

1 City of Montgomery
2 City Council Work Session Minutes
3 January 20, 2021
4

5 Present

6 Brian Riblet, City Manager
7 Terry Donnellon, Law Director
8 Tracy Henao, Asst. City Manager/Acting Comm. Dev. Dir.
9 John Crowell, Police Chief
10 Gary Heitkamp, Public Works Director
11 Katie Smiddy, Finance Director
12 Paul Wright, Fire Chief
13 Connie Gaylor, Clerk of Council
14

City Council Members Present

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

15
16 City Council convened its Work Session for January 20, 2021 at 7:00 p.m. in a hybrid meeting at City Hall and by
17 telephone conference with Mayor Dobrozsi presiding. This remote access meeting was allowed by emergency
18 legislation adopted by the Ohio General Assembly and approved by the Governor. The emergency legislation added
19 language to RC Section 121.22 allowing public meetings by telephone conference during the current pandemic and
20 declared State of Emergency. As required by the statute, notice of the telephonic meeting was publicized more than
21 24 hours in advance to allow public access through the same conference call in service. The public was also given
22 a backup number to call in the event there were technical difficulties. This Notice was posted on the City's website
23 and a similar Notice was sent to The Cincinnati Enquirer.
24

25 **ROLL CALL**

26
27 The roll was called, and all Council Members answered as present either in person or on the phone line.
28

29 **GUESTS & RESIDENTS**

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31 Mayor Dobrozsi asked for a motion to move the Guests and Residents portion of the agenda to the end of the agenda
32 after Other Business.
33

34 Vice Mayor Margolis made a motion to move the Guests and Resident portion to after Other Business on the agenda.
35 Mr. Cappel seconded. City Council unanimously agreed.
36

37 **LEGISLATION FOR CONSIDERATION THIS EVENING**

38
39 There was no legislation for consideration at the meeting.
40

41 **ESTABLISHING AN AGENDA FOR FEBRUARY 3, 2021 BUSINESS SESSION**

42
43 **PENDING LEGISLATION**

44
45 **An Ordinance Modifying Section 132.14, Noise, of The Montgomery Code of Ordinances**

46
47 Mayor Dobrozsi stated that as noted on the agenda, this legislation is requested to be added to the February 3
48 Business Session for consideration of a second reading. He asked Law Director Donnellon to provide an update on
49 the revised Ordinance language since its original submission.
50

51 Mr. Donnellon explained that when this legislation was originally presented in the fall of 2020 it was in response to
52 a resident survey regarding construction noise and was primarily to bring that noise under control. He explained
53 during the time of review of the Code, a complaint arose during a Saturday afternoon from a loud outdoor party at
54 the Marketplace. There was some confusion as to what the Code did or did not regulate when sounds could be
55 heard in a residential area. He stated that it also reflected on the very difficult task of prosecuting an offense and
56 being able to prove that the noise was causing inconvenience or annoyance to persons of reasonable sensibilities.

57 He explained that with the modernization and improvement in technology, we are now able to use handheld meters
58 to measure noise and objectively set the standards above which we believe a noise would be unreasonable.
59

60 Mr. Donnellon explained that at the same time, there was a need to strike a balance between the business activities
61 of a vibrant community and when such business activities, whether day or night, could be too loud and when there
62 should be quiet time in a residential community. He clarified that Quiet time is not the absence of noise as we have
63 ambient noise throughout the community. He referenced a chart of comparative examples of noise levels from
64 Industrial Noise Control, Inc. He explained that research shows that these are consistent examples of noise at a
65 level at which they are measured and at the level of which a person of reasonable sensibilities would consider the
66 noise to be too loud. Mr. Donnellon stated as an example, 60 decibels (dBs), while it is half as loud as 70 dBs, is
67 considered fairly quiet. Comparably, it is conversation in a restaurant or office. It is background music or an air
68 conditioning unit at 100 feet. On the other hand, 70 dBs, particularly sound in the upper 70' s, are annoyingly loud.
69 He stated that examples are passenger cars at 65 miles per hour measured at 25 feet. Freeway noise 50 feet from the
70 pavement edge. He stated that we need to consider that we take additional measures to mitigate the noise from the
71 Interstate Highways running through the community with highway sound barriers. On that basis, we deem highway
72 traffic noise typically measured at 77 dBs to be too loud, whether day or night.
73

74 Mr. Donnellon explained that with the revised language we are striking this balance to allow the daily
75 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
76 want the community to be quiet and drop down to residential standards at 60 decibels. He stated that we also
77 need to determine a reasonable length from the property from which the noise will be measured. The previous
78 Ordinance last amended in 1999 set the standard at 200 feet from the source of the sound. There was also
79 some confusion as it set 200 feet from the property line of the property on which the source of the sound is
80 located, whichever is less. That standard on a large lot can cause us to issue a citation to a property owner
81 who is generating a loud sound on his or her own lot. Measuring 200 feet from the property line is an easier
82 standard and avoids neighbor-to-neighbor disputes. Typically, our single-family minimum lot frontage is 80
83 feet, so this would be measured on a lot two houses away. Obviously, the sound would be much louder at
84 the next-door neighbor's home, but a zero-lot line standard may be very difficult to manage.
85

86 Mr. Donnellon added that it is important that when we are issuing citations that we use the handheld
87 measuring devices owned by the Police Department. Much like using a laser gun for enforcing speed limits,
88 the device provides an objective measurement, and can be demonstrated in court that the users are trained,
89 and that the device has been properly calibrated. At some point we may need a higher court to recognize that
90 this is an objective basis for determining a citation, but it is a start and allows us to begin enforcement. Mr.
91 Donnellon prompted the question of will the police issue citations in all circumstances. He stated that the
92 police have an option to respond to a complaint, measure the noise, then address the complaint with the
93 property owner from where the noise is emanating. In the officer's discretion they could issue a warning
94 asking the noise to be turned down. If the violation persists, a citation may be issued. If it is a persistent
95 basis night after night, it likely would warrant a citation.
96

97 Mr. Donnellon stated that we need to keep in mind that there are applications which can be purchased
98 through a cellphone which measure noise. These are not as sophisticated as the handheld devices which
99 will be used by the Police Department. They also may not be properly measuring noise as the more
100 sophisticated, scientific instruments calibrate the noise considering low frequency and high frequency
101 rather than a pinpoint noise. Also, we would be reluctant to rely upon a citizen's personal complaint not
102 knowing when they measured the noise, where they measured the noise, and how sensitive or insensitive
103 their microphone may be on their handheld device. The handheld device, though, may be the basis for
104 receiving the complaint, but it is not the end of the complaint. The same can be true when someone calls

105 the police to a street and complains that a driver is going 50 miles per hour every morning up and down
106 the roadway. It is their opinion, but it may not be sufficient to be the foundation to prosecute in court.

107
108 Vice Mayor Margolis asked if people call 911 for noise complaints.

109
110 Both Mr. Donnellon and Chief Crowell confirmed that they did but that nine out of the ten calls the source of the
111 complaint will comply with police and lower the noise level.

112
113 Mr. Suer asked Chief Crowell if the Police Department had the handheld units.

114
115 Chief Crowell replied that a handheld unit was purchased in 2020 in anticipation of the revised Noise Ordinance.
116 He explained that each unit costs \$300 and that a calibration device is \$100. He stated that the department has both
117 and are working to become familiar with them.

118
119 Mr. Suer asked if it is anticipated that each Officer would have a unit.

120
121 Chief Crowell replied that at this time only one Officer would have one. He stated that he feels they can continue
122 to address complaints without enforcement but if they could not then one would be used. He stated that having the
123 device would allow the officers to deal with complaints and adds a level of objectivity to the enforcement of the
124 code.

125
126 Mr. Suer stated he thought it was good that we can now have evidence of the level of noise.

127
128 Mr. Cappel stated that he liked having a numerical standard and a device to measure it.

129
130 Ms. Roesch asked if the device retained the readings.

131
132 Chief Crowell replied that they do and that readings can be downloaded to a computer with graphs.

133
134 Mrs. Bissmeyer stated that she liked that police would not be in the position of making arbitrary decisions when
135 dealing with complaints.

136
137 Mr. Cappel made a motion to add the legislation to the February 3 Business Session with the noted revisions. Mrs.
138 Bissmeyer seconded. City Council unanimously agreed.

139
140 **NEW LEGISLATION**

141
142 There is no new legislation.

143
144 **ADMINISTRATION REPORT**

145
146 Mr. Riblet reported the following items:

- 147
148 • The next City Council Business Session is scheduled for Wednesday, February 3. He stated that staff is
149 requesting to schedule a CIC meeting prior to the February 3 Business Session at 6:45 p.m., to hold the
150 annual meeting of Members and Trustees. He added that if Council were so inclined, they could make a
151 motion to commence the Council meeting immediately following the CIC meeting.

152
153 Vice Mayor Margolis moved to commence with the Business Session immediately after the
154 conclusion of the CIC meeting. Mr. Cappel seconded. City Council unanimously agreed.

155

156 • Mr. Riblet stated that a Public Hearing was previously set for February 17 at 6:00 to review the
157 recommendation by the Planning Commission for the expansion of a conditional use and Final
158 Development Plan for construction of a new junior high building for Sycamore Community Schools and
159 the Audi Dealership. Since that time, the Audi applicant has requested to be tabled, therefore, staff is
160 proposing to change the time to 6:30 p.m. He added that a motion was previously made to commence the
161 Work Session at the conclusion of the Public Hearing.
162

163 Mr. Cappel made a motion to begin the Public Hearing at 6:30 as requested by staff. Mr. Suer seconded.
164 City Council unanimously agreed.
165

166 • The Financial Planning Committee will meet on Monday, February 1 at 4:30 p.m.. The Law and Safety,
167 and Planning, Zoning and Landmarks Committees have cancelled their meetings for February.
168

169 • Mr. Riblet stated that at this time the Parks and Recreation, Government Affairs and Public Works
170 Committees do not have agenda items, but he will provide an update at the February 3 meeting.
171

172 • Dr. Michael Gunn from the Cincinnati Chapter of the Sons of the American Revolution contacted staff
173 requesting to hold a service to place a grave marker in honor of the Revolutionary War Veterans who are
174 buried in Hopewell Cemetery. They are proposing to hold this on Saturday, April 17 at 2:00 p.m. Council
175 approved the event and date and time.
176

177 • The First Suburbs Membership Meeting will be held on Thursday, January 28 via Zoom from 6:00-7:30
178 p.m. Jeffrey Stec, Executive Director of Citizens for Civic Renewal, will be presenting on how to use
179 Zoom to maximize civic engagement.
180

181 Mr. Riblet requested an Executive Session to consider the appointment, and employment of a public employee or
182 official.
183

184 CITY COUNCIL REPORTS

185

186 Mayor Dobrozsi explained that as there were a number of Board and Commission reappointments, he asked that the
187 appointments be read and then have one motion made for the entire group.
188

189 The following Boards and Commission members were recommended for reappointment to their respective boards
190 and commissions with the applicable terms:
191

- 192 • Elaine Cohen and Mark Laskovics to the Environmental Advisory Commission with terms ending January
- 193 31, 2024.
- 194 • Mike Hawkins to the Civil Service Commission with a term ending January 31, 2024.
- 195 • Jane Hohn and Aaron Kellenberger to the Beautification and Tree Commission with terms ending January
- 196 31, 2024.
- 197 • Jody Lowe and John Tholking to the Parks and Recreation Commission with terms ending January 31,
- 198 2024.
- 199 • Gary Blomberg, Chris Skufca and Ed Steinebrey to the Board of Tax Appeals with terms ending on January
- 200 31, 2023.
- 201 • Tom Molloy to the Board of Zoning Appeals with a term ending on January 31, 2025.
- 202 • Larry Schwartz to the Landmarks Commission with a term ending on January 31, 2024.
- 203 • Michael Harbison and Dennis Hirotsu to the Planning Commission with terms ending on January 31, 2025.
- 204

205 Vice Mayor Margolis made a motion to reappoint all the members as stated to their respective Boards and
206 Commissions for the stated terms. Mr. Cappel seconded. City Council unanimously agreed.

207

208 **Mr. Cappel**

209

210 Mr. Cappel stated he had no report.

211

212 **Mrs. Bissmeyer**

213

214 Mrs. Bissmeyer stated that she attended a Sycamore Advisory Committee meeting where they discussed active
215 interviews for a Superintendent due to the retirement of Frank Forsthoefel at the end of the school year.

216

217 Mrs. Bissmeyer also reported that she was appointed to the Cincinnati Library Foundation.

218

219 **Ms. Roesch**

220

221 Ms. Roesch stated she attended a BAMSO Board meeting this week.

222

223 Ms. Roesch stated that the pickleball courts are getting a lot of usage and staff was reviewing how to best manage
224 the usage of the courts.

225

226 Ms. Roesch reported that at the Government Affairs Committee meeting the following topics were discussed:

227

228 • The Volunteer Dinner for 2021 that is normally held in April was discussed and options on how to best hold
229 it with the current pandemic restrictions. The Committee determined that it was best to postpone it for 2021
230 and asked Council for feedback on this recommendation. Council all agreed that it was best to postpone it
231 until 2022.

232

233 • The update of the Boards and Commission Manual regarding dress code and conduct was reviewed with
234 suggested revisions to the language. She stated that when the dress code is followed it encourages people
235 to act professionally and with civility. She added that language was revised to address that prior to
236 reappointments conversations should be conducted between the Chair and Council and staff liaisons. She
237 added that at the annual meeting of each board and commission in which they would hold their election of
238 officers that it would be a good time for the Council Liaison to review the dress code and conduct of the
239 members.

240

241 Mr. Riblet added that the review was initiated by former Council Member Harbison with the intent that all Boards
242 and Commissions Chairs and Council Liaisons were consistent in their approach with their members.

243

244 Mr. Riblet stated that he would send the revisions to the manual to all Council for review and wait for feedback
245 before making any changes.

246

247 **Mr. Suer**

248

249 Mr. Suer stated he had no report.

250

251 **Vice Mayor Margolis**

252

253 Vice Mayor Margolis stated that at the last Landmarks Commission meeting there was a discussion regarding a
254 historic Carriage House and Barn and their possible designation as a Landmark Buildings in Montgomery. He stated
255 that the carriage house was on a resident's private property and it is expected they would apply for grant funding

256 through the Historic Matching Grant program managed by the CIC. He added that the barn is on the Tree of Life
257 Church property and that further information will be provided by Ms. Henao at a future date.

258

259 **Mayor Dobrozi**

260

261 Mayor Dobrozi stated that he participated in a recent Community Roundtable meeting via Zoom with
262 representatives from Symmes Township, Blue Ash, and Sycamore Schools. He stated that these meetings are a great
263 way to be up to date on issues and projects that other communities and schools are working on.

264

265 Mayor Dobrozi also stated that he participated in a Sycamore Executive Advisory Board meeting where an update
266 was given on current and future construction projects and their strategic planning with a focus on education that
267 will prepare the students for business and life after graduation.

268

269 **MINUTES**

270

271 Mr. Cappel moved to accept the January 6, 2021 Public Hearing and Business Session minutes as written. Mrs.
272 Bissmeyer seconded. City Council unanimously agreed.

273

274 **OTHER BUSINESS**

275

276 Mrs. Bissmeyer acknowledged the passing of Arts Commission member Barbara Lindsey and her dedication to the
277 community seen throughout her career and volunteer efforts.

278

279 Mayor Dobrozi stated that he would be out of town from January 21 through January 24 and appointed Vice Mayor
280 Margolis as Acting Mayor during his absence.

281

282 **GUESTS AND RESIDENTS**

283

284 Mayor Dobrozi stated that Brian Crosby was a guest present at City Hall and asked him if he would like to address
285 Council. Mr. Crosby stated that he was there to observe as he was not able to do so in the past.

286

287 Mayor Dobrozi stated there were no other guests present at City Hall and opened the floor to those who are present
288 on the line. He asked for anyone on the line to state their name and address and to adhere to the three-minute
289 speaking rule.

290

291 Gary Gross, 7943 Shelldale Way-Mr. Gross thanked staff and Council for slowing the process on the voting of the
292 revised Noise Ordinance. He also thanked Mr. Donnellon for his research into the initial passing of the Ordinance.
293 He stated that when he was on Council and they first looked the Noise Ordinance that they did not look for
294 equipment that could measure the noise levels. He stated that technology has changed to make it more objective.
295 He stated that 15 to 20 years ago that houses that were close to each other would have no protection to noise. He
296 asked that consideration be given to the 200 feet from the property line language as he feels it does not protect
297 adjoining properties. He added that he likes that the revisions address construction and automobile noise, but he
298 questions if it handles resident to resident or commercial to resident issues. He asked that the police also consider
299 noise tunnels around the businesses that funnel the noise to a further distance. Mr. Gross acknowledged that with
300 the increased popularity of pickleball that there would be complaints on surrounding properties due to the noise
301 level and felt this would help to address those complaints. He stated that the expansion of the language and changes
302 in technology that we would have to consider and respect both sides of the issue.

303

304 Mayor Dobrozi thanked Mr. Gross for his comments and asked if there were any guests or residents on the line.
305 As there was no response, Mayor Dobrozi closed the floor to public comment.

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307

