

**RESOLUTION NO. 12 , 2012**

**A RESOLUTION APPOINTING WAYNE S. DAVIS AS CITY MANAGER,  
AUTHORIZING A CONTRACT FOR EMPLOYMENT, AND WAIVING THE CHARTER  
REQUIREMENT FOR RESIDENCY**

**WHEREAS**, City Council, by authority of Article IV, Section 4.01 of the Charter of the City of Montgomery, is delegated the responsibility for the appointment of a City Manager; and

**WHEREAS**, after an extensive search and assessment of the candidates for the position, Council does desire to appoint Wayne S. Davis to the position of City Manager under the terms of the attached Employment Agreement; and

**WHEREAS**, Article IV, Section 4.01 of the Charter of the City of Montgomery provides that the appointed City Manager shall become a resident of the City within twelve (12) months after his appointment unless such requirement is waived or modified by a vote of four (4) members of City Council; and

**WHEREAS**, since the Charter was adopted and updated, the Ohio legislature under ORC § 9.481 has prohibited any political subdivision from imposing a residency requirement upon its employees; and

**WHEREAS**, the Ohio Supreme Court in the case of *City of Lima v. State* (2009), 122 Ohio St.3d 155, 2009 Ohio 2597, has determined that the enactment of ORC § 9.481 preempts the local authority of a City such as Montgomery from imposing a residency requirement; and

**WHEREAS**, it is Council's desire to specifically waive such residency requirement for Wayne S. Davis whether or not such residency requirement is preempted by state law.

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

**SECTION 1.** Effective immediately, pursuant to Article IV, Section 4.01 of the Charter of City of Montgomery, Council hereby appoints Wayne S. Davis as City Manager with the powers and duties conferred upon the Office by the Charter of the City of Montgomery, Ohio, the laws of the State of Ohio, the legislative enactments of the City Council, and such other duties and responsibilities as may be conferred upon the Office by City Council.

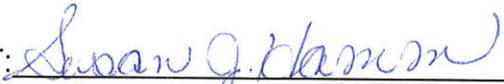
**SECTION 2.** Compensation for the position of City Manager shall be fixed at One Hundred Twenty Thousand Dollars (\$120,000.00) per year payable consistent with the terms of the attached Employment Agreement. Additionally, the City Manager shall receive Three Hundred Dollars (\$300.00) per month as an allowance for the use of his personal motor vehicle. All other terms of employment and the benefits of employment as outlined in the attached Employment Agreement are hereby approved. The Mayor is hereby authorized to execute such Employment Agreement for and on behalf of the City.

**SECTION 3.** Consistent with Section 4.01 of the Charter of the City of Montgomery, Council does hereby formally waive the residence requirements for Wayne S. Davis serving as City Manager.

**SECTION 4.** This Resolution shall be in full force and effect from and after

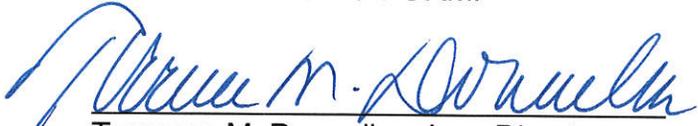
its passage.

PASSED: \_\_\_\_\_ May 7, 2012 \_\_\_\_\_

ATTEST:   
Susan J. Hamm, Clerk of Council

  
Ken Suer, Mayor

APPROVED AS TO FORM:

  
Terrence M. Donnellon, Law Director