

October 28, 2016

TO: Mayor and City Council Members

FROM: Wayne S. Davis, City Manager *WSD*

SUBJECT: City Council Business Session of Wednesday, November 2, 2016

As a reminder, City Council is scheduled to meet in Business Session on Wednesday, November 2, 2016 at 7:00 p.m.

**Business Session**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Special Presentation
  - a. Certificate of Appreciation to Montgomery Food Share—Wendy New will be present to accept a Certificate of Appreciation on behalf of Montgomery Food Share in honor of their service to the community and for being the third largest food donor which covers twenty counties in Ohio.
5. Guests and Residents
6. Legislation for Consideration Tonight

**Pending Legislation**

- a. An Ordinance to Make Appropriations for Current Expenses and Other Expenditures of the City of Montgomery, State of Ohio, During the Fiscal Year Ending December 31, 2017—(Mr. Suer, 2<sup>nd</sup> Reading) Information has been supplied previously on this Ordinance that establishes the City's Budget for fiscal year 2017. These documents were presented to and reviewed with the Financial Planning Committee of City Council at their September 6 meeting. On September 14, City Council and staff formally reviewed the 2017 Operating and Capital Budget with Four Year Forecast and 2017-2021 Capital Improvement Program. Changes to the Budget as a result of that meeting have been incorporated into the revised Budget.

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the second reading of the Ordinance***

***Roll Call Vote***

***The third reading of the Ordinance will be held at the December 7, 2016 Business Session with adoption of the Ordinance requested at that meeting.***

### **New Legislation**

- a. A Resolution Authorizing The City Manager To Enter Into A Contract With Morton Salt, Inc. For The Purchase of De-Icing Rock Salt For The 2017 Season—(Mr. Cappel) Information has been supplied previously on this Resolution that, if approved, will authorize the City Manager to enter into a contract extension with Morton Salt, Inc. pursuant to a joint purchasing bid for 2016-2017 de-icing rock salt. The purchase of de-icing rock salt for the 2016-2017 winter season is included in the City budget in the 261.000.5380 Street Maintenance Fund, 266.000.5380 Permissive MVL Fund and 265.000.5380 State Highway Fund. If approved, the request would authorize a maximum purchase of 1,430 tons of de-icing rock salt for the amount of \$75,089.30 (\$52.51 per ton) which represents a 31% decrease per ton from the 2015/2016 winter season.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- b. An Ordinance for The Allocation of Earnings Tax Revenues and Amending Section 44.14 of The Montgomery Code of Ordinances—(Mr. Suer) Information has been supplied previously on this Ordinance that, if approved, will adjust the allocation of the City's Earnings Tax Revenues. As you may recall, in the City's 2017 Operating and Capital Budget with Four Year Forecast document, staff requested that City Council proceed with legislation which reallocates the City's Earnings Tax revenues effective February 1, 2017. The current allocation is: 76% of Earnings Tax revenues to the General Fund, 20% to the Capital Improvement Fund and 4% to the Debt Retirement Fund. The proposed reallocation would provide 80% of the Earnings Tax revenues to the General Fund and 20% to the Capital Improvement Fund.

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the first reading of the Ordinance***

***Roll Call Vote***

***The second reading of the Ordinance will be held at the December 7, 2016 Business Session. The third reading of the Ordinance will be held at the January 4, 2017 Business Session with adoption of the Ordinance requested at that meeting.***

- c. A Resolution Authorizing a Purchase Agreement for the Sale of Montgomery Commons Real Estate—(Ms. Roesch) Information has been supplied previously on this Resolution that, if approved, will authorize a purchase agreement for the sale of Montgomery Commons Real Estate. Mr. Donnellon previously explained that this legislation is the last step in a 30-year process under which the City acquired land at the corner of Montgomery Road and Cooper Road,

and it is transferring that land to the current property owner. The City acquired the property in an economic development transaction when a Tax Increment Financing district was created for the downtown lot. The Lease Agreement with the prior property owner granted to the Lessee the purchase option for \$1.00 in November 2016. The current land owner, Montgomery Commons LLC, has sent notice to the City that they wish to exercise those rights.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- d. An Ordinance Amending The Land Usage Code To Regulate Sexually Oriented Businesses—(Mr. Margolis) Information has been supplied previously on this Ordinance that, if approved, will enact regulations governing Sexually Oriented Businesses. While such a business may not be compatible with the City's Business District and uses, the courts will not allow local communities to ban such businesses as they enjoy certain First Amendment freedoms. On the other hand, we are permitted to regulate the businesses through a licensing process and to allow separation of such businesses from protected uses such as residences, schools and daycare centers. This Ordinance will enact the structure for the City to regulate the location and operation of these businesses in the City.

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the first reading of the Ordinance***

***Roll Call Vote***

***The second reading of the Ordinance will be held at the December 7, 2016 Business Session. The third reading of the Ordinance will be held at the January 4, 2017 Business Session with adoption of the Ordinance requested at that meeting.***

- e. An Ordinance Rezoning A Portion Of The Vintage Club Development To L-B Limited Business District With A Planned Development Overlay—(Mr. Margolis) Information has been supplied previously on this Ordinance that, if approved, will rezone the property located at PIN 620-0210-0723-00 from the current zoning classification to 'LB' – Limited Business District with a Planned Development Overlay. City Council held a Public Hearing on October 5, in which the recommendation from the Planning Commission was heard regarding a request from MB Land Company to consider a rezoning application of this property. The property was recently annexed into the City of Montgomery from Symmes Township. The property is currently zoned 'O' Residence with Subservient Office and Business Uses as it was zoned when located in the Township. Section 151.0104 states that for "all land that may hereafter be annexed to the City of Montgomery, the township zoning regulations existing at the time of annexation shall continue to govern the former township land until an amendment to the City of Montgomery Zoning Map is adopted in conformance with the procedures of this Zoning Code". Staff supports the rezoning of this property that would make the zoning consistent with the zoning of the Vintage Club.

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the first reading of the Ordinance***

***Roll Call Vote***

***The second reading of the Ordinance will be held at the December 7, 2016 Business Session. The third reading of the Ordinance will be held at the January 4, 2017 Business Session with adoption of the Ordinance requested at that meeting.***

- f. An Ordinance Amending The Statement Of Conditions And Exceptions In The Vintage Club Planned Development Overlay District—(Mr. Margolis) Information has been supplied previously on this Ordinance that, if approved, will modify the Vintage Club Planned Development List of Exceptions and Conditions. The proposed modifications to the Statement of Conditions and Exceptions were created by Staff and the applicant working hand in hand to address the conflicts between the Zoning Regulations in the underlying LB District and the approved General Development Plan. These modifications are consistent with the approved General Development Plan and the intent of the Vintage Club Planned Development which has been communicated from the beginning of the project.

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the first reading of the Ordinance***

***Roll Call Vote***

***The second reading of the Ordinance will be held at the December 7, 2016 Business Session. The third reading of the Ordinance will be held at the January 4, 2017 Business Session with adoption of the Ordinance requested at that meeting.***

- g. A Resolution Authorizing a Contract With Motorola For The Purchase Of Replacement Radios—(Mrs. Combs) Information has been supplied previously on this Resolution, that if approved, will authorize the expenditure of \$139,645 for the purchase of 50 Motorola APX6000 portable radios and other support equipment. The Police Department's share would consist of \$65,403.50 and the share for the Fire Department would be \$74,241.50. The total purchase cost between the Police and Fire departments is \$139,645. This would be a savings of \$63,073.50 shared between both departments compared to the current budgeted cost of approximately \$202,000. Due to personnel vacancies, the Police Department budget has appropriation authority to accommodate the purchase in this fiscal year. The Fire Department would require an adjustment in appropriations before the close of the 2016 fiscal year. The radio equipment is currently listed with the State of Ohio purchasing contract 573077-0 which expires June 30, 2017. This would allow the City to purchase the radio equipment without conducting a formal bidding process.

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- 7. Administration Report**
- 8. Approval of Minutes – October 19, 2016 Work Session**
- 9. Mayor’s Court Report**
- 10. Other Business**
- 11. Executive Session**
- 12. 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

November 2, 2016

**City Council Business Session – 7:00 p.m.**

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Special Presentation
  - a. Certificate of Appreciation to Montgomery Food Share—Wendy New will be present to accept a Certificate of Appreciation on behalf of Montgomery Food Share in honor of their service to the community and for being the third largest food donor which covers twenty counties in Ohio.
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*Move to read the Ordinance by title only*

*Voice Vote*

*Move for passage of the second reading of the Ordinance*

*Roll Call Vote*

*The third reading of the Ordinance will be held at the December 7, 2016 Business Session with adoption of the Ordinance requested at that meeting.*

**New Legislation**

- a. A Resolution Authorizing The City Manager To Enter Into A Contract With Morton Salt, Inc. For The Purchase of De-Icing Rock Salt For The 2017 Season—(Mr. Cappel)

*Move to read the Resolution by title only*

*Voice Vote*

*Move passage of the Resolution*

*Roll Call Vote*

- b. An Ordinance for The Allocation of Earnings Tax Revenues and Amending Section 44.14 of The Montgomery Code of Ordinances—(Mr. Suer)

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the first reading of the Ordinance***

***Roll Call Vote***

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- c. A Resolution Authorizing a Purchase Agreement for the Sale of Montgomery Commons Real Estate—(Ms. Roesch)

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

- d. An Ordinance Amending The Land Usage Code To Regulate Sexually Oriented Businesses—(Mr. Margolis)

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the first reading of the Ordinance***

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- e. An Ordinance Rezoning A Portion Of The Vintage Club Development To L-B Limited Business District With A Planned Development Overlay—(Mr. Margolis)

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the first reading of the Ordinance***

***Roll Call Vote***

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- f. An Ordinance Amending The Statement Of Conditions And Exceptions In The Vintage Club Planned Development Overlay District—(Mr. Margolis)

***Move to read the Ordinance by title only***

***Voice Vote***

***Move for passage of the first reading of the Ordinance***

***Roll Call Vote***

***The second reading of the Ordinance will be held at the December 7, 2016 Business Session. The third reading of the Ordinance will be held at the January 4, 2017 Business Session with adoption of the Ordinance requested at that meeting.***

- g. A Resolution Authorizing a Contract With Motorola For The Purchase Of Replacement Radios—(Mrs. Combs)

***Move to read the Resolution by title only***

***Voice Vote***

***Move passage of the Resolution***

***Roll Call Vote***

**7. Administration Report**

**8. Approval of Minutes – October 19, 2016 Work Session**

**9. Mayor's Court Report**

**10. Other Business**

**11. Executive Session**

**12. 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

ORDINANCE NO. \_\_\_\_\_, 2016

**AN ORDINANCE TO MAKE APPROPRIATIONS FOR CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF MONTGOMERY, STATE OF OHIO, DURING THE FISCAL YEAR ENDING DECEMBER 31, 2017**

**WHEREAS**, Council previously did approve and submit to the Budget Commission a budget for revenues and expenses for the fiscal year commencing January 1, 2017 and ending December 31, 2017; and

**WHEREAS**, the proposed budget has been accepted and approved, and Council does desire to appropriate funds according to the budget to meet current expenses and other expenditures for the 2017 fiscal year.

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

**SECTION 1.** Commencing January 1, 2017 and for the fiscal year ending December 31, 2017, in order to provide for the current expenses and other expenditures of the City, the sums detailed on the attached schedule are hereby appropriated as if such schedule is fully set forth herein.

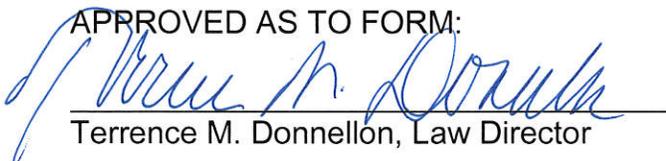
**SECTION 2.** This Ordinance shall be in full force and effect from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

## Attachment to 2017 Appropriation Ordinance

General Fund		
101 Police Department	Personnel	3,119,797
	Nonpersonnel	457,062
	<b>Total</b>	<b>\$3,576,859</b>
106 Disaster Services	Personnel	0
	Nonpersonnel	9,300
	<b>Total</b>	<b>\$9,300</b>
201 Public Health and Welfare	Personnel	58,179
	Nonpersonnel	0
	<b>Total</b>	<b>\$58,179</b>
301 Recreation	Personnel	226,870
	Nonpersonnel	93,752
	<b>Total</b>	<b>\$320,622</b>
303 City Parks	Personnel	301,941
	Nonpersonnel	206,000
	<b>Total</b>	<b>\$507,941</b>
317 Swaim and Terwilliger Lodges	Personnel	0
	Nonpersonnel	31,600
	<b>Total</b>	<b>\$31,600</b>
321 Special Events	Personnel	0
	Nonpersonnel	104,250
	<b>Total</b>	<b>\$104,250</b>
405 Landmarks Commission	Personnel	0
	Nonpersonnel	13,250
	<b>Total</b>	<b>\$13,250</b>
406 City Beautiful	Personnel	0
	Nonpersonnel	123,411
	<b>Total</b>	<b>\$123,411</b>
407 Development	Personnel	363,883
	Nonpersonnel	426,100
	<b>Total</b>	<b>\$789,983</b>
408 Planning Commission	Personnel	0
	Nonpersonnel	11,000
	<b>Total</b>	<b>\$11,000</b>
409 Historical Building Operations	Personnel	0
	Nonpersonnel	43,700
	<b>Total</b>	<b>\$43,700</b>
701 City Administration	Personnel	457,200
	Nonpersonnel	23,600
	<b>Total</b>	<b>\$480,800</b>
702 Finance Department	Personnel	570,815
	Nonpersonnel	61,225

	<b>Total</b>	<b>\$632,040</b>
703 Legal Administration	Personnel	0
	Nonpersonnel	218,000
	<b>Total</b>	<b>\$218,000</b>
705 City Council	Personnel	17,304
	Nonpersonnel	3,750
	<b>Total</b>	<b>\$21,054</b>
707 Mayor's Court	Personnel	86,076
	Nonpersonnel	76,775
	<b>Total</b>	<b>\$162,851</b>
708 Civil Service Commission	Personnel	0
	Nonpersonnel	4,150
	<b>Total</b>	<b>\$4,150</b>
709 Public Works Administration	Personnel	532,025
	Nonpersonnel	139,500
	<b>Total</b>	<b>\$671,525</b>
712 Community and Information Services	Personnel	486,253
	Nonpersonnel	144,290
	<b>Total</b>	<b>\$630,543</b>
715 General Government	Personnel	10,000
	Nonpersonnel	1,471,270
	<b>Total</b>	<b>\$1,481,270</b>
<b>Total General Fund Transfers/Cash Advances Out</b>		<b>699,006</b>
<b>Total General Fund</b>	Personnel	6,230,343
	Nonpersonnel	4,360,991
	<b>Total</b>	<b>10,591,334</b>

**Special Revenue Funds**

219 Community Oriented Policing Solutions	Personnel	156,516
	Nonpersonnel	3,500
	<b>Total</b>	<b>\$160,016</b>
223 Fire Department	Personnel	2,191,628
	Nonpersonnel	726,694
	<b>Total</b>	<b>\$2,918,322</b>
261 Street Maintenance and Repair	Personnel	758,515
	Nonpersonnel	285,579
	<b>Total</b>	<b>\$1,044,094</b>
209 Memorial Fund	Personnel	0
	Nonpersonnel	3,000
	<b>Total</b>	<b>\$3,000</b>
210 Parks & Recreation	Personnel	0
	Nonpersonnel	500
	<b>Total</b>	<b>\$500</b>
215 Law Enforcement	Personnel	0
	Nonpersonnel	12,300

	<b>Total</b>	<b>\$12,300</b>
<b>216 Drug Enforcement</b>	Personnel	0
	Nonpersonnel	400
	<b>Total</b>	<b>\$400</b>
<b>217 DUI Enforcement and Education</b>	Personnel	0
	Nonpersonnel	1,000
	<b>Total</b>	<b>\$1,000</b>
<b>218 Mayor's Court Technology Fund</b>	Personnel	0
	Nonpersonnel	13,295
	<b>Total</b>	<b>\$13,295</b>
<b>220 Law Enforcement Assistance Fund</b>	Personnel	0
	Nonpersonnel	1,600
	<b>Total</b>	<b>\$1,600</b>
<b>227 Environmental Impact Area I</b>	Personnel	0
	Nonpersonnel	15,000
	<b>Total</b>	<b>\$15,000</b>
<b>228 Environmental Impact Area II</b>	Personnel	0
	Nonpersonnel	75,000
	<b>Total</b>	<b>\$75,000</b>
<b>229 Environmental Impact Area III</b>	Personnel	0
	Nonpersonnel	5,000
	<b>Total</b>	<b>\$5,000</b>
<b>230 Environmental Impact Area IV</b>	Personnel	0
	Nonpersonnel	1,500
	<b>Total</b>	<b>\$1,500</b>
<b>265 State Highway Fund</b>	Personnel	0
	Nonpersonnel	54,000
	<b>Total</b>	<b>\$54,000</b>
<b>266 Permissive MVL Fund</b>	Personnel	0
	Nonpersonnel	79,000
	<b>Total</b>	<b>\$79,000</b>
<b>275 Municipal Pool</b>	Personnel	0
	Nonpersonnel	263,450
	<b>Total</b>	<b>\$263,450</b>
<b>485 Arts and Amenities</b>	Personnel	0
	Nonpersonnel	94,200
	<b>Total</b>	<b>\$94,200</b>
<b>Total Special Revenue Funds</b>	Personnel	3,106,659
	Nonpersonnel	1,635,018
	<b>Total</b>	<b>4,741,677</b>

**Debt Service Funds**

<b>322 Special Assessment Bond Retirement</b>	Personnel	0
	Nonpersonnel	16,010
	<b>Total</b>	<b>\$16,010</b>

324 General Bond Retirement	Personnel	0
	Nonpersonnel	12,200
	<b>Total</b>	<b>\$12,200</b>
328 Reserve Bond Retirement	Personnel	0
	Nonpersonnel	176,625
	<b>Total</b>	<b>\$176,625</b>
331 Vintage Club Tax Increment Financing Fund	Personnel	0
	Nonpersonnel	2,019,045
	<b>Total</b>	<b>\$2,019,045</b>
Total Debt Service Funds	Personnel	0
	Nonpersonnel	2,223,880
	<b>Total</b>	<b>2,223,880</b>

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#### Capital Projects Funds

410 Capital Improvements	Personnel	0
	Nonpersonnel	3,560,144
	<b>Total</b>	<b>\$3,560,144</b>
460 Urban Redevelopment Fund	Personnel	0
	Nonpersonnel	287,650
	<b>Total</b>	<b>\$287,650</b>
461 Triangle Equivalent TIF	Personnel	0
	Nonpersonnel	153,900
	<b>Total</b>	<b>\$153,900</b>
463 Vintage Club Capital Construction Fund	Personnel	0
	Nonpersonnel	6,500,000
	<b>Total</b>	<b>\$6,500,000</b>
Total Capital Projects Funds	Personnel	0
	Nonpersonnel	10,501,694
	<b>Total</b>	<b>10,501,694</b>

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#### Fiduciary Funds

875 Compensated Absence	Personnel	27,000
	Nonpersonnel	0
	<b>Total</b>	<b>\$27,000</b>
546 Trust Reimbursements	Personnel	0
	Nonpersonnel	50,000
	<b>Total</b>	<b>\$50,000</b>
601 State Fees	Personnel	0
	Nonpersonnel	10,000
	<b>Total</b>	<b>\$10,000</b>
836 Historical Trust Fund	Personnel	0
	Nonpersonnel	500
	<b>Total</b>	<b>\$500</b>
840 Cemetery Expendable Trust	Personnel	0
	Nonpersonnel	44,850
	<b>Total</b>	<b>\$44,850</b>

890 Unclaimed Moneys Fund	Personnel	0
	Nonpersonnel	716
	<b>Total</b>	<b>\$716</b>
Total Fiduciary Funds	Personnel	27,000
	Nonpersonnel	106,066
	<b>Total</b>	<b>133,066</b>

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**Total All Funds**

Personnel	9,364,002
Nonpersonnel	18,827,649
<b>Total</b>	<b>28,191,651</b>

RESOLUTION NO. , 2016

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A  
CONTRACT WITH MORTON SALT, INC. FOR THE PURCHASE OF  
DE-ICING ROCK SALT FOR THE 2016-2017 SEASON**

**WHEREAS**, R.C. § 9.48 authorizes counties, townships and municipal corporations to participate in joint purchasing programs with other municipal corporations for the purchase of machinery, materials and supplies without advertisement and without bids; and

**WHEREAS**, for the winter season 2016-2017, the Hamilton County Engineers Office has competitively bid for the bulk purchase of de-icing rock salt consistent with the rules, regulations and laws of Hamilton County, and which competitive bid did authorize the Hamilton County Engineer to extend its terms for purchase to other communities in and around Hamilton County, Ohio; and

**WHEREAS**, the Montgomery City Administration believes that participating in the joint program and bid through Hamilton County is more economically efficient and provides a better benefit to Montgomery than separately bidding such purchase.

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

**SECTION 1.** The City Manager is hereby authorized to enter into a contract with Morton Salt, Inc. for the purchase of de-icing rock salt for the 2016-2017 winter season through the contract bid accepted by Hamilton County with Morton Salt, Inc. at the

cost of \$52.51 per ton with the maximum purchase of 1,430 tons. The total cost for this contract shall not exceed \$ 75,089.30.

**SECTION 2.** Council hereby finds that purchasing through the contract with the County of Hamilton is in the best interest of the City of Montgomery and is consistent with the terms and conditions of R.C. § 9.48.

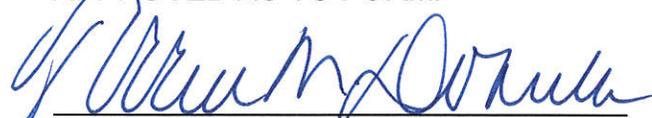
**SECTION 3.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

ORDINANCE NO. \_\_\_\_\_, 2016

**AN ORDINANCE FOR THE ALLOCATION OF EARNINGS TAX REVENUES  
AND AMENDING SECTION 44.14 OF THE MONTGOMERY CODE OF ORDINANCES**

**WHEREAS**, Section 44.14 of the Montgomery Code of Ordinances provides for the allocation of earnings tax revenues to certain uses and purposes; and

**WHEREAS**, the City's changing financial condition warrants a current re-examination of the earnings tax allocation to more accurately reflect operating, capital improvement and debt service needs of the community.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Ohio:

**SECTION 1.** Section 44.14 of the Montgomery Code of Ordinances is hereby amended to read as follows effective February 1, 2017:

**Section 44.14 Allocation Of Funds**

The funds collected under the provision of this chapter shall be disbursed for the following purposes:

- (A) 20% to the capital improvement fund;
- (B) 80% to the general fund for the purpose of general municipal operations.

**SECTION 2.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed effective February 1, 2017.

**SECTION 3.** This Ordinance shall be in full force and effect from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

RESOLUTION NO. , 2016

**A RESOLUTION AUTHORIZING PURCHASE AGREEMENT FOR THE SALE  
OF MONTGOMERY COMMONS REAL ESTATE**

**WHEREAS**, the City is the owner of real estate at the corner of Cooper Road and Montgomery Road, as more particularly described on Schedule A attached hereto; and

**WHEREAS**, in November 1986, the City did lease this property to Kenwood III Partnership for a period of thirty (30) years, which under the terms of such Lease Agreement allowed the Lessee to purchase the property at the conclusion of the Lease term for One Dollar (\$1.00); and

**WHEREAS**, such Lease has been assigned with the approval of the City from Kenwood III Partnership through James and Paul Grammas to Montgomery Commons LLC, an Ohio limited liability company; and

**WHEREAS**, Montgomery Commons LLC has notified the City that they wish to exercise their purchase rights effective at the close of the Lease term; and

**WHEREAS**, consistent with the terms of such Lease Agreement, Council does desire to authorize the City Manager to complete the sale and to execute any and all other documentation necessary to complete the sale and to transfer such real estate to Montgomery Commons LLC.

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

**SECTION 1.** The City Manager is hereby authorized to execute a Purchase Agreement consistent with the terms of the original Lease Agreement to sell the property commonly known as Montgomery Commons from the City to Montgomery Commons LLC.

The sale price shall be One Dollar (\$1.00) as provided in the purchase option within the Lease Agreement.

**SECTION 2.** The City Manager is authorized to execute any and all additional documentation necessary to complete the sale and transfer of this real estate as described on Schedule A attached hereto and incorporated herein by reference.

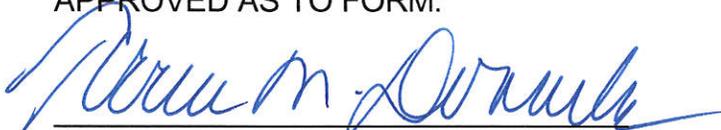
**SECTION 3.** This Resolution shall be in full force and effect from and after its passage.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

**ORDINANCE NO.           , 2016**

**AN ORDINANCE AMENDING THE LAND USAGE CODE TO  
REGULATE SEXUALLY ORIENTED BUSINESSES**

**WHEREAS**, under ORC § 715.55, the City may request the Ohio Office of the Attorney General to provide legal guidance and assistance in developing, formulating and drafting an Ordinance regarding the operation of adult entertainment establishments; and

**WHEREAS**, the Ohio Attorney General's office has provided a model Ordinance incorporated herein to regulate Sexually Oriented Businesses so as to meet the City's interest in minimizing the negative impact of such businesses upon the City; and

**WHEREAS**, the Planning Commission, at a meeting held August 15, 2016, did review and recommend these regulations, and the district within the City within which these business enterprises will be permitted considering the negative impact such business enterprises have upon the community and particularly surrounding properties, and considering the fact that 75% or more of the City is developed as residential and related residential uses such as schools, daycares and religious institutions, and the majority of the business corridor directly abuts such residential uses either within the City or within the City of the Village of Indian Hill; and

**WHEREAS**, the Planning Commission has concluded and Council concurs that there must be adequate separation between adult entertainment businesses and residential uses to minimize the negative impact of such businesses; and

**WHEREAS**, prior to considering this Ordinance, the City Council has been offered for their review and consideration a number of the cases cited in Section 1(C) of this Ordinance and current news articles from the *Cincinnati Enquirer* detailing criminal activity at such adult entertainment establishments in and around the Greater Cincinnati area; and

**WHEREAS**, Council did hold a public hearing on October 5, 2016 to consider the recommendation from the Planning Commission for the adoption of this Ordinance, at which public hearing a presentation was made by the staff of the Department of Community Development and the Law Director outlining factors they considered in making a recommendation for the regulations enacted herein and defining the area in the City within which such businesses may locate; and

**WHEREAS**, it is the intent of the Council to adopt this Ordinance within the guidelines of the model Ordinance so as to enjoy such indemnification against any claims or suits which may be asserted against the City, its City Council, employees or agents; and

**NOW THEREFORE, BE IT ORDAINED** by the Council of the City of Montgomery, Hamilton County, Ohio, that a section of the Code of Ordinances entitled, *Sexually Oriented Businesses*, shall be adopted as follows:

**SECTION 1.            PURPOSE AND INTENT**

(A) In enacting this Ordinance, pursuant to § 715.55 of the Ohio Revised Code, the City Council makes the following statement of intent and findings:

(1) Adult entertainment establishments require special supervision from the public safety agencies of this City in order to protect and preserve the health, safety, morals, and welfare of the patrons and employees of the businesses as well as the citizens of this City.

(2) The City Council finds that adult entertainment establishments are frequently used for unlawful sexual activities, including prostitution and sexual liaisons of a casual nature.

(3) The concern over sexually transmitted diseases is a legitimate health concern of this City that demands reasonable regulation of adult entertainment establishments by this City in the specified manner, and expanded authority for reasonable regulation of adult entertainment establishments by local governments, in order to protect the health and well-being of the citizens.

(4) Minimal regulations enacted by this City are a legitimate and reasonable means of accountability to ensure that operators of adult entertainment establishments comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activity or solicitation.

(5) There is convincing documented evidence that adult entertainment establishments, because of their very nature, have a deleterious effect on both the existing businesses around them and the surrounding residential areas adjacent to them, cause increased crime, particularly in the overnight hours, and downgrade property values.

(6) The City Council desires to minimize and control these adverse effects by regulating adult entertainment establishments in the specified manner. And by minimizing and controlling these adverse effects, the City Council seeks to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight.

(7) The City Council has determined that current local zoning and other locational criteria do not adequately protect the health, safety, and general welfare of the people of this City and that expanded regulation of adult entertainment establishments is necessary.

(8) It is not the intent of the City Council in enacting this act to suppress or authorize the suppression of any speech activities protected by the First Amendment, but to enact content-neutral statutes that address the secondary effects of adult entertainment establishments.

(9) It is not the intent of the City Council to condone or legitimize the distribution of obscene material, and the City Council recognizes that state and federal law prohibits the distribution of obscene materials and expects and encourages state law enforcement officials to enforce state obscenity statutes against any such illegal activities in this state.

(B) It is the intent of the City Council in enacting this Ordinance to regulate adult entertainment establishments in the manner set forth herein in order to promote the health, safety, morals, and general welfare of the citizens of this City and establish reasonable regulations to prevent the deleterious secondary effects of adult

entertainment establishments within this City. The provisions of this Ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly, it is not the intent of the City Council in enacting this Ordinance to restrict or deny, or authorize the restriction or denial of, access by adults to sexually oriented materials protected by the First Amendment, nor to deny, or authorize the denial of, access by the distributors and exhibitors of adult entertainment and adult materials to their intended market. Neither is it the intent nor effect of the City Council in enacting this Ordinance to condone or legitimize the distribution or exhibition of obscene material.

(C) Based on evidence concerning the adverse secondary effects of adult uses on communities presented in hearings and in reports made available to the legislature and subsequently adopted by the Ohio General Assembly as findings under Section 3 of 2005 House Bill 23 (and on findings incorporated in the cases of *Township of Littleton, Colorado v. Z.J. Gifts D-4, L.L.C.* (2004), 541 U.S. 774; *Township of Erie v. Pap's A.M.* (2000), 529 U.S. 277; *Barnes v. Glen Theatre, Inc.* (1991), 501 U.S. 560; *Township of Renton v. Playtime Theatres, Inc.* (1986), 475 U.S. 41; *Young v. American Mini Theatres* (1976), 426 U.S. 50; *California v. LaRue* (1972), 409 U.S. 109; *DLS, Inc. v. Township of Chattanooga* (6th Cir. 1997), 107 F.3d 403; *East Brooks Books, Inc. v. Township of Memphis* (6th Cir. 1995), 48 F.3d 220; *Harris v. Fitchville Township Trustees* (N.D. Ohio 2000), 99 F. Supp.2d 837; *Bamon Corp. v. Township of Dayton* (S.D. Ohio 1990), 730 F. Supp. 90, *aff'd* (6th Cir. 1991), 923 F.2d 470; *Broadway Books v. Roberts* (E.D. Tenn. 1986), 642 F. Supp. 486; *Bright Lights, Inc. v. Township of Newport* (E.D. Ky. 1993), 830 F. Supp. 378; *Richland Bookmart v. Nichols* (6th Cir. 1998), 137 F.3d 435; *Deja Vu v. Metro Government* (6th Cir. 1999), 1999 U.S. App. LEXIS 535; *Threesome Entertainment v. Strittmather* (N.D. Ohio 1998), 4 F.Supp.2d 710; *J.L. Spoons, Inc. v. Township of Brunswick* (N.D. Ohio 1999), 49 F. Supp.2d 1032; *Triplett Grille, Inc. v. Township of Akron* (6th Cir. 1994), 40 F.3d 129; *Nightclubs, Inc. v. Township of Paducah* (6th Cir. 2000), 202 F.3d 884; *O'Connor v. Township and County of Denver* (10th Cir. 1990), 894 F.2d 1210; *Deja Vu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County* (6th Cir. 2001), 2001 U.S. App. LEXIS 26007; *State of Ohio ex rel. Rothal v. Smith* (Ohio C.P. 2002), Summit C.P. No. CV 01094594; *Z.J. Gifts D-2, L.L.C. v. Township of Aurora* (10th Cir. 1998), 136 F.3d 683; *Connection Distrib. Co. v. Reno* (6th Cir. 1998), 154 F.3d 281; *Sundance Assocs. v. Reno* (10th Cir. 1998), 139 F.3d 804; *American Library Association v. Reno* (D.C. Cir. 1994), 33 F.3d 78; *American Target Advertising, Inc. v. Giani* (10th Cir. 2000), 199 F.3d 1241; and other cases and on reports of secondary effects occurring in and around adult entertainment establishments in Phoenix, Arizona (1984); Minneapolis, Minnesota (1980); Houston, Texas (1983); Indianapolis, Indiana (1984); Amarillo, Texas (1977); Garden Grove, California (1991); Los Angeles, California (1977); Whittier, California (1978); Austin, Texas (1986); Seattle, Washington (1989); Oklahoma Township, Oklahoma (1986); Cleveland, Ohio (1977); Dallas, Texas (1997); St. Croix County, Wisconsin (1993); Bellevue, Washington (1998); Newport News, Virginia (1996); Tucson, Arizona (1990); St. Paul, Minnesota (1988); Oklahoma Township, Oklahoma (1986 and 1992); Beaumont, Texas (1982); New York, New York (1994); Ellicottville, New York (1998); Des Moines, Iowa (1984); Islip, New York (1980); Adams County, Colorado (1987); Manatee County, Florida (1987); New Hanover County, North Carolina (1989); Las Vegas, Nevada (1978); Cattaraugus County, New

York (1998); Cleburne, Texas (1997); Dallas, Texas (1997); El Paso, Texas (1986); New York Times Square study (1994); Report to ACLJ on the Secondary Impacts of Sex Oriented Businesses (1996); findings from the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses (June 6, 1989, State of Minnesota); and on testimony to Congress in 136 Cong. Rec. S. 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S. 5636, 134 Cong. Rec. E. 3750; and also on findings from the paper entitled "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; and from "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; and from various other police reports, testimony, newspaper reports, and other documentary evidence), and subsequent findings in *Sensations, Inc. v. City of Grand Rapids, Michigan Decency Action Council* (6th Cir. 2008), 526 F.3d 291; *729, Inc. v. Kenton County Fiscal Court* (6th Cir. 2008), 515 F.3d 485; and *Andy's Rest. & Lounge, Inc. v. City of Gary* (7th Cir. 2006), 466 F.3d 550, and the City Council's independent review of the same) the City Council finds:

(1) Adult entertainment establishments lend themselves to ancillary unlawful and unhealthy activities that are presently uncontrolled by the operators of the establishments.

(2) Certain employees of adult entertainment establishments, as defined in this Ordinance as adult theaters and cabarets, engage in a higher incidence of certain types of illicit sexual behavior than employees of other establishments.

(3) Sexual acts, including masturbation and oral and anal sex, occur at adult entertainment establishments, especially those that provide private or semiprivate booths or cubicles for viewing films, videos, or live sex shows. The "couch dances" or "lap dances" that frequently occur in adult entertainment establishments featuring live nude or seminude dancers constitute or may constitute the offense of "engaging in prostitution" under Section 2907.25 of the Revised Code.

(4) Offering and providing private or semi-private booths or cubicles encourages such activities, which creates unhealthy conditions.

(5) Persons frequent certain adult theaters, adult arcades, and other adult entertainment establishments for the purpose of engaging in sexual activity within the premises of those adult entertainment establishments.

(6) Numerous communicable diseases may be spread by activities occurring in Sexually Oriented Businesses, including, but not limited to, syphilis, gonorrhea, human immunodeficiency virus infection (HIV-AIDS), genital herpes, hepatitis salmonella, campylobacter and shigella infections, chlamydial, myoplasmal and ureoplasmal infections, trichomoniasis, and chancroid.

(7) Since 1981 and to the present, there has been an increasing cumulative number of reported cases of AIDS caused by the human immunodeficiency virus (HIV) in the United States: 600 in 1982, 2,200 in 1983, 4,600 in 1984, 8,555 in 1985, and 253,448 through December 31, 1992.

(8) A total of 10,255 AIDS cases had been reported in Ohio as of January 1999. Ohio has required HIV case reporting since 1990, and the reported information shows 7,969 people living with (HIV) (4,213) and (AIDS) (3,756) in the state.

(9) Since 1981 and to the present, there have been an increasing cumulative number of persons testing positive for the HIV antibody test in Ohio.

(10) The number of cases of early (less than one year) syphilis in the United States reported annually has risen. 33,613 cases were reported in 1982, and 45,200 cases were reported through November 1990.

(11) The number of cases of gonorrhea in the United States reported annually remains at a high level, with over one-half million cases being reported in 1990.

(12) The Surgeon General of the United States in his report of October 22, 1986, has advised the American public that AIDS and HIV infection may be transmitted through sexual contact, intravenous drug abuse, and exposure to infected blood and blood components, and from an infected mother to her newborn.

(13) According to the best scientific evidence, AIDS and HIV infection, as well as syphilis and gonorrhea, are principally transmitted by sexual acts.

(14) Sanitary conditions in some adult entertainment establishments are unhealthy, in part, because the activities conducted there are unhealthy, and, in part, because of the unregulated nature of the activities and the failure of the owners and the operators of the facilities to self-regulate those activities and maintain those facilities.

(15) The findings noted in divisions (C)(1) to (14) of this section raise substantial governmental concerns.

(16) Adult entertainment establishments have operational characteristics that require or mandate subject them to reasonable government regulation in order to protect those substantial governmental concerns.

(17) The enactment of this Ordinance will promote the general welfare, health, morals, and safety of the citizens of the City of Montgomery.

**SECTION 2.** The following sections shall be added to the Land Use Code, Chapter 151.18, Regulation of Sexually Oriented Businesses:

**§ 151.181 DEFINITIONS**

(A) As used in this Ordinance:

(1) "adult bookstore," "adult cabaret," "adult motion picture theater," "adult video store," "characterized by," "nude," "nudity," "state of nudity," "seminude," "state of seminudity," "sexual device," "sexual device shop," "sexual

encounter center,” “specified anatomical areas,” and “specified sexual activity” have the same meanings as in Section 2907.40 of the Revised Code; and

(2) “adult arcade,” “adult entertainment,” “adult entertainment establishment,” “adult novelty store,” “adult theater,” “distinguished or characterized by their emphasis upon,” “nude or seminude model studio,” “regularly features,” “regularly shown,” and “sexual encounter establishment” have the same meanings as in Section 2907.39 of the Revised Code.

(B) “EMPLOYEE” means any individual on a full-time, part-time, or contract basis, regardless of whether the individual is denominated an employee, independent contractor, agent, or otherwise, but does not include an individual exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

(C) “IMMEDIATE FAMILY” means a person's spouse residing in the person's household, parents, siblings of the whole or of the half blood, and children, including adopted children.

(D) “LICENSE” means a license to act or operate a Sexually Oriented Business, issued pursuant to this Ordinance.

(E) “LICENSEE” means a person in whose name a license to operate has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the Sexually Oriented Business. With respect to an Employee license issued under this Ordinance, licensee means an employee as defined by Section (2), sub-section (B) above in whose name a license has been issued authorizing employment at Sexually Oriented Business.

(F) “OPERATE” means to control or hold primary responsibility for the operation of a Sexually Oriented Business, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. “Operate” or “Cause to be Operated” shall mean to cause to function or to put or keep in operation.

(G) “OPERATOR” means any individual on the premises of a Sexually Oriented Business who causes the business to function or who puts or keeps in operation the business or who is authorized to manage the business or exercise overall operational control of the business premises. A person may be found to be operating or causing to be operated a Sexually Oriented Business whether or not that person is an owner, part owner, or licensee of the business.

(H) “PATRON” means any individual on the premises of a Sexually Oriented Business, except for any of the following:

(1) An operator or an employee of the Sexually Oriented Business;

(2) An individual who is on the premises exclusively for repair or maintenance of the premises or for the delivery of goods to the premises;

(3) A public employee or a firefighter/emergency medical services worker acting within the scope of the public employee's duties as a public employee.

(I) "PERSON" means an individual, proprietorship, partnership, trust, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(J) "PREMISES" means the real property on which the Sexually Oriented Business is located and all appurtenances to the real property, including, but not limited, to the Sexually Oriented Business, the grounds, private walkways, and parking lots or parking garages adjacent to the real property under the ownership, control, or supervision of the owner or operator of the Sexually Oriented Business.

(K) "SEXUALLY ORIENTED BUSINESS" means an adult arcade, adult bookstore, adult cabaret, adult entertainment establishment, adult motion picture theater, adult novelty store, adult theater, adult video store, sexual device shop, sexual encounter center, and sexual encounter establishment as defined by Section (2), sub-section (A) of this Ordinance, but does not include a business solely by reason of its showing, selling, or renting materials that may depict sex.

(L) "SPECIFIED CRIMINAL ACTIVITY" means any of the following offenses:

(1) Prostitution or promoting prostitution; soliciting; loitering to engage in solicitation; sexual performance by a child; public lewdness; indecent exposure; indecency with a child; sexual assault; molestation of a child; or any similar offenses to those described above under the criminal or penal code of any local jurisdiction, state, or country;

(2) for which:

(a) less than two years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense; or

(b) less than five years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date, if the conviction is of a felony offense.

(3) The fact that a conviction is being appealed shall not prevent such conviction from constituting a Specified Criminal Activity as defined in this section.

(M) "TRANSFER OF OWNERSHIP OR CONTROL" of a Sexually Oriented Business shall mean any of the following:

(1) the sale, lease, or sublease of the business;

(2) the transfer of securities which constitute a controlling interest in the business whether by sale, exchange, or similar means; or

(3) the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

**§ 151.182 ZONING REGULATIONS**

(A) Sexually Oriented Businesses may only be established in the General Business District and shall be subject to all further restrictions of this Chapter. No person shall establish a Sexually Oriented Business within seven hundred fifty (750) feet of another such business or within seven hundred fifty (750) feet of a property used for residential purposes, a school, a daycare, or a church.

(B) For purchases of this Chapter, distance between any two Sexually Oriented Businesses or between any Sexually Oriented Business and any Protected Use shall be measured in a straight line without regard to intervening structures from the nearest part of the structure containing a Sexually Oriented Business to the nearest property line of the protected use. Protected uses are residential uses, schools, daycares and churches.

**§ 151.183 LICENSE REQUIRED**

(A) No person shall:

(1) Operate a Sexually Oriented Business as defined by Section (2), sub-section (K) without a valid Sexually Oriented Business license issued by the City pursuant to this Ordinance.

(2) In connection with operating a Sexually Oriented Business, retain the services of a person as an employee, as defined in this Ordinance, who is not licensed as a Sexually Oriented Business employee by the City pursuant to this Ordinance.

(B) Any person who violates sub-section (A)(1) above shall be guilty of a misdemeanor of the third degree for a first offense, and a misdemeanor of the first degree for any second or subsequent offense.

(C) A violation of sub-section (A)(2) above shall be a ground for the suspension of a Sexually Oriented Business license as provided for in Section (10) of this Ordinance.

(D) No person shall act as an employee, as defined in this Ordinance, on the premises of a Sexually Oriented Business without having secured a Sexually Oriented Business employee license ("Employee License") pursuant to this Ordinance.

(E) A violation of sub-section (E) shall be a ground for the suspension of a Sexually Oriented Business employee license as provided for in Section (10) of this Ordinance.

#### **§ 151.184 APPLICATION FOR LICENSE**

(A) An original or renewal application for a Sexually Oriented Business license shall be submitted to the Community Development Director or its designee on a form provided by the Community Development Director. The City's application may require and the applicant shall provide such information as reasonably necessary (including fingerprints) to enable the City to determine whether the applicant meets the qualifications established in this Ordinance.

(B) A filing fee shall be paid at the time of filing the application in the amount of Five Hundred Dollars (\$500.00).

(C) An application for a Sexually Oriented Business license shall identify and be signed by the following persons:

(1) If the business entity is owned by an individual, that individual.

(2) If the business entity is owned by a corporation, each Officer or Director of the corporation, any individual owning or controlling more than fifty (50) percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed Sexually Oriented Business.

(3) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed Sexually Oriented Business.

(D) An application for a Sexually Oriented Business license must designate one or more individuals who are to be principally responsible for the operation of the proposed Sexually Oriented Business, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed Sexually Oriented Business on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this Ordinance, and shall be considered a licensee if a license is granted.

(E) An application for a Sexually Oriented Business license shall be completed according to the instructions on the application form, which shall require the following:

(1) If the applicant is:

(a) an individual, state the legal name and any aliases of such individual; or

(b) a partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or

(c) a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or

(d) a corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacities of all Officers and Directors, the name of the registered corporate agent for the State of Ohio, and the address of the registered office within the State of Ohio for service of process.

(2) If the applicant intends to operate the Sexually Oriented Business under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.

(3) State whether any applicant has been convicted of a Specified Criminal Activity as defined in this Ordinance, and if so, the Specified Criminal Activity involved and the date, place, and jurisdiction of each such conviction.

(4) State whether any applicant has had a previous license under this Ordinance or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the Sexually Oriented Business for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, or fifty (50) percent or greater owner of a corporation licensed under this Ordinance whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) State whether any applicant holds any other licenses under this Ordinance or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.

(6) State the location of the proposed Sexually Oriented Business, including a legal description of the property (i.e., permanent parcel number), street address, and telephone number(s), if any.

(7) State the mailing address and residential address of each applicant and each person signing the application.

(8) Submit a recent photograph of each applicant who is a natural person, taken by the Montgomery Police Department that clearly shows the applicant's face.

(9) Submit the fingerprints of each applicant who is a natural person, recorded by the Montgomery Police Department.

(10) For any applicant who is a natural person, describe and identify the location of any tattoos on such person's face, arms, legs, or hands, or any other anatomical area that normally would be visible when such person is on the premises of the proposed Sexually Oriented Business.

(11) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.

(12) Submit proof that each applicant who is a natural person is at least eighteen (18) years old.

(13) Submit a sketch or diagram showing the configuration of the premises of the Sexually Oriented Business. The diagram shall also designate the place at which the adult business license will be conspicuously posted, if granted. The sketch or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six (6) inches.

(14) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the City can determine whether the Ordinance's civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented establishments by temporarily prohibiting those recently convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the Ordinance's licensing and permitting requirements.

(15) The information gathered pursuant to the above provisions constitute protected private information and are exempt from Ohio's Public Records Act in accordance with the decision of the Sixth Circuit Court of Appeals in *DejaVu of Cincinnati v. Union Township* (6th Cir. 2005), 411 F.3d 777.

#### **§ 151.185 ISSUANCE OF A LICENSE**

(A) Upon receipt of an application for a Sexually Oriented Business license, the Community Development Department shall promptly request that the Montgomery Police Department review the information provided in the application concerning the criminal background of the applicant(s) and that the Montgomery Police Department shall transmit the results of its investigation in writing to the Community Development Department within five (5) days of the completion of its investigation.

(B) Within five (5) days of receipt of an application for a Sexually Oriented Business, the Community Development Department shall notify the City Fire Chief and the Hamilton County Health Commissioner of such application. In making such notification, the Community Development Department shall request that the Fire Chief and Health Commissioner promptly inspect the premises for which the Sexually Oriented Business license is sought to assess compliance with the regulations under their respective jurisdictions.

(C) The Fire Chief shall provide to the Community Development Department a written certification of whether the premises are in compliance with the City Fire Code within ten (10) days of receipt of notice of the application.

(D) The Community Development Department, or its designee, shall commence the inspection of the premises for which a Sexually Oriented Business license is sought promptly upon receipt of the application, and shall complete, within ten (10) days after receipt of the application, a written certification of whether the premises are in compliance with the City Zoning Ordinance, the City Building Code, and the provisions of this Ordinance related to physical characteristics of the premises, and whether the City has received notice from any state or county agency of the premises being in violation of any applicable state building or property codes.

(E) Within twenty-one (21) days after receipt of a completed Sexually Oriented Business license application, the Community Development Department shall approve or deny the issuance of a license. The Community Development Department shall approve the issuance of a license to an applicant unless he/she determines that one or more of the following findings is true:

(1) An applicant who is a natural person is under eighteen (18) years of age.

(2) An applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose its Social Security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a)(1).

(3) An applicant has, within the preceding twelve (12) months, been denied a Sexually Oriented Business license by any jurisdiction or has had a license to operate a Sexually Oriented Business revoked by any jurisdiction.

(4) An applicant has been convicted of a Specified Criminal Activity as defined in this Ordinance.

(5) The proposed Sexually Oriented Business would violate or fail to be in compliance with any provisions of this Ordinance, the City Zoning Ordinance, the City Building Code, or state statute or regulation.

(6) The application and investigation fee required by this Ordinance has not been paid.

(7) An applicant is in violation of or not in compliance with any provision of this Ordinance, except as provided in Section (6), sub-section (F) of this section.

(F) If the Community Development Department determines that one or both of the following findings is true, the license issued pursuant to this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

(1) The results of inspections of the premises by the Fire Chief or its designee or the Health Commissioner or its designee indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions.

(2) An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him/her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(G) A Sexually Oriented Business license shall state on its face the name of the applicant, the expiration date, and the address of the licensed Sexually Oriented Business. All Sexually Oriented Business licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(H) The Community Development Department or its designee shall advise the applicant in writing within three (3) days of the Community Development Department's decision of the reasons for any license denial. If the City finds, subsequent to denial, that the basis for the denial of the license has been corrected or abated, the applicant may reapply.

(I) Before an approved Sexually Oriented Business license shall be issued, the applicant shall pay a one year license fee of Five Hundred Dollars (\$500.00).

#### **§ 151.186 EMPLOYEE LICENSE APPLICATION**

(A) An application for an Employee license shall be submitted to the Community Development Department on a form provided by the Community Development Department. The application may request, and the applicant shall provide, such information as reasonably necessary (including fingerprints) to enable the City to determine whether the applicant meets the qualifications established in this Ordinance.

(B) A filing fee shall be paid at the time of the application in the amount of Twenty Five Dollars (\$25.00).

(C) An application for an employee license shall be completed according to the instructions of the application form, which shall require the following:

(1) State the applicant's name and any other names (including "stage" names) or aliases used by the applicant.

(2) State the applicant's date and place of birth.

(3) State the applicant's height, weight, and hair and eye color.

(4) Submit a recent photograph of the applicant, taken by the Montgomery Police Department, which clearly shows the applicant's face.

(5) Submit the applicant's fingerprints, recorded by the Montgomery Police Department.

(6) Describe and identify the location of any tattoos on the applicant's face, arms, legs, or hands, or any other anatomical area that normally would be visible when the applicant is on the premises of the proposed Sexually Oriented Business.

(7) State the applicant's present residence address and telephone number.

(8) State the applicant's present or intended business address and telephone number.

(9) State the applicant's driver's license number and Social Security number.

(10) Submit proof that the applicant is at least eighteen (18) years old.

(11) Provide a statement detailing the Sexually Oriented Business-related license history of the applicant for the five (5) years immediately preceding the date of the filing of the application, including whether such applicant previously operated or is seeking to operate a Sexually Oriented Business, in this or any other jurisdiction, and whether the applicant has ever had a Sexually Oriented Business-related license, permit, or authorization to do business denied, revoked, or suspended. In the event of any such denial, revocation, or suspension, state the name of the issuing or denying jurisdiction and describe in full the reason for the denial, revocation, or suspension. Attach a copy of any order of denial, revocation, or suspension.

(12) State whether the applicant has been convicted of a Specified Criminal Activity as defined in this Ordinance and, if so, the Specified Criminal Activity involved and the date, place and jurisdiction of each such conviction.

(13) The above-required disclosures facilitate the police investigation into the applicant's criminal background regarding crimes of a sexual nature so that the City can determine whether the Ordinance's civil disabilities provisions apply. Such provisions exist to combat the sex crimes connected with sexually oriented

establishments by temporarily prohibiting those recently convicted of such crimes from employment with those establishments. In addition, the required disclosures ensure continuing compliance with the Ordinance's licensing and permitting requirements.

(14) The information gathered pursuant to the above provisions constitutes protected private information and is exempt from Ohio's Public Records Act in accordance with the decision of the Sixth Circuit Court of Appeals in *DejaVu of Cincinnati v. Union Township* (6th Cir. 2005), 411 F.3d 777.

**§ 151.187 ISSUANCE OF SEXUALLY ORIENTED BUSINESS EMPLOYEE LICENSE**

(A) Upon the filing of a completed application for an employee license, the Community Development Department shall issue a license to said applicant immediately.

(B) Within five (5) days of receipt of a completed application for an employee license, the Community Development Department shall request that the Montgomery Police Department initiate an investigation of the information provided in the application concerning the criminal background of the applicant. The Montgomery Police Department shall document the results of its investigation in writing within five (5) days of the completion of its investigation and transmit this writing to the Community Development Department or its designee.

(C) Within ten (10) days after completion of the criminal background investigation of the applicant, the Community Development Department shall either affirm the prior issuance of the license or revoke the license. The Community Development Department shall affirm the prior issuance of a license to an applicant unless he/she determines that one or more of the following findings are true:

(1) The applicant has failed to provide all information and documents required for issuance of the license as requested on the application form, or has provided information or documents as requested on the application that are insufficient on their face; provided, however, that no license shall be denied solely on the ground that an applicant has refused to disclose its social security number in accordance with the provisions of the Privacy Act of 1974, Pub. L. No. 93-579, § 7(a)(1).

(2) The applicant is under eighteen (18) years of age.

(3) The applicant has been convicted of a Specified Criminal Activity as defined in this Ordinance.

(4) The employee license is to be used for employment in a business prohibited by local, state, or federal law, statute, rule or regulation.

(5) The applicant has, within the preceding twelve (12) months, been denied an employee license by any jurisdiction or has had an employee license revoked by any jurisdiction.

(D) If the employee license is revoked, the Community Development Department shall advise the applicant in writing within three (3) days of the reason(s) for any such revocation.

(E) Before an approved Sexually Oriented Business employee license shall be issued, an approved applicant shall pay a license fee of Twenty Five Dollars (\$25.00).

### **§ 151.188 EXPIRATION AND RENEWAL OF LICENSE**

(A) Each license issued pursuant to this Ordinance shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than ninety (90) days and no less than twenty-one (21) days before the expiration date. If application is made less than twenty-one (21) days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(B) An application for renewal of a Sexually Oriented Business license shall be submitted to the Community Development Department on a form provided by the Community Development Department. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this Ordinance. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or such application shall be revised to reflect any change in circumstances or conditions. Sketches or diagrams submitted with an initial Sexually Oriented Business license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram still depicts the premises accurately.

(C) The Community Development Department shall make determinations concerning the approval of license renewals based on the same criteria and time mandates used to evaluate applications for new licenses under this Ordinance.

(D) The Community Development Department shall advise the applicant in writing within three (3) days of the reason(s) for any denial of a license renewal.

(E) An application for renewal of an employee license shall be submitted to the Community Development Department on a form provided by the Community Development Department. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to this Ordinance. Copies of any document or material submitted in connection with the initial license application shall accompany the completed renewal application that has been revised or requires revision to reflect any change in circumstances or conditions.

(F) When the City denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. However, if the City finds, subsequent to denial, that the basis for the denial of the renewal

license has been corrected or abated, the applicant may reapply prior to the expiration of the one year period.

(G) An approved Sexually Oriented Business licensee shall pay an annual renewal license fee of Five Hundred Dollars (\$500.00) before a license shall be issued. An approved Sexually Oriented Business employee licensee shall pay an annual license fee of Twenty Five Dollars (\$25.00) before a renewal license shall be issued.

#### **§ 151.189 SUSPENSION**

(A) The City shall suspend a Sexually Oriented Business license for a period not to exceed thirty (30) days if it determines that a licensee:

(1) has violated or is not in compliance with any section of this Ordinance; or

(2) has knowingly allowed an employee to violate or fail to comply with any section of this Ordinance.

(B) The City shall suspend a Sexually Oriented Business license for a period not to exceed thirty (30) days if it determines that a licensee or its employee or agent has refused to allow, or has prohibited or has interfered with, an inspection of the licensed Sexually Oriented Business premises as authorized by Section (6), sub-sections (B) – (C) of this Ordinance or any other reasonable inspection.

(C) The City shall suspend an employee license for a period not to exceed thirty (30) days if it determines that a licensee has violated or is not in compliance with any section of this Ordinance.

(D) The Community Development Department shall advise the licensee in writing within three (3) days of the reason(s) for any suspension.

#### **§ 151.1810 REVOCATION**

(A) The City shall revoke a Sexually Oriented Business license or employee license if a cause of suspension under this Ordinance occurs and the license has been suspended two times within the preceding twelve (12) months.

(B) The City shall revoke a Sexually Oriented Business license if it determines that:

(1) a licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;

(2) the licensee(s) failed to comply with any requirement stated in the license, pursuant to this Ordinance, to correct specified deficiencies within 120 days;

(3) a licensee has knowingly allowed possession, use, or sale of controlled substances on the premises;

(4) a licensee has knowingly allowed prostitution, solicitation, or the commission of a felony on the premises;

(5) a licensee knowingly operated the Sexually Oriented Business during a period of time when the licensee's license was suspended;

(6) a licensee has knowingly allowed any act of Specified Criminal Activity, as defined in this Ordinance, to occur in or on the licensed premises;

(7) a licensee has been convicted of a Specified Criminal Activity, as defined in this Ordinance, during the term of the license; or

(8) a licensee is delinquent in payment to the City, County, or State for any taxes or fees that were assessed or imposed in relation to any business.

(C) The City shall revoke an employee license if it determines that:

(1) the licensee failed to provide all information and documents required for issuance of the license as requested on the application form, or provided information or documents as requested on the application that are false;

(2) the licensee has knowingly acted as an employee on the premises of a Sexually Oriented Business during a period of time when the licensee's license was suspended; or

(3) the licensee has been convicted of a Specified Criminal Activity, as defined in this Ordinance during the term of the license.

(D) The Community Development Department shall advise the licensee in writing within three (3) days of the reason(s) for any revocation.

(E) When the City revokes a license pursuant to sub-sections (A), (B)(3) – (7), (C)(2) or (3) above, the licensee shall not be issued another license for one (1) year from the date the revocation became effective.

(F) When the City revokes a license pursuant to sub-sections (B)(1), (B)(8) or (C)(1) above, the applicant may be granted a license if the basis for the revocation has been corrected or abated and at least thirty (30) days have elapsed since the date the revocation became effective.

**§ 151.1811 APPEAL RIGHTS**

(A) Any denial, suspension, or revocation of a license under this Ordinance may be appealed to the City Council by written notice within ten (10) days of such denial, suspension, or revocation. Unless the applicant requests a longer period, the

City Council must hold a hearing on the appeal within twenty-one (21) days and must issue a decision affirming or reversing the denial, suspension, or revocation within five (5) days after the hearing. During the time between the date of the denial, suspension, or revocation of a license and the date of the City Council decision affirming or reversing the denial, suspension, or revocation, the status quo of the license holder or applicant shall be maintained.

(B) In the event that the City Council denies, suspends, or revokes a new or renewal license under this Ordinance, or any action taken on an appeal that is provided by this Ordinance, the applicant may pursue an appeal to Hamilton County Court of Common Pleas pursuant to Revised Code Chapter 2506. The failure of the City Council to render a decision on the application within the time prescribed in Section (10), sub-section (A) above shall be considered an affirmance of the denial, suspension, or revocation of the license and the applicant may pursue an appeal to Hamilton County Court of Common Pleas pursuant to Revised Code Chapter 2506. This appeal provision is intended to comply with the requirement for prompt judicial review stated by the United States Supreme Court in *Township of Littleton, Colorado v. Z. J. Gifts D-4* (2004), 541 U.S. 774.

(C) Any licensee lawfully operating a Sexually Oriented Business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this Ordinance, so that the status quo of the licensee is maintained during the pendency of an appeal to the City Council of a decision rendered under this Ordinance and during the entire time required for the Court of Common Pleas to rule on the appeal pursuant to sub-section (B) above.

(D) Any licensee lawfully acting as an employee in a Sexually Oriented Business prior to the denial of a license renewal application, or the suspension or revocation of a license, shall retain said license and all privileges attendant thereto, subject to all other terms of this Ordinance, so that the status quo of the licensee is maintained during the pendency of an appeal to the City Council of a decision rendered under this Ordinance and during the entire time required for the Court of Common Pleas to rule on the appeal pursuant to sub-section (B) above.

(E) In the event that any judicial review of the denial of a new or renewal license application or the revocation or suspension of a license is still pending thirty (30) days before the expiration date of any license, the licensee may file a renewal license application with the Community Development Department pursuant to this Ordinance. In the event that an application for renewal of a license is denied and the applicant seeks judicial review of that denial, the City has the right to consolidate such review with any pending judicial actions in regards to the previous denial, suspension or revocation of a license.

(F) If, during the pendency of any appeal pursued under sub-section (B) above, there are additional denials of a renewal license application or suspensions or revocations of that license, the City has the right to consolidate the appeal pursued under

Section (12), sub-section (B) above for the additional denials, suspensions or revocations with any pending appeal for that same licensee.

### **§ 151.1812 TRANSFER OF LICENSE**

(A) A Sexually Oriented Business license is not transferable from one licensee to another or from one location to another. Any purported transfer of a Sexually Oriented Business license shall automatically and immediately revoke that license.

(B) An employee license is not transferable from one licensee to another, but the use of the license by the individual to whom it was issued may be transferred from one licensed Sexually Oriented Business to another such licensed establishment during the term of the license, provided that the licensee gives written notice of such transfer to the Community Development Department within fifteen (15) days of such transfer.

### **§ 151.1813 ADDITIONAL REGULATIONS CONCERNING THE OPERATION OF A SEXUALLY ORIENTED BUSINESS**

(A) Sexual Activity, Live Entertainment and Performances

(1) No person shall, in a Sexually Oriented Business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.

(2) Any employee appearing on the premises of a Sexually Oriented Business in a state of semi-nudity, as defined by this Ordinance, must be on a stage that is at least twenty-four (24) inches from the floor, and at a distance at least thirty-six (36) inches from all parts of a clearly designated area in which patrons will be present.

(3) All live entertainment and performances in a Sexually Oriented Business must take place on a stage that is at least twenty-four (24) inches from the floor and a distance of at least thirty-six (36) inches from all parts of a clearly designated area in which patrons will be present.

(4) The interior of the premises shall be configured in such a manner that there is a an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. If the premises has two (2) or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. It is the duty of the operator to ensure that at least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by the operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this paragraph remains unobstructed by any doors, curtains, walls, merchandise,

display racks or other materials or enclosures at all times that any patron is present on the premises.<sup>1</sup>

(5) No employee shall knowingly or intentionally, in a Sexually Oriented Business, appear within view of any patron in a nude or semi-nude condition unless the employee, while nude or semi-nude, shall be and remain at least six (6) feet from all patrons.<sup>2</sup>

(6) Employees in a Sexually Oriented Business shall maintain a minimum distance of five (5) feet from areas on the business premises occupied by patrons for a minimum of twenty (20) minutes after the employee appears in a nude or semi-nude condition within view of any patron. This regulation is not intended to prohibit ingress or egress from the premises. It is intended to control illicit sexual contact and reduce the incidents of prostitution occurring in the establishments.<sup>3</sup>

(7) No patron who is not a member of the employee's immediate family shall knowingly touch an employee while that employee is nude or seminude or touch the clothing of any employee while that employee is nude or semi-nude.<sup>4</sup>

(8) No employee who regularly appears nude or seminude on the premises of a Sexually Oriented Business and while nude or seminude, shall knowingly touch a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or the clothing of a patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family or allow the patron who is not a member of the employee's immediate family or another employee who is not a member of the employee's immediate family to touch the employee or the clothing of the employee.<sup>5</sup>

(9) The provisions of sub-sections (A)(1) – (8) shall not apply to an employee's use of any restroom or any single-sex dressing room that is accessible only to employees.

(10) In addition, sub-sections (A)(1) – (8) shall not apply to live performances in which the patron and employee are separated by an impenetrable barrier such as, but not limited too, glass or Plexiglas.

(B) Minors Prohibited. No person under the age of 18 years shall be permitted on the premises of a Sexually Oriented Business.

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<sup>1</sup> *Sensations, Inc. v. City of Grand Rapids, Michigan Decency Action Council* (6th Cir. 2008), 526 F.3d 291.

<sup>2</sup> *Sensations, Inc. v. City of Grand Rapids, Michigan Decency Action Council* (6th Cir. 2008), 526 F.3d 291.

<sup>3</sup> *729, Inc. v. Kenton County Fiscal Court* (6th Cir. 2008), 515 F.3d 485.

<sup>4</sup> Pursuant to R.C. 2907.40(C)(1).

<sup>5</sup> Pursuant to R.C. 2907.40(C)(2).

(C) Hours of Operation. No Sexually Oriented Business shall be or remain open for business between 12:00 midnight and 6:00 a.m. on any day, except that a Sexually Oriented Business that holds a liquor permit pursuant to Chapter 4303 of the Revised Code may remain open until the hour specified in that permit if it does not conduct, offer, or allow Sexually Oriented Business activity in which the performers appear nude.<sup>6</sup>

**SECTION 3.** The *Schedule of Permitted Uses* in § 151.1203 shall be amended to reflect that Sexually Oriented Businesses are a Permitted Use in the General Businesses District (G-B) with a footnote referring to the above regulation in Chapter 151.18

**SECTION 4.** If any section, sub-section, paragraph or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, sub-sections, paragraphs, and clauses shall not be affected.

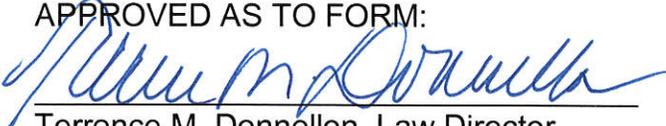
**SECTION 5.** This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

<sup>6</sup> Pursuant to R.C. 2907.40(B).

ORDINANCE NO. , 2016

**AN ORDINANCE REZONING A PORTION OF THE VINTAGE CLUB  
DEVELOPMENT TO L-B LIMITED BUSINESS DISTRICT WITH A  
PLANNED DEVELOPMENT OVERLAY**

**WHEREAS**, at the time the Vintage Club site on Montgomery Road was zoned into the L-B Limited Business District and subjected to a Planned Development Overlay, a portion of the site consisting of approximately .0361 acres, being Auditor's parcel number 620-0210-0723, was located in Symmes Township, and while it was part of the project site it was not properly zoned within the Vintage Club development; and

**WHEREAS**, in proceedings over this past calendar year, such parcel was annexed from Symmes Township into the City of Montgomery; and

**WHEREAS**, Section 151.0104 of the Land Usage Code provides that any land annexed into the City is subject to the similar zoning category in which it was located within the Township until such time as it is rezoned within the City after annexation; and

**WHEREAS**, the Planning Commission has reviewed an application to rezone this property into the L-B Limited Business District subject to the same Vintage Club Planned Development Overlay, as amended, so that the property may be properly developed consistent with the General Development Plan for the site; and

**WHEREAS**, the Planning Commission, on August 15, 2016, did consider such application and recommended rezoning the site to be consistent with the project site for the Vintage Club; and

**WHEREAS**, Council did hold a public hearing on October 5, 2016 to consider such recommendations from the Planning Commission; and

**WHEREAS**, Council has recommended that these modifications be adopted.

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

**SECTION 1.** The property as more fully described on Exhibit A attached hereto and incorporated herein by reference, consisting of .0361 acres previously identified as Auditor's parcel number 620-0210-0723 which has now been properly annexed into the City of Montgomery, shall be rezoned to L-B Limited Business District subject to the Vintage Club Planned Development Overlay District rules and regulations, as amended.

**SECTION 2.** The Community Development Director is hereby directed to make a change in the zoning map to reflect the incorporation of this parcel into the L-B Limited Business District and the Vintage Club Planned Development Overlay District.

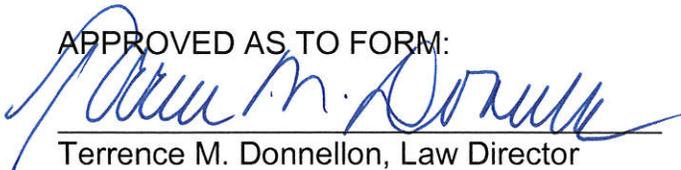
**SECTION 3.** This Ordinance shall take effect the earliest opportunity as allowable by law.

PASSED: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
Connie M. Gaylor, Clerk of Council

\_\_\_\_\_  
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Terrence M. Donnellon, Law Director

ORDINANCE NO. , 2016

**AN ORDINANCE AMENDING THE STATEMENT OF CONDITIONS AND EXCEPTIONS IN THE VINTAGE CLUB PLANNED DEVELOPMENT OVERLAY DISTRICT**

**WHEREAS**, by Ordinance No. 11, 2006, Council did establish the terms and conditions for the Vintage Club Planned Development Overlay District (“District”); and

**WHEREAS**, by Ordinance No. 11, 2013, Council did make certain modifications to the District; and

**WHEREAS**, Council and the Planning Commission did reserve the right to make further modifications to the District consistent with a final General Development Plan for the northern site, which plans have now been submitted, reviewed and approved in part by the Planning Commission; and

**WHEREAS**, the Planning Commission did meet on August 15, 2016 to review and consider the proposed modifications to the District, which modifications were recommended by the Planning Commission; and

**WHEREAS**, Council did hold a public hearing on October 5, 2016 to consider such recommendations from the Planning Commission; and

**WHEREAS**, Council has recommended that these modifications be adopted.

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

**SECTION 1.** The Statement of Conditions and Exceptions for the Vintage Club Planned Development Overlay District are hereby modified as follows:

A. The permitted height for buildings in the interior of the L-B Limited Business District section of the site shall be increased to a maximum of four stories or 52 feet in height. Such maximum height shall be measured as the average of the top of the parapet walls and/or the mean of the pitched roof for any such structures. No pitched roof element shall exceed 62 feet in height.

B. The perimeter and front yard landscape requirements, with the exception of properties fronting Montgomery Road, shall be modified to accept the landscaping as approved within the General Development Plan. Such modification is necessary as a result of lot splits within the site reflecting the fact that interior parking will be public parking fronting and surrounding each of these interior buildings.

C. There shall be no front, side or rear building setbacks for buildings in the L-B Limited Business section except as such property shall abut the residential village section of the site.

D. The setback requirements for the residential condominiums and/or offices along the northern boundary of the project within the L-B Limited Business District shall be reduced to 25 feet with a six foot landscape buffer.

E. Parking setbacks shall be eliminated for front, side and rear yards except the front yard setback for properties fronting Montgomery Road.

F. The Christ Hospital, the principal tenant of the property owned and developed by Brandicorp Montgomery Development Corporation on the southwest corner of the site, shall be deemed an adjacent property owner for purposes of notification concerning any modifications to the District and/or to achieve standing to appeal or take other legal action with regard to decisions of the Montgomery Planning Commission

and/or City Council concerning modifications to the General Development Plan, Final Development Plan, or modifications to the Vintage Club Planned Development Overlay District.

**SECTION 2.** All other zoning standards within the District set forth in Ordinance 11, 2006, as amended by Ordinance 11, 2013, are hereby ratified.

**SECTION 3.** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

**SECTION 4.** 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 5.** 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

RESOLUTION NO. , 2016

**A RESOLUTION AUTHORIZING A CONTRACT WITH MOTOROLA FOR THE PURCHASE OF REPLACEMENT RADIOS**

**WHEREAS**, the Motorola company is the manufacturer for the radio system and equipment used by the Police and Fire Departments; and

**WHEREAS**, with Motorola's decision to phase out the Motorola XTS5000 and to limit support for repairing such radios as currently used by the Departments, the Administration has determined it is necessary to replace the radio system and has planned such replacement over the course of the next few years; and

**WHEREAS**, Motorola has contacted the City offering the sale of a limited number of its upgraded radios which were used for a short period of time to provide security support to the Republican National Convention; and

**WHEREAS**, such radios will be offered with a new radio warranty at a substantial savings justifying the purchase of these radios to provide immediate support to the Departments, and to eliminate the extended cost of phasing out the current radio system and replacing such radio system with upgraded models; and

**WHEREAS**, to take advantage of this opportunity, immediate emergency action is necessary to provide support for the Police and Fire Departments by authorizing this contract without public bidding.

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

**SECTION 1.** The City Manager is authorized to enter into a contract with the Motorola company to purchase fifty (50) Motorola APX6000 portable radios, fifty (50)

remote shoulder microphones, nineteen (19) individual chargers, seven (7) bank chargers, fifty (50) spare batteries, and initial programming at a cost not to exceed \$140,000.00.

**SECTION 2.** As it is necessary to act immediately to replace the existing radio system with these used radios which will include a three year warranty, given the phase out of existing radios and the real and present need to replace such radio system, Council hereby determines that this purchase opportunity is an emergency necessary to support the operations of the Police and Fire Departments, and therefore Council, by a minimum of two-thirds vote set forth in the record of these proceedings does hereby authorize the City Manager to enter into this contract without the need for formal bidding and advertising.

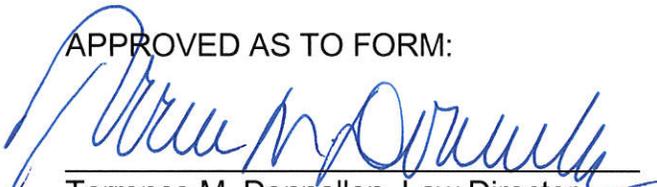
**SECTION 3.** This Resolution shall be in full force and effect from and after its passage.

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 City Council meeting. 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 Work Session Minutes  
October 19, 2016

Present

Wayne Davis, City Manager  
Terry Donnellon, Law Director  
Tracy Roblero, Community Development Director  
Katie Smiddy, Finance Director  
Brian Riblet, Public Works Director  
John Crowell, Assistant Police Chief  
Paul Wright, Fire Chief  
Faith Lynch, Community Engagement Coordinator  
Matthew Vanderhorst, Community and Information Services Director  
Connie Gaylor, Clerk of Council

City Council Members Present

Chris Dobrozsi, Mayor  
Lynda Roesch, Vice Mayor  
Craig Margolis  
Mike Cappel  
Gerri Harbison  
Ken Suer  
Ann Combs

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City Council convened in Council Chambers for the Work Session at 7:00 p.m. with Mayor Dobrozsi presiding.

ROLL CALL

Mayor Dobrozsi asked for a motion to dispense with the roll call since everyone was in attendance.

Mr. Cappel moved to dispense with the roll call. Mrs. Harbison seconded. City Council unanimously agreed.

ESTABLISHING AN AGENDA FOR NOVEMBER 2, 2016

Pending Legislation

**An Ordinance to Make Appropriations for Current Expenses and Other Expenditures of the City of Montgomery, State of Ohio, During the Fiscal Year Ending December 31, 2017— (Mr. Suer, 2<sup>nd</sup> Reading)**

Mr. Suer asked Ms. Smiddy if there were any updates to this legislation.

Ms. Smiddy responded that there were none.

New Legislation

**A Resolution Authorizing the City Manager to Enter into A Contract with Morton Salt, Inc. For The Purchase of De-Icing Rock Salt for The 2017 Season**

Mr. Riblet explained that if approved this Resolution would authorize the City Manager to enter into a contract extension with Morton Salt, Inc. pursuant to a joint purchasing bid for 2016-2017 de-icing rock salt. The purchase of de-icing rock salt for the 2016-2017 winter season is included in the City budget in the 261.000.5380 Street Maintenance, 266.000.5380 Permissive MVL Fund and 265.000.5380 State Highway Fund. If approved, the request would authorize a maximum purchase of 1,430 tons of de-icing rock salt for the amount of \$75,089.30 (\$52.51 per ton) which represents a 31% decrease per ton from the 2015/2016 winter season.

Mr. Margolis asked what our maximum capacity was with the new salt bin.

Mr. Riblet stated that we could hold up to 2,000 ton of rock salt, but he feels comfortable with only stocking 1,600 at this time.

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53 **An Ordinance for The Allocation of Earnings Tax Revenues and Amending Section 44.14 of The**  
54 **Montgomery Code of Ordinances**  
55

56 Ms. Smiddy explained that if approved, this Ordinance will adjust the allocation of the City's Earnings Tax  
57 Revenues. She explained that in the City's "2017 Operating and Capital Budget with Four Year Forecast"  
58 document, staff requested that City Council proceed with legislation which reallocates the City's Earnings Tax  
59 revenues effective February 1, 2017. The current allocation is: 76% of Earnings Tax revenues to the General  
60 Fund, 20% to the Capital Improvement Fund and 4% to the Debt Retirement Fund. The proposed reallocation  
61 would provide 80% of the Earnings Tax revenues to the General Fund and 20% to the Capital Improvement Fund.  
62 Ms. Smiddy stated that this allocation could change in the future as the Vintage Club North project nears  
63 construction.  
64

65 **A Resolution Authorizing a Purchase Agreement for the Sale of Montgomery Commons Real Estate**  
66

67 Mr. Donnellon explained that if approved, this Resolution would authorize a purchase agreement for the sale of  
68 Montgomery Commons Real Estate. Mr. Donnellon stated that this legislation is the last step in a 30-year process  
69 under which the City acquired land at the corner of Montgomery Road and Cooper Road, and it is transferring that  
70 land to the current property owner. The City acquired the property in an economic development transaction when  
71 a Tax Increment Financing district was created for the downtown lot. The Lease Agreement with the prior  
72 property owner granted to the Lessee the purchase option for \$1.00 in November 2016. The current land owner,  
73 Montgomery Commons LLC, has sent notice to the City that they wish to exercise those rights.  
74

75 **An Ordinance Amending the Land Usage Code to Regulate Sexually Oriented Businesses**  
76

77 Mr. Donnellon explained that if approved, this Ordinance would enact regulations governing Sexually Oriented  
78 Businesses. While such a business may not be compatible with the City's Business District and uses, the courts  
79 will not allow local communities to ban such businesses as they enjoy certain First Amendment freedoms. On the  
80 other hand, we are permitted to regulate the businesses through a licensing process and to allow separation of such  
81 businesses from protected uses such as residences, schools, and daycare centers. This Ordinance will enact the  
82 structure for the City to regulate the location and operation of these businesses in the City. Mr. Donnellon also  
83 made licensing recommendations based on similar codes in neighboring communities. He recommended that each  
84 business pay a \$500 application fee, a \$500 License fee and a \$500 annual renewal fee. He stated that these same  
85 types of fees would also be required by the employees of these establishments but at a reduced rate of \$25 for  
86 each fee.  
87

88 **An Ordinance Rezoning a Portion of the Vintage Club Development to L-B Limited Business District with**  
89 **A Planned Development Overlay**  
90

91 Ms. Roblero explained that if approved, this Ordinance will rezone the property located at PIN 620-0210-0723-00  
92 from the current zoning classification to 'LB' – Limited Business District with a Planned Development Overlay.  
93 She stated that City Council held a Public Hearing on October 5, in which the recommendation from the Planning  
94 Commission was heard regarding a request from MB Land Company to consider a rezoning application of this  
95 property. The property was recently annexed into the City of Montgomery from Symmes Township. The property  
96 is currently zoned 'O' Residence with Subservient Office and Business Uses as it was zoned when located in the  
97 Township. Section 151.0104 states that for "all land that may hereafter be annexed to the City of Montgomery,  
98 the township zoning regulations existing at the time of annexation shall continue to govern the former township  
99 land until an amendment to the City of Montgomery Zoning Map is adopted in conformance with the procedures  
100 of this Zoning Code". Staff supports the rezoning of this property that would make the zoning consistent with the  
101 zoning of the Vintage Club.  
102

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103 **An Ordinance Amending the Statement of Conditions and Exceptions in The Vintage Club Planned**  
104 **Development Overlay District**

105  
106 Ms. Roblero explained that if approved, this Ordinance will modify the Vintage Club Planned Development List  
107 of Exceptions and Conditions. The proposed modifications to the Statement of Conditions and Exceptions were  
108 created by Staff and MC Land Company to address the conflicts between the Zoning Regulations in the  
109 underlying LB District and the approved General Development Plan. Ms. Roblero stated that the major changes  
110 were the building height of interior buildings to be increased from 50 feet to 52 feet. These modifications are  
111 consistent with the approved General Development Plan and the intent of the Vintage Club Planned Development  
112 which has been communicated from the beginning of the project.

113  
114 **A Resolution Authorizing a Contract with Motorola for The Purchase of Replacement Radios**

115  
116 Assistant Police Chief Crowell explained that if approved this Resolution would authorize the expenditure of  
117 \$139,645 for the purchase of 50 Motorola APX6000 portable radios and other support equipment. Assistant Police  
118 Chief Crowell explained that Chief Simpson found these slightly used radios that were used at the Republican  
119 National Convention and now being sold by Motorola at a deeply discounted rate. He explained that the cost  
120 would be split between the police and fire departments. The police department's share would consist of  
121 \$65,403.50 and the share for the fire department would be \$74,241.50. The total purchase cost between the Police  
122 and Fire departments is \$139,645. This would be a savings of \$63,073.50 shared between both departments  
123 compared to the current budgeted cost of approximately \$202,000. The police department budget has  
124 appropriation authority to accommodate the purchase in this fiscal year. The fire department would require an  
125 adjustment in appropriations before the close of the 2016 fiscal year. The radio equipment is currently listed with  
126 the State of Ohio purchasing contract 573077-0 which expires June 30, 2017. This would allow the City to  
127 purchase the radio equipment without conducting a formal bidding process.

128  
129 Assistant Chief Crowell explained that the costs of these radios falls below the current State of Ohio purchasing  
130 contract.

131  
132 Mr. Donnellon explained that there is an exception in the statute that excuses the bidding process in the event of  
133 an emergency need. This would require a two-thirds vote by City Council and the fact that the Motorola no longer  
134 will produce replacement parts and support the current model of radios that the departments use as well as the  
135 opportunity of cost savings does constitute an emergency.

136  
137 **ADMINISTRATION REPORT**

138  
139 Mr. Wayne Davis reported on the following items:

- 140  
141 • City Council will meet in Business Session on Wednesday, November 2, 2016 at 7:00 p.m.  
142  
143 • Chief Don Simpson is attending the 123rd annual IACP (International Association of Chiefs of Police)  
144 conference and exposition in sunny San Diego, California this week and will return on Saturday.  
145  
146 • Wayne Davis and Tracy Roblero met with representatives with Twin Lakes on Wednesday afternoon to  
147 discuss process and timing for moving forward with a development proposal for the property on the east  
148 side of Montgomery Road between Schoolhouse Lane and the Safety Center. Twin Lakes is considering  
149 their options for the property and would like to submit for City approvals in 2017.

150

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- 151 • Chief Wright will be attending the Ohio Fire Chiefs Association (OFCA) Board meeting in Columbus on  
152 Thursday and Friday. Currently he chairs the Ohio Fire and Emergency Service Foundation which is the  
153 educational programming part of the OFCA.  
154
- 155 • The City received Request for Proposals (RFP) for Vintage Club – North Public Improvements today  
156 from Prus Construction, John R. Jurgensen, Inc., and Brandicorp LLC. The Evaluation Committee will  
157 review the proposals and have tentatively scheduled interviews with the candidates for Tuesday, October  
158 25.  
159
- 160 • On Thursday, October 27, Wayne will be in Columbus for his quarterly Ohio City/County Management  
161 Association Board Meeting. Wayne continues to serve this Board as the Vice President and expects to be  
162 the President of this group beginning in July, 2017.  
163
- 164 • Don't forget the Smokin Irish' luncheon this Friday at Terwilliger Lodge. Master Smoker, Terry  
165 Donnellon will begin preparations early for the much anticipated lunch that begins at 11:00 and runs until  
166 1:00. Staff is bringing in side dishes and desserts, plan to come out and enjoy this time of great food and  
167 fellowship!  
168
- 169 • The City will observe Trick or Treat on Monday, October 31 from 6:00 to 8:00 p.m. As in the past this  
170 observance of Halloween is rain or shine.  
171
- 172 • As a reminder, The Much in Common Consortium will be holding a Regional Policy Caucus: The Heroin  
173 Epidemic, on Tuesday, November 1st, 2016 at the St. Elizabeth Training & Educational Center in  
174 Erlanger, KY. Check in and breakfast begin at 7:30 a.m. with the program schedule for 8:00 to 10:00  
175 a.m.  
176
- 177 • Don't forget to change your clocks on Sunday, November 6 when Daylight Savings time ends. We fall  
178 back an hour for this marking of the change of seasons.  
179
- 180 • Election Day is Tuesday, November 8 and as a reminder City Hall does serve as a polling place for city  
181 residents. We do anticipate a large turnout this year so parking will be at a premium.  
182
- 183 • Faith Lynch will be leading a group of community volunteers including Sister Cities Commission  
184 members and members of the Sycamore High School National Honor Society in a morning of service at  
185 Matthew 25 Ministries on Saturday, October 22 from 9:00 to 11:00 a.m. as a part of Connect  
186 Montgomery's Making a Difference Day activities. If you would like to join Faith, please let her know.  
187
- 188 • The next Neighborhood Leaders Forum is set for Thursday, October 27 at Terwilliger Lodge from 6:30 to  
189 8:00 p.m. The Forum will address housing with Tracy Roblero providing a similar presentation to the one  
190 she presented to the MCLA Alumni in April. We currently have 20 registered for this event. If you plan  
191 to attend, please contact Faith Lynch.  
192
- 193 • Ms. Gaylor sent out an email this afternoon regarding a request by the Blue Ash Veterans Day Committee  
194 inviting City Council to participate in their Veterans Day Ceremony on Friday, November 11, 2016. The  
195 ceremony will begin promptly at 10:30 AM at the Blue Ash Bicentennial Veterans Memorial Park at  
196 Cooper and Hunt Roads in downtown Blue Ash. The keynote speaker is Representative Louis Terhar this  
197 year. The ceremonies at the Memorial will end at approximately 11:30 AM followed by a luncheon at the  
198 Blue Ash Recreation Center, prepared by members of the 123rd Air Control Squadron in Blue Ash. We  
199 will be presenting a special award to a remarkable veteran during the luncheon. Please let Ms. Gaylor  
200 know if you are planning to attend by November 3.

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- The internal GRA team will hold an open house for the MCLA graduates on November 17 from 5:00 to 7:00 pm, to discuss the potential interchange modification and obtain feedback from the group. The team would like to conduct the open house from 5:00 – 7:00 p.m. at City Hall. The Neighborhood Leadership Forum will be held on November

207

### **CITY COUNCIL REPORTS**

208

209

Mr. Cappel stated that the Environmental Advisory Commission held a Shredding Event on Saturday, October 15. This was the second shredding event of the year for the Commission.

210

211

212

Mrs. Harbison reminded City Council and staff of the Chamber's Annual Award Dinner on Thursday, November 10 from 5:30 to 7:30 p.m., to be held at the Montgomery Inn. She stated that Dave Lapham was the speaker for the dinner.

213

214

215

216

Mrs. Harbison reported that the Sister Cities Commission held the annual International Receptions on Sunday, October 9. She stated that the Commission would be discussing next year's event as there was a significant decrease in attendance this year.

217

218

219

220

Ms. Roesch stated that both the Parks and Recreation and Beautification and Tree Commissions met for their October meetings. She stated that at the Beautification and Tree Commission, a sub-committee selected the flowers for the 2017 Beautification planting day.

221

222

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224

Ms. Roesch reminded everyone of the Blue Ash/ Montgomery Symphony Orchestra Gala on October 30, from 2:00 to 5:00 p.m., at the Peterloo Foundation and would also the Chamber Concert on November 6 at St. Barnabas Church at 4:00 p.m.

225

226

227

228

Mr. Margolis congratulated Mrs. Harbison on becoming the Chamber of Commerce President.

229

230

Mr. Margolis stated how well attended and successful the Harvest Moon Festival was this year.

231

232

Mr. Margolis thanked Mr. Riblet and staff for their successful efforts in obtaining grant approval from OKI for the Interchange Modification Project at Ronald Reagan Highway and Montgomery Road as well as the Montgomery Road Sidewalk Phase II Project.

233

234

235

236

Mayor Dobrozsi congratulated Mrs. Harbison for being named Citizen of the Year. He stated that Mrs. Harbison would be honored at the Blue Ash Montgomery Rotary Community Awards Celebration Dinner on November 3 to be held at the Cooper Creek Event Center.

237

238

239

240

Mayor Dobrozsi thanked Mr. Suer for his assistance during the marriage ceremony of Ebow and Tracey Vroom. This was the Mayor's first opportunity to officiate a ceremony and it was a wonderful experience.

241

242

243

Mayor Dobrozsi reported that at the monthly OKI Board meeting the discussion of regional projects was a topic and the Ronald Reagan Interchange Modification Project rose to the top of the discussion.

244

245

246

### **APPROVAL OF MINUTES**

247

248

Mr. Margolis moved to approve the October 5, 2016 Public Hearing and Business Session minutes. Mr. Cappel seconded. City Council unanimously agreed.

249

250

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**OTHER BUSINESS**

Mrs. Harbison reported that there will be three new Board Members inducted into the Montgomery Chamber of Commerce. They are: Council Member Roesch, former Mayor, Todd Steinbrink and Meghan Donnellon Hyden. She was very excited to welcome these new members to the Chamber.

Mayor Dobrozsi asked if there was any further business to discuss in Public Session. There being none, he asked for a motion to adjourn.

Mr. Margolis moved to adjourn. Mr. Cappel seconded. City Council unanimously agreed.

City Council adjourned at 7:43 p.m.

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Connie Gaylor, Clerk of Council