

A regular meeting of the Council of the City of Blue Ash, Ohio, was held on April 12, 2007. Mayor Robert J. Buckman, Jr. called the meeting to order in Council Chambers at approximately 7:01 PM.

**OPENING CEREMONIES**

Mayor Buckman led those assembled in the Pledge of Allegiance.

**ROLL CALL**

MEMBERS PRESENT: Councilman Rick Bryan, Mayor Robert Buckman, Councilman Lee Czerwonka, Councilman Henry Stacey, Councilwoman Stephanie Stoller, and Vice Mayor Mark Weber

MEMBER ABSENT: Councilman James Sumner

Councilman Bryan moved, Councilman Stacey seconded to excuse Councilman Sumner from the meeting. A voice vote was taken. All members voted yes. Motion carried.

ALSO PRESENT: City Manager David Waltz, Deputy Solicitor Bryan Pacheco, Clerk of Council Jamie Eifert, Deputy Clerk of Council Sue Bennett, Treasurer/Administrative Services Director James Pfeffer, Parks & Recreation Director Chuck Funk, Service Director Dennis Albrinck, Assistant Community Development Director Dan Johnson, Recreation/Sports Superintendent Kathy Swensen, Recreation Leader Tiphonie Crane, members of the press, and interested citizens

Mayor Buckman introduced and welcomed the newest member of the administrative staff – Ms. Kelly Osler. Kelly is scheduled to begin her new job with Blue Ash as the Assistant to the City Manager on Monday, April 16<sup>th</sup>.

The following memo describing agenda items was distributed to Council prior to the meeting:

“The following offers a brief description of the three work session topics included on the April 12<sup>th</sup> Council Agenda:

**Work Session Topic 1: Draft legislation regarding noise**

In February 2007, Council reviewed information provided by City staff relative to existing Code provisions relating to noise. The Administration is recommending Code amendments intended to help address potential future noise related problems, while largely limiting existing enterprises to the operations that are currently in place.

There are two types of noise that these amendments attempt to address:

- Noise related to construction, typically residential
- Noise related to fixed locations, typically commercial and industrial

Most of the recommended changes are to Section 509.09, which is enforced by the Police Department. There are also recommendations proposed for Chapter 1167 (M-4 Light Industrial District), which would be enforced through the Community Development office.

Generally, the recommendation is that construction and industrial operations near residential land uses would be limited to between 7:00 a.m. and 7:30 p.m. Monday through Friday, between 9:00 a.m. and 7:30 p.m. on Saturday, and between 9:00 a.m. and 5:00 p.m. on Sunday. The provisions actually restrict the activity likely to create noise problems, not just the noise itself. This makes enforcement much easier since it does not require the use of a sound-level meter to determine volumes. The proposed legislation would also prohibit a homeowner from woodworking projects outside or in the garage during those hours, unless the garage door is closed.

Exceptions are provided for the usual activities of a developed community, such as SummerBration, Taste of Blue Ash, parades, and other organized approved events. The recommendations also provide the opportunity and flexibility to allow the City Manager to provide exemptions for specific situations.

The M-4 Light Industrial zoning district amendment (Chapter 1167) would make any current outside storage operations within 300 feet of residential property legal nonconforming, which limits any

expansion within that area. It also requires that new developments be designed to create a 300-foot buffer for outside activity.

The Code requires that the changes proposed for Chapter 1167 would also need Planning Commission recommendation before formal Council review (i.e., ordinance and public hearing). The proposed changes in the General Offences Code (Section 509.09) do not require a hearing or recommendation from any other body before City Council review.

Included with Council's packets are marked-up versions of these sections of the Code showing the recommended changes, along with administrative notes. Please direct questions regarding this item to the Assistant Community Development Director at 745-8528 or [djohnson@blueash.com](mailto:djohnson@blueash.com).

**Work Session Topic 2: Draft legislation regarding temporary commercial real estate signs**

In February 2007, Council also discussed information provided by City staff relative to the existing regulation of temporary commercial real estate signs. The Administration is proposing Code amendments intended to reduce sign clutter and to improve the City's ability to enforce the regulations.

Included with Council's packets is a marked-up version of this section of the Code (1181.05) showing the proposed changes and administrative notes explaining the purpose of each recommended change. Please also note that the Code requires that the proposed amendment be presented to Planning Commission for a recommendation before formal Council review via ordinance and public hearing. Please direct questions regarding this item to the Assistant Community Development Director at 745-8528 or [djohnson@blueash.com](mailto:djohnson@blueash.com).

**Work Session Topic 3: Recreation Center expansion project**

The most recent work session discussing the Recreation Center project occurred at the March 8<sup>th</sup> Council meeting, and the Recreation Center Design Team has been meeting regularly since then to continue with the project's planning process. Based upon the feedback received from Council at that March 8<sup>th</sup> meeting, an additional proposed project scheme has been created, labeled Scheme 2A, that essentially contains a combination of project features originally contained within Schemes 2 and 3 presented at that March meeting. Based upon feedback from Council, Scheme 1 from that March meeting has been eliminated as an option.

A summary of the information included separately with your packets is below:

- Floor plans showing the basement level, floor 1, and floor 2 of the originally discussed Schemes 2 and 3, which essentially remain unchanged from the March presentation.
- Floor plans showing the basement level, floor 1, and floor 2 of the newly developed Scheme 2A, incorporating features from both original Schemes 2 and 3.
- A conceptual drawing of the facility exterior from Cooper Road (Scheme 2A)
- Financial estimates, provided by Schumacher Dugan, for Schemes 2, 2A, 3 as well as costs for optional project features, including a basement under the new gymnasium; an optional elevator and corridor which would connect the new basement and the existing basement; and provision of heating, ventilation, and air conditioning to an area in the existing basement that has been previously unoccupied, allowing this space to be functional for additional meeting room space.

Please note that the financial estimates do not include the replacement of the children's whale pool, renovation of the tennis courts and restrooms, or furnishings/equipment for the new facility. The members of the Design Team are currently evaluating furnishings and equipment needs, and those estimated costs are approximately \$250,000.

It is the Design Team's and Administration's recommendation to proceed with Scheme 2A, and also to include the basement option and furnishings/equipment for the new facility. The estimated project cost, including all of these factors, would be \$10,350,000.

In order to keep the project on schedule for an August or September construction start, the Administration and Design Team would respectfully ask for Council's authorization to proceed with the creation of more detailed drawings based upon Scheme 2A. These drawings could then, in the near future, be presented for public review and input, along with other visual aids (such as a 3D model), if desired. Please also keep in mind that even if Council desires for the Team to consider other alternatives, it is the Administration's & Design Team's belief that the costs will not differ substantially, and that the optimal construction start date may be missed.

Please direct questions regarding this information to the Parks & Recreation Director.”

**Work Session Topic 1: Draft legislation regarding noise**

City Manager David Waltz welcomed Ms. Osler to tonight's meeting.

Mr. Waltz explained that the first two items to be discussed tonight relate to sections of the Blue Ash Code affecting noise and commercial signs. After discussion with some Council members since packets were received, the Administration does recommend two more changes for consideration. (Those recommended changes are incorporated within the information provided below within paragraphs [d]) and [e].)

Overall, the proposed changes presented to Council affecting these sections of the Code are summarized below:

- A proposed change to 509.09(b) better specifies time restrictions. Additions to this section of the Code discussed include paragraphs (d) through (h), as described below:
  - (d) No owner of residential property shall cause or allow sound from musical instruments, machines, electronic devices, voices, or other sound producing devices to be ~~audible~~ objectionable on any adjacent property except between the hours of 7:00 am and 10:00 pm other than intermittent or periodic sounds associated with normal daily activity such as starting a vehicle, running HVAC equipment, and opening and closing doors and windows. *(An administrative note indicates this is a good-neighbor provision that does not currently exist in the Code.)*
  - (e) Construction activity ~~and vehicle, machinery, or other similar equipment repair~~ outside of a completely enclosed structure is prohibited except between 7:00 am and 7:30 pm Monday through Friday, between 9:00 am and 7:30 pm on Saturday, and between 9:00 am and 5:00 pm on Sunday on any land within a residential zoning district or within 300 feet of a residential zoning district. *(An administrative note indicates that this addresses primarily infill residential construction.)*
  - (f) Loading, unloading, opening, closing, or other handling of boxes, crates, containers, building materials, landscape materials, liquids, garbage cans, refuse, or similar objects, or the pneumatic, pumped or manual loading or unloading of bulk materials in liquid, gaseous, powder, or pellet form, or any processing of materials or supplies outside of a completely enclosed structure is prohibited except between 7:00 am and 7:30 pm. Monday through Friday, between 9:00 am and 7:30 pm on Saturday, and between 9:00 am and 5:00 pm on Sunday on any land within a residential zoning district or within 300 feet of a residential zoning district. This shall not include the normal and customary activities of employees reporting to and from work. *(An administrative note indicates that this limits the activity that is likely to be the cause of commercial and industrial noise bothersome to residents.)*
  - (g) Operating or permitting the operation of any motor vehicle whose manufacturer's gross vehicle weight rating is in excess of 10,000 pounds or any auxiliary equipment attached to such a vehicle except between 7:00 am and 7:30 pm Monday through Friday, between 9:00 am and 7:30 pm on Saturday, and between 9:00 am and 5:00 pm on Sunday on any land within a residential zoning district or within 300 feet of a residential zoning district. *(An administrative note indicates that this would limit the operation of heavy vehicles commonly associated with diesel engines, airbrakes, and backup alarms.)*
  - (h) Any noise from inside of a structure that is audible beyond the property line of the property on which the structure sits is prohibited except between 7:00 am and 7:30 pm Monday through Friday, between 9:00 am and 7:30 pm on Saturday, and between 9:00 am and 5:00 pm on Sunday on any land within a

residential zoning district or within 300 feet of a residential zoning district. (*An administrative note indicates that this would address very loud industrial operations that may be a problem even if all other operations are in compliance.*)

- Proposed changes within paragraph (i) denoting Exceptions include the addition of emergency work; transportation type items subject to applicable regulations in the Traffic Code; wording to exempt Blue Ash's special events such as the Taste, SummerBration, parades, etc.; wording to address noise from an exterior burglar alarm; and wording to account for unusual situations not already well regulated by these provisions.
- Paragraph (j) regarding Enforcement was substantially changed to better define matters of enforcement and to provide an escalating penalty for repetitive violations.

Proposed changes to Chapter 1167 (M-4 Light Industrial District) are summarized below:

- 1167.01(a) describes permitted uses. Paragraph (15) was changed to add that, "no outside storage is permitted within 300 feet of a residential zoning district." The intent of this addition is to make any existing ongoing operations legal nonconforming, and will subject them to the Nonconforming provisions of the Code. No new outside storage areas would be allowed in the specified area.
- A proposed change to 1167.08 (Site Design Requirements) adds a new paragraph (p) that states: "No area within 300 feet of a residential zoning district shall be designed, intended, or used for any commercial activity unless it is within a completely enclosed structure as defined in Section 509.09. This shall not prohibit driveways and parking areas within 300 feet of a residential zoning district." *An administrative note indicates that this would ensure that any new development or redevelopment is designed to avoid the operations that would be illegal in Section 509.09 Noise).*

City Manager Waltz requested feedback from Council regarding proposed changes affecting these portions of the Chapter, and a summary of Council questions/responses is below:

- Councilman Bryan commented that he is pleased with the proposed changes and believes the changes are both residential and business friendly and will assure excellent livability in residential areas.
- Councilman Weber suggested a change within Section 509(b) to encourage recreation or entertainment development, especially for the downtown area. The suggestion was to modify (extend) the hours on Friday and Saturday evenings to avoid the appearance that the City is attempting to "roll up the sidewalks" too early. Mr. Waltz and Mr. Johnson added that the changes were written to not adversely affect instances where noise may occur. Code changes would affect areas causing noise that are immediately adjacent to a residential area. An example was provided with the Cactus Pear Restaurant, which is in downtown and not immediately adjacent to a residential area. The restaurant currently periodically offers musical entertainment for patrons in the evening. If there is no peace and quiet to be disturbed in the sense that there are no residents or other activity that would be upset, then the activity and resulting noise would be no problem. Mr. Waltz agreed that the timing could be a factor as the downtown residential development grows.
- In addressing a question from Councilman Stacey regarding transportation, Deputy Solicitor Bryan Pacheco commented that he would look into this suggestion; however, he is not sure the proposed ordinance would apply to airplanes/airports.
- In addressing questions from Councilpersons Stacey and Stoller regarding grandfathering of existing conditions, Mr. Johnson explained that existing conditions become grandfathered as of the passage of the ordinance.

Mr. Waltz briefly commented on the process and explained that the proposed Code changes to Chapter 509 do not require public hearing nor advertising and can be addressed at a future Council meeting and effective immediately (as early as late April). The changes proposed to Section 1167 of the Code would be subject to review by the Planning

Commission and would require prior advertising and a public hearing and would not be effective until June or July, depending upon details of the ordinance to be presented.

Council expressed no objections to moving forward with the proposed changes to Chapter 509 or Part 11 as presented.

**Work Session Topic 2: Draft legislation regarding temporary commercial real estate signs**

Mr. Waltz summarized that the overall intent with these proposed changes is to eliminate temporary signage for commercial areas and to allow information formerly contained within such signage to be permitted in the form of an expanded permanent free-standing sign.

The proposed changes to this part of the Code are explained below (and were provided to Council in their packets in the form of marked-up versions of the existing Code):

- Existing paragraph (a) is being replaced with the following:

(a) Temporary signs pertaining to the sale or lease of real estate have been determined by Council to unnecessarily create clutter and to be harmful to the public health, safety, and general welfare and are, therefore, regulated in this Section. All temporary signs shall be at least ten (10) feet from the right-of-way. No permit is required. *(An administrative note indicates that this would eliminate a permit requirement.)*

(1) Residential

- A. Single-family, two-family, and three-family residential buildings, vacant lots, and individual dwelling units within condominium developments for sale or for lease shall be limited to one sign not to exceed 10 square feet in area. *(An administrative note indicates that this permits standard real estate signs.)*
- B. Multiple-family buildings, subdivisions, and large scale residential developments for sale or lease shall be limited to one sign not to exceed 8 feet in height or 64 square feet in area and shall not remain for more than 24 months from the date that the first development permit is issued for the project. *(An administrative note indicates that this incorporates deleted language at (d), expands to clarify applications, and reduces to a more reasonable size).*
- C. Vacant land that is larger than 1 acre for sale or lease shall be limited to one sign not to exceed 25 square feet in area. *(An administrative note indicates that this allows slightly larger signs for vacant land that may become a subdivision at some time in the future.)*

(2) Nonresidential

- A. Existing nonresidential buildings and land uses for lease shall not have any freestanding or wall mounted temporary signs. Individual tenant spaces within an existing building are permitted one sign inside of a window. *(An administrative note indicates that this eliminates the current large "For Lease" signs that are supposed to be temporary, but that have turned out to be largely permanent.)*
- B. Vacant commercial land and existing nonresidential buildings that are for sale in a C or M district may have one sign per street frontage no larger than 32 square feet in area.
- C. Existing nonresidential buildings that are for sale in a D or R district may have one sign per street frontage no larger than 25 square feet in area. *(An administrative note for both B and C indicates that this would permit "For Sale" signs on commercial property when it is legitimately for sale.)*
- D. In addition to all other signs permitted by this Chapter, nonresidential developments in C or M districts may install no more than 8 square feet of permanent sign area to advertise owner and leasing information; nonresidential developments in D and R districts may install no more than 4 square feet of permanent sign area. The additional area may be added to an existing ground

sign or may be installed as a separate sign. If added to an existing sign, the additional area may cause the sign to exceed the maximum area permitted in the district, but all other applicable Code provisions apply. If a separate ground sign is installed, the bottom of the sign shall be no more than 2 feet from the ground, the face of the sign shall be rectangular, and it shall have a solid base that does not count as a part of the allowable sign area. This is not a temporary sign; a permit is required. *(An administrative note indicates that this provides commercial buildings a permanent sign to replace the temporary ones prohibited by Section (2)A above.)*

(3) All signs that are in violation of this ordinance must be removed within 6 months of the passage of this ordinance. *(An administrative note indicates that this allows a grace period to give property owners an opportunity to prepare for the required changes.)*

- Paragraph (d) of 1181.05 is being deleted.

In addressing a question from Councilman Czerwonka, it was explained that a six-month grace period is being provided in order to give property owners ample time to comply with the new provisions. This grace period should also give them time to construct a sign of a permanent nature to be in compliance with the new provisions. At the end of that six-month period, they would be subject to the normal zoning enforcement procedure.

City Manager Waltz commented that he would not be surprised, based upon past reaction, that Council and the City will receive letters, phone calls, etc. expressing displeasure with the changes. The City does intend on discussing these changes with key members of the development community before passage. Mr. Waltz commented that overall he believes it would be difficult to find a compelling public interest reason why multiple “vacant” or “for lease” signs are needed when the new ordinance would allow the information provided by such signage to be permitted within permanent signage.

After brief discussion, no member of Council expressed objection to moving forward with the proposed changes as submitted. Mr. Waltz commented that this text amendment would be subject to Planning Commission review, advertisement, and public hearing and that these changes would not likely be effective until June or July.

### **Work Session Topic 3: Recreation Center Expansion Project**

Architect Mike Schuster of Michael Schuster & Associates and Construction Manager Doug Murdock from Schumacher Dugan were present to discuss this project.

Mr. Waltz commented that after the recent Council review of this project, the team considered Council’s suggestions and also calculated the costs of the various options being considered.

Mr. Schuster provided some background review. He explained that the initial thought was to create an addition to the back of the property behind the existing gym. That earlier scenario of an addition towards the back would have required investment of substantial amount in order to make an elevated track within that existing structure feasible. Additional structure outside the existing building would have been necessary in order to make that scenario work. The idea of an addition to the rear also causes difficulty with internal building circulation issues and the need for multiple entrances, creating access control problems. In short, all project investment would have occurred in the back, with no apparent improvements visible towards the more prominent Cooper Road frontage.

He further explained that the thought process then moved towards the idea for the improvements to be made to the more visible Cooper Road elevation and for those changes to be usable for a very long time, without the need for updating or renovation. This would involve removing older portions of the building along Cooper (originally built in 1979), and to incorporate the desired new functions along this portion of the site. At the last Council review, three schemes were proposed and discussed (referred to as Scheme 1, Scheme 2, and Scheme 3). At that last review, it appeared Scheme 1 was not a desirable option. This Scheme utilized the existing gym and fitness area and involved construction of an elevated track within the existing framework. This option would require substantial additional structure

in order to accommodate the elevated track and second floor fitness area and also has other problems associated with HVAC issues, etc. This option also allowed for a relatively narrow track that staff feared might become obsolete too soon.

Schemes 2 and 3 looked at taking out the existing older gym and modifying the existing fitness area. Mr. Schuster commented that it is important to assure that the elevated track is not too small since a small track would soon become overcrowded and undesirable. Overall, he recommends an optimum distance for a track being 1/10 of a mile. (The prior Scheme 2 had a track which was 1/11 of a mile, and Scheme 3's track was about 1/9 of a mile.)

Since the last discussion, a new Scheme, labeled Scheme 2A, has been created. This Scheme would utilize the framework of the existing fitness area and involve demolition of the existing older gym area to accommodate a new two-story fitness area, elevated track, and locker rooms. Where the locker rooms currently exist today, Scheme 2A shows a new open lobby-type space, including a family area, café area, community lounge areas. This Scheme would allow, upon entrance into the new building, a new centralized portion of the building that would disperse all activity from there. This centralized area would also be open to the pool. Scheme 2A includes construction of a second gym to the rear, behind the existing newer gym (as did all schemes reviewed at the prior meeting).

Estimated costs for Scheme 2 are \$8.7 million; Scheme 3: \$10.2 million; and Scheme 2A: \$9.3 million. Additional cost information provided included \$800,000 for an optional basement area (under the new gym); \$165,000 for an optional elevator and corridor; and \$120,000 for optional HVAC in the existing part of the newer (1993) basement to allow that space to be functional for meetings, classes, etc.

Mr. Schuster explained that he believes Scheme 2A also utilizes the building's square footage more efficiently than did previously reviewed Scheme 3. One notable difference with Scheme 2A is the incorporation of the rock climbing wall within the framework of the two-story space, as opposed to it being a separate section as previously considered. If the sport of rock climbing would become obsolete or substantially less popular in near future years, then the space could easily be converted to another functional use. Also with Scheme 2A, a secondary entrance off the Cooper Road elevation is being maintained, which makes the substantial parking available along Cooper more usable. This secondary entrance would bring users to the same centralized entry point within the building as the main entrance on the western elevation. Scheme 2A also shows new locker room areas that would be accessible from the pool.

The estimated cost for Scheme 2A is \$9.3 million, and in his opinion, this Scheme is more cost efficient and functional. It also allows for optimal circulation within the building among uses. A colored architectural rendering of the Cooper Road elevation for Scheme 2A was also presented and reviewed.

Mr. Waltz commented that although today the thought of a \$9.3 million expansion seems high, in his opinion, it is an amount the City would have to spend over the next several years if the addition to the rear had occurred. Since renovation or changes would likely be needed to the original sections of the building that are over 30 years old (along Cooper Road), those expenses, plus the expenses associated with a rear addition, would probably not be too different than the \$9.3 million being proposed for Scheme 2A today. Mr. Waltz also mentioned that many other area recreational facilities have been substantially more expensive (for example, Mason's was \$25 million, and the center for the Jewish Community Center which MSA is currently working on is estimated to be \$20 million). Mr. Schuster commented that for projects with general recreational functions (70,000 to 90,000 square feet), actual costs have been ranging between \$15 and \$30 million. This \$9.3 million project for Blue Ash results in a project that is over 100,000 square feet. Even though it may not result in all-new construction, the end product is a project that looks brand new from the street.

Mr. Waltz commented that the thought at this point in the planning process is to include within the specifications an optional basement (under the new gym). Depending on how costs come in, then the decision could be made as to whether or not to move forward with that optional basement. Mr. Waltz stressed that the intent is not to use this basement for

programming space. The space would be used for storage and maintenance related functions. After some discussion (including additional discussion occurring later in the meeting), it appeared the consensus of Council that including the basement as an option would be appropriate. Mr. Schuster commented that the existing portion of the building along Cooper is relatively easy to remove as it is slab on grade, and the new building along Cooper would also be slab on grade, unless a basement is built there also.

Mr. Waltz commented that the thought in making this building available as an emergency shelter in the future is being provided for while not altering the design of the building.

In addressing questions from Mayor Buckman, Kathy Swensen and Chuck Funk explained the current use of the existing basement area. If a basement were to be included under the new gym, an additional estimated 10,000 square feet of basement would be added to the existing 12,500 square feet of space – essentially almost doubling basement space. Also, Scheme 2A includes a new elevator to service the second floor of the fitness center.

In addressing a question from Councilman Bryan, it was explained that a small courtyard area at the northwestern portion of the site plan is included (to the west of the new secondary entrance).

Councilman Bryan commented that he believes Scheme 2A is a very smart choice and complimented the staff and architect in incorporating previously discussed ideas. It is his belief such a scenario would provide a facility that would service the community for the next 30 years.

Councilman Stacey commented that he also likes the plan and believes it offers a good compromise.

In addressing a question from Councilman Czerwonka regarding timing, Mr. Schuster explained that the project would be phased, with construction of the new gym to occur first. The new gym could then be used to accommodate shifting of areas to minimize closing or unavailability of functions.

It was the consensus of Council that Scheme 2A is favored, and that the Administration and Architect should move forward with the development of more detailed plans.

### **EXECUTIVE SESSION**

After all items on the agenda were acted upon, Councilwoman Stoller moved, Councilman Stacey seconded to convene an Executive Session to discuss matters pertaining to property acquisition. The Clerk called the roll. Councilpersons Stoller, Weber, Stacey, Czerwonka, Bryan, and Mayor Buckman voted yes. Six yeases. Motion carried.

After matters pertaining to property acquisition were discussed, Councilman Weber moved, Councilwoman Stoller seconded to convene to the regular meeting. A voice vote was taken. All Council members present voted yes. Motion carried.

### **ADJOURNMENT**

All items on the agenda having been acted upon, Councilman Bryan moved, Councilwoman Stoller seconded to adjourn the meeting. A voice vote was taken. All members voted yes. The Council meeting was adjourned at approximately 8:44 PM.

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Robert J. Buckman, Jr., Mayor

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Jamie K. Eifert, Clerk of Council

MINUTES WRITTEN BY:



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Susan K. Bennett, Deputy Clerk of Council