

CITY OF BLUE ASH

Interoffice Memo – City Manager's Office

TO: City Council
FROM: City Manager and Department Directors
SUBJECT: Agenda Items for the December 13th Council Meeting
DATE: December 11, 2012
COPIES: Department Directors, Press, Clerk of Council, Solicitor

This memo offers a brief description of the topics included on the December 13th Council agenda.

9.a.1. Resolution No. 2012-14 – municipal income tax uniformity

House Bill 601 reflects the State's attempt to unify the municipal income tax process in the State of Ohio. Resolution No. 2012-14 expresses Council's opposition to the detrimental language and mandates included in House Bill 601. We have included the Ohio Municipal League's summary "HB 601 Talking Points" for informational purposes. It is important to note that not all provisions in House Bill 601 will have the same impact on municipalities. The City's Tax Office and Administrative personnel continue to monitor this situation and are hopeful that the New Year will bring an improved version of uniformity, eliminating the threat to a municipality's ability to implement, assess, and enforce their own municipal tax ordinance.

Please direct questions regarding this resolution to the Treasurer.

9.a.2. Ordinance No. 2012-67 – transferring funds

Efforts continue to refine the 2012 budget as we approach the end of the fiscal year. The attachment includes year-end budget corrections to the OVI Grant Fund (Fund 282) and provides for additional right-of-way acquisition funding of \$50,000 for the Plainfield Road Sidewalk Project (Fund 443).

Also included in the attachment is an adjustment to the Energy Saving Improvement Fund (Fund 441). Earlier this year, Council authorized the City Manager to enter into an energy services agreement with Ameresco, Inc. for installation of energy efficient improvements at several City facilities. The original budget for this project included a General Fund advance of \$463,000 to cover timing issues associated with the receipt of the energy grants awarded to the City of Blue Ash. We will not receive the full amount of the grant revenue in the 2012 budget year thus justifying the need to postpone the advance repayment. The Final Budget for 2013 will include full repayment of the advances back to the General Fund.

Items included in the last category "Transfers within Expenditure Appropriations" are adjustments needed to cover possible end of year expenses by transferring available appropriations within the same fund.

Please direct questions regarding this ordinance to the Treasurer.

9.a.3. Ordinance No. 2012-68 – adopting 2013 proposed budget

The 2013 proposed budget was completed and distributed on November 20th and was reviewed at the November 26th Budget Study Session. The City Manager reviewed the framework of the budget as distributed and also provided a graphical overview which illustrated the City's anticipated operating results and offered some guidance regarding future trends assuming that the economy stays "on track" and no "new" issues arise.

The budget document predicts the anticipated fund balances that the City should possess at the end of 2012, what revenues are anticipated for 2013, and those operating expenditures and

capital costs which are planned during the upcoming year. The budget document will be posted on the City's website and copies will be available upon request should the need arise. The Ordinance 2012-68 is structured around the budget as originally presented to City Council on November 26th. There have been no changes to any of the numbers, revenues or expenses contained therein. Favorable consideration of this Ordinance by City Council will allow the Finance Division to move forward with loading the new 2013 interim appropriations after the 2012 accounting year is finalized December 31, 2012. The finance team will utilize these revenue and expenditure appropriations, along with the actual ending fund balances, to continue normal functions until a final budget is prepared and presented to City Council for approval. That final budget not only incorporates actual ending fund balances, but it also will be modified for any situations, new projects, or changed conditions which might arise between the preparation of the proposed budget and the final budget. Generally, only minor modifications are necessary through that effort. City Council will be asked to review and approve a final budget at the first or second meeting in January 2013.

Any questions relating to the Proposed Budget can be directed to the City Manager or the Treasurer.

9.a.4. Ordinance No. 2012-69 – authorizing 2013 Pay Plan and related amendments

Ordinance No. 2012 - 69 addresses the annual compensation adjustment for the 2013 Pay Plan, as well as related issues affecting Chapters 131 and 133 of the Code. The changes include a recommended wage rate adjustment of 2% for all non-bargaining full-time and permanent part-time staff. Also included are five updated job descriptions and two new job descriptions.

At their meeting on December 7, 2012, the Civil Service Commission reviewed the proposed amendments to the Pay Plan regarding the cost of living adjustment. Upon careful assessment and evaluation, the Commission has recommended the proposed increase for adoption by City Council.

- The first recommendation affects Sections 131.07 and 133.18 and provides for annual changes to the City's Pay Plan and related code sections. The annual wage rate adjustment as proposed by the Administration is 2% for non-bargaining full-time staff and permanent part-time non-bargaining unit employees. FOP Sergeants will begin negotiations in the next 3 months, thus agreement on their wages for 2013 has not yet been reached. Whereas, for the 2013 Plan year, FOP Dispatchers will receive a 1% increase; IAFF Firefighters will receive a 1.5% increase; and FOP Patrol will receive a 2% increase. Bargaining units over the past three years have often, due to fact-finding, received higher increases than non-bargaining employees. When the City froze wages in 2010 for non-bargaining employees all contract employees were receiving at least a 2.5% increase with some as high as a 3.25% increase. A 2% percent this year helps bring parity back to our pay schedule, and is in line with both the national Consumer Price Index for Urban Consumers (CPI-U) and the Regional CPI which both stand at 2.2%. Additionally, annual updates to the Pay Plan include the increase in Ohio Minimum wage.
- The second recommendation affects Sections of 131.07 reflecting the conclusions provided by recent succession planning efforts. Retirements in both the Service Department positions, in the Police Department, as well as in the position of Project Coordinator, and have resulted in updates to both the Pay Plan and to several job descriptions. As it relates to the Police Department, the number of positions in Police Administration has been modified to reflect the new Administrative structure. Please note that due to the Civil Service requirements, some positions will need to be filled immediately from promotional lists already in existence, while other

positions are still waiting to go through the promotional process. This has necessitated flexibility as relates to the specific number of supervisory staff at any given time. In the Public Works division reviews of the positions of Mechanic I, Mechanic II, and Project Coordinator have been completed and updated with additional qualifications that reflect changes in the related industry.

- The third recommendation also affects Section 131.07 as it relates to the position of Community and Public Relations Coordinator. A communications assessment in 2011 revealed that the City's communication strategy and media needs called for a Coordinator to manage both internal and external communications as well as assist with other Administrative matters. After further consideration the position description has been adjusted with a revised title, a revised pay scale, and additional examples of work to better define the expectations and needs of this position.
- The fourth recommendation refers to the addition of Fire Lieutenants to the Non-bargaining Pay Plan. The Fire Lieutenants decertified in the Spring of 2012 and accepted a 0% increase for 2012, therefore their classification and pay scale have been incorporated in the non-bargaining full-time Pay Plan.
- The fifth recommendation relates to both the full-time and part-time Pay Plan in Section of 131 of the Code. As the Cooper Creek Events Center completes its first year of operation, it has afforded upper level management an opportunity to evaluate all aspects of the operation including facility staffing. In 2011, it was determined that the Banquet Center Manager position would be filled with a contracted employee tied directly to the City's catering agreement with Catering Adventures. At that time, consideration was given to making this position a full-time City employee, but as initial concerns were more focused on the "start up" features of the facility, it was determined that a contracted position would serve the City better during the pre-opening and grand opening stages of the Events Center. The contract was written with an expiration of December 31, 2012 with the express intent of reevaluating the position throughout the first full year of operation, to best determine our needs for this position. In October 2012, within the sixty day termination period of the contract, it was decided to terminate the contract effective December 31, 2012 and proceed with a new contract for 2013 with Catering Adventures. The new agreement eliminates the Banquet Center Manager position and covers only the catering and consulting services of Catering Adventures. At the recommendation of Barb Griffin (Golf/Banquet Superintendent), the City Manager has agreed that it would be in the best interest of the City and the Cooper Creek Events Center to reassign the responsibilities of the former Banquet Center Manager among existing staff. To accomplish this goal, two new positions have been created: the full-time position of Sales and Events Manager, as well as a part-time Events Assistant. Two members of our existing staff will be reassigned to these positions, while the existing Sales and Events Coordinator classification will also take on additional responsibilities. The combination of these redistributed responsibilities will allow for efficiencies and cross-training that were not possible through our contracted position, and together will play integral roles in the future success of Cooper Creek.
- The final recommendation is in regards to various sections of the Blue Ash Code of Ordinances as they relate to work hours, use of sick leave, Civil Service exams, and disciplinary measures:
 - Amendments to Section 133.07 (a) of the Code of Ordinances reflect the potential decertification of the AFSCME bargaining unit. The Code has been amended to reflect provisions of the bargaining agreement as relates to the total number of consecutive hours an employee may work before taking a

break. There are also provisions related to the minimum number of hours that an employee should be on break prior to returning to duty after a shift of 16 consecutive hours.

- 133.11(c)(1) and (2) reflects changes to the Code of Ordinances as relates to the use of employee sick leave. The revised passages of Code allow supervisors to request documentation as to the need for use of sick leave for a funeral, hospitalization of a family member, etc. to effectively verify that the employee had been eligible for the leave requested.
- 135.06 (a)(3) clarifies the calculation of seniority points that may be awarded during a Civil Service hiring or promotional process. The former language was unclear as to whether the credit would be awarded as a flat percentage of the grade or as points credited to the candidate's score. The language has been amended to explain that seniority credit will be calculated as a percent of the total grade attainable, and awarded in the form of points.
- 135.10 (d), (p), and (w) are all examples of actions for which an employee may be disciplined. The City has not struggled with these issues recently, though these changes have been recommended according to best practices among other jurisdictions, as well as by our Risk Management Association.

(d) adds language as it relates to the disregard of safety rules and regulations;

(p) adds the language "brings public embarrassment" in order to better address problems that may arise due to the increasing use of social media;

(w) specifically adds "loitering" to address any issues that may arise from employees wasting time while on-duty.

Please direct questions regarding this ordinance to the Treasurer/Administrative Services.

9.a.5. Ordinance No. 2012-70 – amending professional legal service fees

The Solicitor has requested legislation to authorize a change in the hourly legal fee schedule beginning in 2013. Ordinance No. 2012-70 increases the hourly amounts by \$10 effective January 1st – resulting in the following hourly rates: \$230 per hour for attorney work, and \$170 per hour for paralegal employees.

Please direct questions regarding this ordinance to the City Manager.

9.b.1. Ordinance No. 2012-71 – authorizing contract for professional catering services associated with Cooper Creek Event Center

Based on the performance and experiences at the Cooper Creek Event Center in 2012, the Recreation Team has requested authorization to enter into a three year contract with Catering Adventures Hospitality Group (an affiliate of Vonderhaar Catering) for an amount not to exceed \$600,000 per year for catering and staff services. Termination of the contract can be made at any time with a 60 day advance notice by either party. The City will receive a portion of the food package funds of 12% to 24% depending on the size of particular events and other factors. The contract excludes a full-time position of management services which is now covered in Blue Ash pay plan.

Please direct questions regarding this ordinance to the Parks and Recreation Director.

9.c.1. Ordinance No. 2012-72 – authorizing an agreement for professional engineering services with CDS Associates

In late 2007, Council approved a five-year contract with the City's long-standing engineering firm, Blue Ash based CDS Associates, for general engineering services. Given the Charter's five-year limitation on such contracts, the time has come, beginning with 2013 services, for reconsideration and renewal of this professional services agreement.

The Public Works Director has been working with representatives from CDS, as well as the City Solicitor's office, towards the development of a new multi-year contract for professional engineering services. The City has a long-standing relationship with Blue Ash based CDS, which the Administration recommends be continued.

The contract will require annual review and approval by City Council of the updated hourly rates for each year, and attached to Ordinance No. 2012-72 are the proposed rates for 2013 from CDS.

Please direct questions regarding this ordinance to the Public Works Director.

9.d.1. Motion setting hearing for BZA Appeals regarding 4900 Hunt Road development

This Motion sets a public hearing for 7:05 PM on Thursday, January 10, 2013 for appeals to Board of Zoning Appeals decisions regarding 4900 Hunt Road development plans proposed by Hills Land & Development Company: 1) an appeal by Hills Land & Development Company to a decision to deny a development plan that was approved by the Downtown Design Review Committee; 2) an appeal by Charleston Apartments, LLC to a decision upholding a development plan that was approved by the Downtown Design Review Committee; and 3) an appeal by Timothy Lomison to a decision upholding a development plan that was approved by the Downtown Design Review Committee.

Please direct questions regarding this motion to the City Manager or Community Development Director, Dan Johnson.

9.d.2. Ordinance No. 2012-73 – amending Ordinance No. 2011-64 regarding Ethicon Lease, 4391 Cornell Road

A number of years ago, the City of Blue Ash conveyed to Ethicon Endo-Surgery nearly 17-acres of real property located at or near the corner of McKinley and Creek Roads, involving 10683 and 10715 McKinley Road. That property was sold to Ethicon Endo-Surgery with the understanding that the property would one day be incorporated into their growth plans and become a part of their Blue Ash campus.

In addition to this McKinley Road property, Ethicon approached the City of Blue Ash in 2006 requesting assistance with an abutting vacant warehouse property at 4391 Creek Road. The City acquired the property, entered into a 5 year lease arrangement (with option to purchase) and Ethicon renovated the structure and expended approximately \$750,000 to make the old warehouse suitable for their needs. At the end of their initial 5 year lease term, Ethicon approached the City about a capital lease for another 5 years in which all of the funds originally paid by the City would be reimbursed. Title to 4391 Creek Road would be conveyed to Ethicon at the end of the lease term (October 31, 2017). Ethicon and the City have completed the initial year of the new 5 year capital lease, with all payments being made promptly and all other terms of the lease fully in compliance with the agreement.

Ethicon's facility maintenance group recently contacted the administration regarding plans to begin renovation of, and expanded usage of, the warehouse at 10683 McKinley Road. Their plan, which has been discussed with the Community Development office, involves renovation and adaptation of the old warehouse on McKinley Road and the construction of an enclosed connector between the McKinley Road warehouse and the renovated property at 4391 Creek Road. Ethicon communicated that their group was one of the very few to receive capital expansion funding from Johnson & Johnson, and that they were eager to begin work with their architects on the project.

Based upon information secured through their architects and through discussions with our Community Development office, it was determined that the plan to construct an enclosed connector between the two buildings was not permitted according to the Ohio Building Code. The construction of an enclosed building connector (not a "breeze way") is not permitted if it crosses a property line. Since Ethicon owns the 17-acres on McKinley and the City still possesses title to 4391 Creek Road, Ethicon asked if there was some mechanism which would allow their expansion to proceed.

Based upon a review of our lease, the opportunity existed for an amendment to our existing 5 year capital lease agreement that would permit the conveyance of 4391 Creek Road to Ethicon in the near future, in exchange for an acceptable mechanism to assure repayment of all rents/lease payments that remain due under the current agreement. Ethicon's attorneys are preparing documentation, in the form of an amendment to the lease agreement, that would provide for either a promissory note, or a written guarantee of repayment that would be reviewed and modified until found acceptable by the City Solicitor's office. Essentially, in order to facilitate the renovation and expanded use of the McKinley Road property, the City would release title to the Creek Road property in exchange for an acceptable promise of repayment, thus allowing the enclosed connector to be constructed and the buildings made more accommodating for Ethicon's requirements.

Ordinance 2012-73 provides authorization for the City Manager to negotiate and enter into an amendment to the existing capital lease agreement, in a form acceptable to the City Solicitor, that would provide for the conveyance of 4391 Creek Road to Ethicon Endo-Surgery and also, to secure an acceptable measure of assured repayment.

Ethicon has a significant presence in the Blue Ash community, and has worked closely with the City in the past regarding an expansion of their campus, interconnectivity through our sidewalk program, and in being a positive asset for Blue Ash. Favorable consideration by City Council of Ordinance 2012-73 will provide adequate security that the City's remaining lease payments will be fully satisfied by Ethicon and also enables Ethicon to move ahead with their intended expansion and utilization of the old warehouse at 10683 McKinley, and broader utilization of the property at 4391 Creek Road

Please direct questions regarding this ordinance to the Assistant City Manager, James Pfeffer.

9.d.3. Ordinance No. 2013-1 – amending Codified Ordinances of Blue Ash, Ohio prohibiting farm animals (first reading)

This Ordinance is proposed primarily as a result of the City's recent experience dealing with horses and pigs that were kept on Conklin Road. The experience highlighted why typical farm animals are not appropriate on typical residential lots in Blue Ash. The process of forcibly removing those animals based upon violations of the Zoning Code was arduous and unnecessarily disruptive and upsetting to many of the neighbors. This Ordinance would prohibit possession of certain farm animals without regard to circumstance, which allows for enforcement by the Police Department without concern for a months-long Zoning appeal process.

Please direct questions regarding this ordinance to the Community Development Director, Dan Johnson.

9.e.1. Resolution No. 2012-15 – electing members to the Volunteer Fire Fighter's Dependent Fund Board.

This resolution is presented each year to City Council for approving the continuation of a State-required Volunteer Fire Fighters' Dependents Fund Board. The resolution selects the Councilperson designated as the chairperson of the Public Safety Committee and the City Manager to serve on this Board, as well as two other members nominated by the Fire Department. Resolution No. 2012-15 provides appointees to the Board for calendar year 2013. This fund, administered through the State of Ohio, provides the surviving spouse or dependents of a part-time/volunteer firefighter killed while discharging the duties of a firefighter, or who dies from exposure or injury received in the discharge of duty, representing monetary benefits to supplement the Ohio Public Employees Retirement System (OPERS). (Only full-time firefighters can belong to the Ohio Police & Fire Pension system.) Therefore, in order to comply with State regulations, approval of this resolution is recommended.

Please direct questions regarding this resolution to the Fire Chief.