulations and are also including best practices for storm water quality on site. She stated that she was not aware
148 of any flooding issues in the area. She felt complying with the Hamilton County Storm Water Regulations and the
149 review from CT Consultants, they should be able to take care of any storm water management issues on site. Ms.
150 Henao asked Ms. McKenzie from SHP if she had anything to add.

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151 Ms. McKenzie replied that while she was an architect and not a civil engineer, but she does know that a great deal
152 of attention was paid to the storm water management. She stated that her civil engineer has been in contact with
153 Montgomery engineering staff for additional storm water calculations. She stated that she firmly believes that any
154 work at the site will be a net benefit as far as storm water management is concerned, not increasing any storm
155 water on the site.

156
157 Ms. Roesch stated that she concurs with what has been said. She stated that she feels the conditions that were set
158 were adequately addressed by the revised plans. She stated that she is in favor of what has been done.

159
160 Mayor Dobrozsi stated that he appreciates the relationship with the Schools and the great work done by the
161 Planning Commission and staff. He stated that it appears there were give and takes throughout the project and that
162 we have come to a win-win. He stated that he felt the landscaping was extremely important. He asked if the Post
163 Construction Best Management Plan Inspection and Maintenance Plan (I & M Plan) have to do with the
164 landscaping as well.

165
166 Ms. Henao replied that it does not. She explained that that document is specific to the storm water management
167 plan but the condition upon approval would stand and is enforceable as a zoning condition. She explained that if a
168 Norway Spruce were to die that staff would have the authority to go to the Schools to require its replacement as
169 per the new landscaping plan.

170
171 Mayor Dobrozsi opened the floor to Public comments.

172
173 **GUESTS AND RESIDENTS**

174
175 Derek Steele, 7717 Stonehenge Drive-Mr. Steele stated that he and his wife and a number of neighbor's object to
176 the proposed site of the replacement school. He stated that the general site area is very large, and he felt it was not
177 necessary to place the school at the rear of the property such that the parking and movement of busses are close to
178 the residences, not excluding pollution and the loss of green space. Mr. Steele stated that he has had the pleasure
179 of living at his home for more than 40 years and wishes to continue that for years unspoiled by this proposal. He
180 asked that City Council consider the request of people who have lived there for so many years.

181
182 Mayor Dobrozsi thanked Mr. Steele for his time in coming and sharing his thoughts and comments.

183
184 Mayor Dobrozsi asked if there were others on the line who would like to speak.

185
186 Christie Schonscheck, 7719 Stonehenge Drive-Ms. Schonscheck stated her disappointment that this meeting was not
187 conducted as a Zoom meeting so she could view the updated landscape plans made available to those in
188 attendance. She asked if the added landscaping would border both sides of the project.

189
190 Ms. Henao replied that the entire property line on Stonehenge as well as the rear of the property line where the bus
191 lot would be.

192
193 Ms. Henao provided her email to those on the phone line in order to provide the electronic version of the
194 landscape plan to them for review.

195
196 Tom Riegler, 5449 Hagewa Drive- Mr. Riegler stated his property was directly behind the school and asked if the
197 landscape plan could also be sent to him as he felt it may answer his questions. He asked if the plans include
198 drainage or some sort of layout.

199

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200 Ms. Henao stated that she can also provide a link to the drainage plans which are large, but she was happy to send
201 a link to the City's Dropbox account.

202
203 Jonathan Smith, 693 Stonehenge Drive-Mr. Smith stated that he has been a resident on Stonehenge for over 12
204 years now and that the bus traffic in the neighborhood has been the largest nuisance by far but acknowledged that
205 that was a small nuisance in the large scope of life. He stated that while he had been a previous student of E.H.
206 Greene long ago, that he had underestimated the scale of traffic as an adult when purchasing his home on
207 Stonehenge. He explained that four times a day he was unable to exit or enter his driveway due to the bus traffic
208 and that traffic line extends to his rear property line. He explained that his property is along the southern border of
209 Greene school. He stated that he felt it unfortunate that the existing building set a foundational restraint for where
210 the addition could be constructed on the lot. He stated that he felt the plan failed to address the concern for
211 parading headlights across the property. He stated he would like to see the bus garage more central in the rear of
212 the lot with the driveway extending between the soccer field and baseball diamond. He stated that he realized that
213 may not be feasible. He stated that he would like to see the shrub row be continued along the southern and eastern
214 boundaries to shield light pollution from the bus lights.

215
216 Ms. Henao explained that the landscaping does exist all the way down Stonehenge as the Planning Commission
217 also had a large concern over the effects of the bus lights. She explained that evergreen landscaping was added to
218 the landscaping plan.

219
220 Mr. Smith asked if the updated plan was included in the online packet.

221
222 Ms. Henao stated that it was not as it had not been received by the schools at the time of posting and was not part
223 of the consideration by Council this evening. She explained that the final landscape and stormwater plans have not
224 yet been approved and that comments could still be considered at the staff level. Ms. Henao asked Mr. Smith to
225 send her an email and she would send him in her reply the landscaping plans.

226
227 Mr. Smith thanked Ms. Henao for that but expressed his displeasure for where the bus lane ended up as it will still
228 travel along his property line.

229
230 Mayor Dobrozsi thanked Mr. Smith for his comments and asked if there were any other comments from people on
231 the phone line. There was no further response so Mayor Dobrozsi closed the floor for public comments.

232
233 Mayor Dobrozsi restated that the options available to City Council related to this request were:

- 234
- 235 • Approve the Recommendation
 - 236 • Deny the Recommendation
 - 237 • Remand the matter to Staff for more specific information or
 - 238 • Take the matter under advisement and vote at another public meeting within thirty days.

239
240 Vice Mayor Margolis moved to approve the recommendation and conditions as made by the Planning
241 Commission.

242
243 Mr. Donnellon explained that the packet includes the specific recommendation that Council has been asked to
244 vote upon. He stated that as Ms. Henao has explained, although Council is seeing the landscaping plan at this
245 meeting, it is not under consideration this evening. It is still open for comment and feedback along with the storm
246 water plan to Ms. Henao, the Arborist, and the City Engineer. Even though Council is seeing that they are not

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247 voting on that at this meeting.

248

249 Mayor asked for a second. Mr. Suer seconded.

250

251 Vice Mayor Margolis stated that he realizes that change and infill construction is difficult and fraught with
252 compromises and issues that have to be corrected. He stated that he appreciates the efforts it takes to reach those
253 compromises. He stated that we have to look at the community in a higher view and try to mitigate issues and
254 minimize impact.

255

256 Mayor Dobrozi asked for a roll call and the vote was as follows:

257

258 AYE: Suer, Margolis, Cappel, Bissmeyer, Roesch, Dobrozi (6)

259 NAY: (0)

260

261 Mayor Dobrozi asked if there was any further business to be heard in the Public Hearing. There being none, he
262 asked for a motion to adjourn from the Public Hearing.

263

264 Vice Mayor Margolis made a motion to adjourn. Mr. Cappel seconded. City Council unanimously agreed.

265

266 The meeting was adjourned at 7:28 p.m.

267

268

269

270

271

Connie Gaylor, Clerk of Council

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City of Montgomery
City Council Business Session Minutes
January 6, 2021

Present

Brian Riblet, City Manager
Terry Donnellon, Law Director
John Crowell, Police Chief
Gary Heitkamp, Public Works Director
Tracy Roblero, Asst. City Manager/Acting Comm. Dev. Dir.
Katie Smiddy, Finance Director
Matthew Vanderhorst, Community and Information Services Director
Paul Wright, Fire Chief
Connie Gaylor, Clerk of Council

City Council Members Present

Chris Dobrozsi, Mayor
Craig Margolis, Vice Mayor
Lee Ann Bissmeyer-Teleconference
Mike Cappel-Teleconference
Lynda Roesch-Teleconference
Ken Suer

City Council convened its Business Session for January 6, 2021 at 7:30 p.m. as a hybrid meeting at City Hall and also by telephone conference with Mayor Dobrozsi presiding. This remote access meeting was allowed by emergency legislation adopted by the Ohio General Assembly and approved by the Governor. The emergency legislation added language to RC Section 121.22 allowing public meetings by telephone conference during the current pandemic and declared State of Emergency. As required by the statute, notice of the telephonic meeting was publicized more than 24 hours in advance to allow public access through the same conference call in service. The public was also given a backup number to call in the event there were technical difficulties. This Notice was posted on the City's website and a similar Notice was sent to The Cincinnati Enquirer.

Mayor Dobrozsi stated that Mike Harbison and Jessica Harbison Weaver were in attendance and asked them to lead the Pledge of Allegiance.

Mayor Dobrozsi thanked Mike and Jessica for coming to the meeting and stated that he felt we all need to be with family. He stated that in recognition of the untimely passing of Council Member Gerri Harbison he would like to ask for a moment of silence in honor of her life.

Mayor Dobrozsi opened the floor to Council Members to share their memories of Mrs. Harbison and then opened the floor to staff, those in attendance, and those on the phone line. All those that spoke shared wonderful memories and great appreciation for the love that Mrs. Harbison had for her family, community, and Montgomery staff.

At the close of comments Mayor Dobrozsi asked for the roll to be called.

ROLL CALL

The roll was called with all members answering as present.

GUESTS & RESIDENTS

Mayor Dobrozsi asked that any guests on the phone line hold their comments until the end of the agenda. He asked to move Guests and Residents on the phone to the end of the meeting and allow any public participating in the call to speak at that time. He stated that comments will be allowed but asked that all questions be forwarded by email to City Manager Brian Riblet. He stated that all comments will be limited to three minutes in total.

Vice Mayor Margolis made a motion to move the Guests and Residents item to after item #10 on the agenda. Mr. Cappel seconded. City Council unanimously agreed.

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55 **PENDING LEGISLATION**

56
57 **An Ordinance Modifying Section 132.14, Noise, of The Montgomery Code of Ordinances**

58
59 Mayor Dobrozsi reminded Council this Ordinance has continued to be tabled from the October 21, 2020 Work
60 Session but is expected to be addressed at the January 20, 2021 Work Session.

61
62 **NEW LEGISLATION**

63
64 **A Resolution Authorizing the City Manager to Reaffirm the City's Contract with National Inspection**
65 **Corporation for Professional Services to Serve as Building Official and to Provide Plan Review and Field**
66 **Inspection Authority and Services for the City's Building Department for the Calendar Year 2021**

67
68 Vice Mayor Margolis moved to read the Resolution by title only. Mr. Cappel seconded. City Council unanimously
69 agreed.

70
71 Vice Mayor Margolis read the title and moved for passage. Mr. Cappel seconded.

72
73 Vice Mayor Margolis explained that information has been previously supplied on this legislation that, if passed,
74 would authorize the City Manager to enter into a contract with National Inspection Corporation for professional
75 services to serve as Building Official and to provide plan review and field inspection authority and services for the
76 City's Building Department for the calendar year 2021. The City has contracted for approximately 17 years with
77 National Inspection Corporation to provide plan review and field inspection authority and services for the City's
78 building department and the City continues to be very satisfied with their ability to perform each of these duties.

79
80 Vice Mayor Margolis asked if there were any updates.

81
82 Ms. Henao replied there were none.

83
84 The roll was called and showed the following vote:

85
86 AYE: Cappel, Bissmeyer, Dobrozsi, Roesch, Suer, Margolis (6)
87 NAY: (0)

88
89 **A Resolution Authorizing the City Manager to Enter into a Contract with CT Consultants, Inc. for**
90 **Professional Services Related to General Engineering and Architectural Services for Calendar Year 2021**

91
92 Mr. Cappel moved to read the Resolution by title only. Mrs. Bissmeyer seconded. City Council unanimously agreed.

93
94 Mr. Cappel read the title and moved for passage. Mr. Suer seconded.

95
96 Mr. Cappel explained that information has been previously supplied on this Resolution that, if passed, would
97 authorize the City Manager to enter into a contract with CT Consultants, Inc. for professional engineering and
98 architectural services for calendar year 2021. The City has contracted for approximately 29 years with CT
99 Consultants to provide civil, traffic, structural, electrical and storm water engineering services. CT Consultants has
100 provided a competitive fee structure for 2021 including slight hourly rate increases for engineering services. As was
101 provided in previous years, CT Consultants has deleted the line item for billing of the "Principal" from the fee
102 schedule. If for any reason the Principal Engineer provides engineering services during the contract year for
103 development/design review or project design/review, that work would be billed at the hourly rate of a "Senior

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104 Manager". Funding for this professional services contract is included in the City's 2021 Operating Budget in both
105 the Public Works and Community Development operating budgets.

106
107 Mr. Cappel asked if there were any updates.

108
109 Mr. Heitkamp replied there were none.

110
111 The roll was called and showed the following vote:

112
113 AYE: Bissmeyer, Dobrozsi, Roesch, Suer, Margolis, Cappel (6)
114 NAY: (0)

115
116 **A Resolution Authorizing the Purchase of a 2021 Spartan/Summit Metro Star Rescue Pumper from Summit**
117 **Fire Apparatus and Custom Rescue Fabricators**

118
119 Mrs. Bissmeyer moved to read the Resolution by title only. Mr. Cappel seconded. City Council unanimously agreed.

120
121 Mrs. Bissmeyer read the title and moved for passage. Mr. Cappel seconded.

122
123 Mrs. Bissmeyer explained that information has been previously supplied on this legislation that, if passed, would
124 authorize the City Manager to enter into a contract with Summit Fire Apparatus and Custom Rescue Fabricators of
125 Kentucky for the purchase of a Spartan/Summit Metro Star Rescue Pumper. The rescue pumper will be purchased
126 through the bid process conducted through the State of Ohio Cooperative Purchasing Program. The base bid for the
127 pumper truck totals \$633,214, with a contingency amount of \$63,321. These numbers, when combined, total
128 \$696,535.00, which is significantly under the amount of \$805,000.00 budgeted in account 223.000.5405 as part of
129 the City's 2021 Capital Improvement Program.

130
131 Mrs. Bissmeyer asked if there were any updates.

132
133 Chief Wright replied there were none.

134
135 The roll was called and showed the following vote:

136
137 AYE: Dobrozsi, Roesch, Suer, Margolis, Cappel, Bissmeyer (6)
138 NAY: (0)

139
140 **An Ordinance Appropriating \$500,000 From the Vintage Club TIF Fund for Fiscal Year 2021 As Authorized**
141 **by Amended Senate Bill #4**

142
143 Mayor Dobrozsi stated that he would recuse himself from this piece of legislation like he has done with all legislation
144 that relates to the development and roundabout. He explained that although he has no ownership interest in Neyer
145 Properties, Inc. nor any in the limited liability companies in partnership to develop the Montgomery Quarter, he will
146 continue to recuse himself from discussion and abstain from voting upon legislation related to the Montgomery
147 Quarter project. He asked Vice Mayor Margolis to take over the meeting.

148
149 Vice Mayor Margolis asked Mr. Suer to present the legislation.

150
151 Mr. Suer moved to read the Ordinance by title only. Mr. Cappel seconded. City Council unanimously agreed.

152
153 Mr. Suer read the title and moved to suspend the rules requiring three readings. Mr. Cappel seconded.

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154 The roll was called and showed the following vote:

155

156 AYE: Roesch, Suer, Margolis, Cappel, Bissmeyer (5)

157 NAY: (0)

158 ABSTAIN: Dobrozsi (1)

159

160 Mr. Suer moved passage of the Ordinance. Mr. Cappel seconded.

161

162 Mr. Suer explained that information has been previously supplied on this legislation that, if passed, would authorize
163 a requested amount of \$500,000 of TIF payments to be redirected and be utilized for identified public safety and
164 road maintenance projects in and around the Montgomery Quarter project site in 2021. This request of \$500,000
165 represents approximately 19% of the \$2.6 million currently in the fund. He added that this amended Senate Bill #4
166 was enacted as a result of the Covid-19 pandemic and enables municipalities to utilize funds in this case from a TIF
167 fund we have and utilize for similar uses.

168

169 Mr. Donnellon added that Legislature in Columbus has authorized communities, because of infrastructure projects
170 that were delayed with changes in tax base and loss of revenues, to draw down monies they may have in excess TIF
171 and applies those to that infrastructure. He explained that instead of confining that money to the TIF, in this case the
172 Vintage Club, it enables us to redirect those monies to infrastructure improvement in the next year around the
173 community.

174

175 Mr. Suer stated that there are two things to be aware of. First, we have a healthy balance in the Vintage Club TIF
176 fund and secondly, the purposes used are similar to the original TIF just in a different area.

177

178 Mark Alboneti, 10559 Cinderella Drive-Mr. Alboneti asked if we would be required to borrow the money, pay it
179 back, or are we just switching the funds to a different property.

180

181 Mr. Donnellon replied that we are allowed to transfer the excess money and we are not required to pay it back unless
182 we are reimbursed from federal funds.

183

184 Mr. Riblet added that if we do not spend those dollars that we would redeposit the rest back into the original TIF
185 fund.

186

187 The roll was called and showed the following vote:

188

189 AYE: Roesch, Suer, Margolis, Cappel, Bissmeyer (5)

190 NAY: (0)

191 ABSTAIN: Dobrozsi (1)

192

193 **ADMINISTRATION REPORT**

194

195 Mr. Riblet reported the following items:

196

197 • City Council Work Session is scheduled for Wednesday, January 20 at 7:00 p.m.

198

199 • The Government Affairs Committee will hold their meeting on Monday, January 11 at 3:30 p.m. as a hybrid
200 meeting. The Parks and Recreation and Public Works Committees have cancelled their meetings for January.

201

202 • During the last week of December our Public Safety Personnel were vaccinated with the Moderna COVID-
203 19 -19 vaccine. The second dose is scheduled for the week of January 25.

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- The visioning session with Kolar Designs and Red Tail investments will need to be rescheduled. Staff will reschedule and send potential dates via email.
 - The Planning Commission met on December 21, 2020 to consider an application for the expansion of a conditional use and Final Development Plan approval with an equivalency to allow for construction of a new junior high for Sycamore Community Schools at 5757 Cooper Road. The Planning Commission voted to recommend approval of the expansion of a conditional use and the equivalency request. Staff would like to request a public hearing at 6:45 p.m. prior to the Council meeting on Wednesday, February 17 to consider the recommendation.
- City Council agreed to set the public hearing. Vice Mayor Margolis made a motion to commence with the Work Session immediately at the conclusion of the Public Hearing. Mr. Cappel seconded. City Council unanimously agreed.
- Mr. Riblet recognized that Mr. Suer would be celebrating his birthday on January 16.

APPROVAL OF MINUTES

Mayor Dobrozsi asked for a motion to approve the December 16, 2020 Work Session minutes.

Vice Mayor Margolis moved to approve the minutes as written. Mr. Suer seconded. City Council unanimously agreed.

MAYOR'S COURT REPORT

Mayor Dobrozsi stated that the December Mayors Court collections in the amount of \$11,525 need to be disbursed. He asked for a motion to accept the funds.

Vice Mayor Margolis moved to accept the Mayors Court collections for the month of December in the amount of \$11,525. Mr. Cappel seconded. City Council unanimously agreed.

OTHER BUSINESS

Mayor Dobrozsi asked if there were any items for other business. There were none.

GUEST AND RESIDENTS

Mayor Dobrozsi asked if there were residents on the call who would like to speak. He asked for them to state their name and address. He reminded callers to limit their comments to three minutes and to send all questions to Mr. Riblet for follow up after the meeting.

Roberto Rivera, 11936 Seventh Avenue, Sycamore Township-Mr. Rivera identified himself as being on the line and offered his condolences in the passing of Mrs. Harbison.

Mayor Dobrozsi asked if there were any other guests on the phone line. There being no response, he closed the time for Guests and Residents.

Mayor Dobrozsi asked for a motion to adjourn.

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253
254 Mr. Cappel made a motion to adjourn. Mrs. Bissmeyer seconded. City Council unanimously agreed.
255
256 City Council adjourned at 8:30 p.m.
257
258
259

Connie Gaylor, Clerk of Council

DRAFT