

CITY OF BLUE ASH
Interoffice Memo - City Manager's Office

TO: City Council
FROM: City Manager and Department Directors
SUBJECT: Agenda Items for the July 8 Council Meeting
DATE: July 6, 2010
COPIES: Department Directors, Press, Clerk of Council, Solicitor

The following offers a brief description of the items included on the July 8 Council agenda:

Item 4 - Hearing – Consideration of an appeal relating to a decision of the Board of Zoning Appeals regarding denial of a request to modify an existing legal, non-conforming sign in the M-4 District

The City is in receipt of a request from legal counsel representing Bernard Clarke to appeal a decision of the Board of Zoning Appeals relating to their denial to allow modification to an existing legal, non-conforming ground sign located on Mr. Clarke's property within the M-4 District on Deerfield Road. Council passed a formal motion at the June Council meeting setting the hearing for the July 8th meeting.

At the May 10th Board of Zoning Appeals meeting, the Board denied a request for modification of an existing sign located in an M-4 district at 11573 Deerfield Road. The applicant desired to change the billboard from a static display to an electronic message sign (digital sign or display). The existing sign was permitted by the City in the 1980s. This type of sign (a pole sign) and any sign this large (anything larger than 100 square feet or taller than eight feet) is no longer permitted; therefore, the existing sign is considered legal but nonconforming.

On March 10, 2010, the appellant applied for a building permit to replace the existing sign face with a digital sign. The application was denied because the Code does not permit changes to a legal, nonconforming sign other than for routine maintenance or changes in copy (reference Section 1181.05[n]). An appeal went to the Board of Zoning Appeals at their May 10th meeting, and the Board unanimously voted to deny the appeal (all five members were present). Section 1133.03(b) of the Blue Ash Code describes the applicant's right to appeal this issue next to City Council, representing the purpose of Thursday's hearing.

In its letter requesting this hearing, legal counsel for the appellant stated the following:

“The decision of the Board of Zoning Appeals was unreasonable in that the sign in question is, in its current dimensions, legal and non-conforming. The Board of Zoning Appeals decision states that the Board not vary the sign regulations since ‘the sign is a pole sign that significantly exceeds the allowable sign area regulations.’ The Board fails to give a reasonable basis for its decision given that the sign exists legally in excess of the allowable sign area regulations and said dimensions will not change. Appellant wishes to upgrade the sign from a static display to an electronic, digital sign. No other change to said sign will occur with regard to dimensions or affixture to land. Appellant's proposed upgrade will not affect the City of Blue Ash in any significant manner, as the sign faces away from the City of Blue Ash and will not detract from the neighborhood nor the City in general nor the public welfare. Further, said upgrade will significantly improve the safety in maintaining said sign.

For the foregoing reasons, Bernard E. Clarke appeals the decision of the Board of Zoning Appeals to this Council for its consideration in allowing appellant to upgrade the current legal, non-conforming sign.”

Questions regarding this issue may be directed to Solicitor Mark Vander Laan.

Items 5 and 14.b.1. Public Hearing and consideration of the 2011 Tax Budget (Resolution No. 2010-7)

In keeping with the requirements of the State of Ohio and the Hamilton County Auditor's Office, it is necessary for the City of Blue Ash to prepare a Tax Budget for 2011.

A number of years ago, the outcome of this annual process would have been utilized by Hamilton County to apportion how much of the State-funded Local Government Fund each of the entities would have received. That allocation process is now governed by an alternative formula directing the distribution of these funds without reliance on Tax Budget info. Hamilton County still requires the annual preparation of a Tax Budget, as the financial information contained within each budget is utilized by the Hamilton County Auditor's Office (Budget & Settlement Division) to assure that cities, villages, and townships are planning appropriately for the upcoming year, and that the revenue and expenditure projections are within reasonable limits based upon the information available at the time the budget is prepared.

As required, a legal notice appeared on June 2nd advertising the availability of the Tax Budget for public inspection at the Municipal & Safety Center starting July 1, and a public hearing regarding the Tax Budget will be held towards the beginning of the July 8 Council meeting. Following consideration and acceptance of the Budget by City Council, certified copies must be delivered to the County no later than July 20. Although this process is of some benefit to the City in defining the broad parameters anticipated for the upcoming year, the Tax Budget format does not serve as a substitute for the preparation of a more detailed Proposed Budget for 2011.

A copy of the 2011 Tax Budget is included in Council packets (attached to the resolution). The format is determined by the County Auditor's Office, and includes actual "cash basis" performance or historical data for the accounting years 2008 and 2009. The estimates used for 2010 generally match the City's adopted 2010 Final Budget, with some adjustments necessary as to recent estimates of earnings tax collections, and the shifting of some capital items and projects in response to the economic climate.

Earlier this year, the City Manager expressed to Council and to the Finance team an interest in utilizing this mid-year tax budget process in a more beneficial manner to "fine tune," analyze or prepare for the 2011 budget. However, the Hamilton County Auditor's "required" format, and the presentation utilized in the Tax Budget, conflicted with that objective, and the Deputy Treasurer moved forward with the preparation of the Tax Budget consistent with the process utilized in past years.

As Council is aware, the City Manager has been working with the Administration since his arrival at Blue Ash on evaluating and monitoring operational results, and working toward a more "sustainable" level of operational expense given the City's maturing status and leveling of incoming revenues. First, the process involved capturing historical data for comparative purposes, evaluating that information, utilizing that data in the preparation of the proposed budget each year, and in evaluating the City's operational status in advance of each upcoming budget year. As the current economic crisis became evident and deepened, the focus shifted from an annual recap to a quarterly determination of our progress in monitoring operational costs, to the City Manager's current request that we evaluate 2011 under varying economic scenarios, and to attempt to utilize the Tax Budget to do so.

Although the Tax Budget process was not flexible enough to accommodate his objective, the City Manager has been working with the Finance team well in advance of the traditional fall budget process so that the entire management group is aware of the status, ongoing economic conditions, and the outcomes that should be expected under a range of economic scenarios for 2011. As a result of this effort, we should know far in advance of the budgetary process this fall what 2011 will look like, thus simplifying the process for all, and assuring a conservative budget that is a step closer to continued financial stability and sustainability.

The Tax Budget, which truly is the focus of the legislation and public hearing described on the agenda, utilizes the information contained in the existing 2010 budgetary appropriations,

allowing for a minor change in earnings tax collection projections, and potentially some shifts in the timing of 2010 capital improvements. Included within the presentation are actual results for 2008 & 2009, to assist in evaluating the direction anticipated in 2011.

The Deputy Treasurer projected that our combined earnings tax collections during the entirety of 2010 will end up better than the anticipated 4% drop from 2009 actual levels. Earnings tax collections, as reflected on Exhibit 1 of the Tax Budget, show only a 2.2% reduction for 2010, and include an expected 1.6% increase in earnings tax collections for 2011. Refund amounts remain unchanged from 2009 at an estimated \$1,325,000. Other revenues are very much in line with historical collection levels, with no unusual items defined.

On the expenditure side, an increase in the salary and benefit area was included in the calculations, using approximately 2%, given existing bargaining commitments, etc. However, the overall impact of the increase in the salary and benefits area was greatly offset through the "elimination" of the 27th payroll which was included in the 2010 expenditures. The staffing levels remain consistent with the City's intent to lower operating costs, reflecting no increase in personnel in the Tax Budget calculations from those in effect in 2010.

Routine operating costs were held essentially level with 2010 amounts, except in those areas where there was a known factor impacting expected costs next year.

The anticipated capital for 2011 is itemized on page 9, or Exhibit 4, reflecting \$500,000 in investment in the traditional road paving program; supplemental paving in conjunction with the Water Works projects in an amount in excess of \$900,000; a continuation of the City's connectivity efforts through sidewalks and bikepaths of \$700,000; a Phase II commitment of \$250,000 to downtown area improvements; and just over \$700,000 for the replacement of routine capital items consistent with our traditional level of expense (police cars, mowers, replacement equipment, etc.).

Additionally, Issue 15 funding of almost \$1.6 million is included to provide the necessary advance to the City of Cincinnati for 2011 remediation efforts on the Airport property, as well as the required \$1,000,000 land payment per our 30-year agreement. No supplemental funding is shown being directed toward Fund #447 related to the golf course project as those projects are expected to be fully funded through the issuance of bonds in the fall of 2010.

The Tax Budget, as presented, indicates that 2011 will closely parallel 2010 in terms of revenues and operating expenses, although it is expected that operational costs will show some improvement through the focused efforts of the City Council and the Administration, given the benefits provided through the recent ICMA analysis, citizen survey, etc.

As a comparative illustration, the City's unencumbered General Fund balance as of June 30, 2010 is \$15,108,300. Based upon the Tax Budget, we anticipate that balance to end up in the range of \$14,100,000 at the end of 2010 (most debt retirement happens in the fall) and to actually increase to about \$15,300,000 at the end of 2011. This General Fund balance represents all General Fund resources, including the General Reserve, the Issue 15 Reserve, and any unreserved or unallocated balances in that account.

The Tax Budget process, in its required format, is somewhat flawed in estimating a year-end General Fund balance. It assumes all revenues will come in as planned and that all originally budgeted expenses and capital purchases will occur. Generally, not all projects get completed, resulting in a greater balance at year end. However, those balances or reserves must be used or absorbed the following year to do the projects at that time.

Collectively, we are working to more closely examine our position as of June 30, 2010, and what will most likely happen in the remainder of 2010. This process, being done well in advance of the "traditional" fall budget, will keep us ahead of the game and prepared to respond quickly should the anticipated "economic recovery" not materialize, or, on a more positive note, recover more quickly than current data would seem to indicate. By using past operational revenue and expense "outcomes" on past actual performance, we can quantify our ability to generate adequate "gain" to retire debt, and fully fund annual routine capital without drawing down

reserves. Thus, we should be able to model 2011 projections to see how much additional review, or reduced operational expense, would be needed to reach the first level of fiscal sustainability. Subsequent efforts would then have to be found on not only covering all operating expenses and capital routine capital, but rebuilding non-Issue 15 reserves.

Please direct questions regarding the Tax Budget to the Treasurer.

Item 6. NOTE REGARDING OLD PFEIFFER LANE REZONING AND DEVELOPMENT APPLICATIONS: The applicant has WITHDRAWN the application requests; therefore, public hearings previously scheduled for this meeting on two related ordinances will NOT be held.

The City received notice from the applicant on July 1 that he wishes to withdraw the application for rezoning (and in effect, the planned development as well). Therefore, the public hearings and related legislation associated with that potential development have been removed from this agenda.

Items 7 and 13.a.3. Ordinance No. 2010-29 - consideration of a development plan for construction of a new City Barbeque restaurant at the southwest corner of Glendale-Milford/Pfeiffer and Kenwood Roads within the C-2 Planned Commercial District

The City is in receipt of an application for the construction of a new City BBQ restaurant at the site that currently houses the Rombes restaurant and the currently vacant property to its south, the former Jiffy Lube on Kenwood Road.

The applicant seeks approval of a Planned Development for construction of a 4,130 square foot City Barbeque restaurant on about .8 acres within the existing C-2 Planned Commercial District. The existing Rombes restaurant and former Jiffy Lube building would be razed, and the lots consolidated. The plans do not include a drive-through, and there is a fenced outdoor seating area proposed. The proposed parking area includes sufficient spaces for the restaurant on the same site, and the applicant also plans to secure easements to allow overflow parking available on the adjacent multi-tenant building site. Three existing drives on Kenwood would be consolidated into one drive at the south edge of the site, as far from the intersection as is possible.

The applicant is expected to be at Thursday's meeting to address questions from Council and the public, and more detailed plans and information will be posted for Council's and the public's review.

Questions may be directed to Dan Johnson at djohnson@blueash.com or to Dan at 745-8528.

Item 13.b.2. Ordinance No. 2010-31 – Transferring funds

When the budget was finalized for 2010, funding of \$650,000 was directed from the Issue 15 reserve toward the Golf Course construction fund #447 to pay for finalized building, path, and irrigation design and engineering. At that time, the decision relating to moving forward with the bidding and construction of the components of the improvement project was deferred until later in the year. Based upon the outcome of recent timing discussions, the need exists to provide supplemental funding to this project account to cover the expected award of the irrigation component, and provide supplemental funding for moving forward with the path and building parts of the project. The only items reflected on the transfer attachment relate to Fund #447 and the need to provide this supplemental funding. At this time, a transfer has been set up, as shown on the attachment, to shift an additional \$1,300,000 from Issue 15 funding to the construction fund #447, which will allow continued progress towards the other components and permit the full funding of the irrigation project described under Ordinance No. 2010-32.

Because City Council passed a resolution of reimbursement relating to this project a number of months ago, the entirety of this transfer amount can be "recaptured" or replenished to the Issue 15 reserve upon the issuance of the general obligation bond for this project expected in August of this year. Because of the passage of that resolution, the City should also be able to recover

approximately \$300,000 of the original budgetary funding to this area at a later date. Essentially, the reimbursement resolution permitted the transfer of this supplemental funding out of current reserves so that it may be replenished upon the issuance of debt in August.

Please direct questions regarding the transfer to the Treasurer.

Item 13.b.3. Ordinance No. 2010-30 – Amending portions of Chapters 131 and 135 of the Blue Ash Code of Ordinances

Ordinance No. 2010-30 amends certain sections of Chapters 131 and 135 of the Code of ordinances affecting changes relating to the Position Classification Plan (within Chapter 131) and issues involving both part-time Fire and EMS personnel, as well as part-time Police personnel. A summary of the recommended changes is shown below:

Amending Sections 131.07- 1 of the Blue Ash Code of Ordinances to reflect changes to the Position Classification Plan

- Expands the pay range of the Recreation/Sport Superintendent upwards one grade, commensurate with the current level of responsibility of this position.

Amending Sections 131.07- 2(a) of the Blue Ash Code of Ordinances to reflect changes to the Position Classification Plan

- Amends the position classification plan regarding part-time Fire and EMS employees, allowing for a supplemental “event” pay when authorized by the City Manager and subject to Fire Department Policy and Procedure. This supplemental pay will encourage more part-time personnel to work the schedule during specified seasonal events, thereby improving our service and efficiency to the public. (This is the item discussed by the City Manager with Council at the June 10 Council meeting.)
- Addition of the position of Police Technician (131.07-41). This job description does not involve the creation a new position, nor does it increase staffing levels. Rather, it allows for a more economical reorganization of the part-time police function by breaking out responsibilities that can be managed by non-sworn personnel.

Amending Section 135.02 of the Blue Ash Code of Ordinances to reflect changes in the Eligibility of Benefits for Part-time Fire and EMS employees.

- Amends the section relating to benefits for part-time Fire and EMS employees. Offering single only health coverage benefits gives the Blue Ash Fire Department an advantage in hiring part-time employees in today’s market. However, to remain competitive we do find a need to be more flexible in the number of hours an employee is required to work per pay plan year to qualify for this insurance coverage. Consequently, the number of hours per year requirement expressed in the code has been removed from the ordinance and future eligibility will be managed according to policy which will more efficiently align our needs to the recruiting market.

Questions regarding the recommended changes can be directed to the Treasurer.

Item 13.c.1. Ordinance No. 2010-32 – Awarding bid for the Golf Course 18-hole irrigation system replacement project

Bids were recently solicited for the replacement of the existing 18-hole irrigation system at the Golf Course – representing the first step in improvements planned for the Course. Bids were publicly advertised (and included on the City’s website), were publicly opened on July 1, and subsequently reviewed.

Six bids were received from four states. The project team is recommending the City accept the bid (which also represents the lowest bid) to Mike Yerkes, The Southern Group, based in Hamilton, Ohio, for the Toro multi-row irrigation system with a decoder control system for a base amount of \$886,635, plus \$23,150 for the alternate refill line, less a credit of \$32,000 for the

existing control system. The project team is also recommending an additional approximately \$20,000 be authorized to for potential adjustment to accommodate unforeseen field changes. Given this additional amount, the total amount authorized in the ordinance is not to exceed \$898,000.

It is expected that work on the irrigation system will begin in August and be complete by mid April. Work continues towards finalization of specifications and plans associated with the other components of the golf course improvements, the cart path replacement and construction of the new multi-functional clubhouse/banquet facility.

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

Item 13.d.1. Ordinance No. 2010-34 – Awarding bid for the 2010 paving program

The 2010 Paving Program proposes to resurface some residential streets and the Golf Maintenance parking lot by milling the existing surface course of asphalt and replacing it with new asphalt. The project was structured with a base bid and an alternate bid; however, the recommended contract award is based upon the base bid amounts only in accordance with ODOT guidelines.

The base bid includes repairs and resurfacing of Carpenter's Run near Plainfield Road and the repaving of the Golf Maintenance parking lot. The base bid also includes the streets of Brentwood, Carpenter's Ridge, Fallen Branch, Falling Brook, Muirfield and Woodcreek. The resurfacing of the last four of these streets is to correct a problem from last year that was created when a surface sealer was applied over microsurfacing. The combination of these materials has resulted in a soft surface on these roadways that should be removed. The only viable method to remove the material is to mill the surface and repave the roadway.

The Alternate 1 bid item includes Brittany, Cynthia, Elizabeth, Leadwell, Summit and Tillsam. These streets are the same streets that are proposed in the 2010 Microsurfacing Program and are listed as a bid Alternate on the 2010 Paving Program to compare the costs of resurfacing to that of microsurfacing. Due to the extensive repairs needed to prepare the streets for microsurfacing, the repaving costs are comparable; therefore, these streets should be repaved under Alternate 1 instead of microsurfaced.

Bids for the 2010 Paving Program were opened on July 1, 2010. Four bids were received with the following results for both the Base Bid and Alternate 1:

BIDDER	BASE BID	ALTERNATE 1
Mt. Pleasant Blacktopping	\$150,344.40	\$86,919.50
Barrett Paving Materials	\$152,194.04	\$85,033
J.K. Meurer Corp.	\$152,372.84	\$90,246.50
John R. Jurgensen	\$154,749.08	\$84,295.50

The Base Bid is approximately \$21,000 under the Engineer's Estimate and Alternate 1 is approximately \$45,000 under the Engineer's Estimate. Following ODOT guidelines for awarding contracts on the basis of the Base Bid amount, Mt. Pleasant Blacktopping Co. Inc is recommended for award of the contrat for the 2010 Paving Program at the unit prices indicated in the bid proposal. Alternate 1 is recommended to be included in the 2010 Paving Program. Although this company has not completed roadway projects in Blue Ash, other area jurisdictions have been satisfied with their paving projects.

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

Item 13.d.2. Ordinance No. 2010-36 - Awarding bid for the 2010 sidewalk program

The 2010 Sidewalk Program continues the City's emphasis on providing connectivity throughout the City for pedestrians and recreational bicyclists. The program proposes to construct an eight-foot wide concrete path on the west side of Reed Hartman Highway between Glendale-Milford Road and Creek Road, thus providing a connection between the existing wide sidewalks/paths on these two roadways.

The 2010 Sidewalk Program also proposes to construct an eight-foot wide concrete path on the south side of Cooper Road between Plainfield Road and Reed Hartman Highway. This path will replace the existing roadway shoulder and will be adjacent to new curb and gutter along the length of this section of roadway, providing a safer pedestrian/bicyclist facility than the existing shoulder. Additionally, curb and gutter will be added to the north side of Cooper Road between Timbers Drive and Reed Hartman Highway to provide a complete curb and gutter section along this section of Cooper Road. The asphalt surface will be re-profiled to provide for better drainage. This new sidewalk will connect to the existing sidewalk on Cooper Road and to the 8' path along Plainfield Road by Raymond Walters College. This new path will also connect to the new path along the east side of Plainfield Road between Cooper Road and Glendale-Milford Road that is programmed to be constructed in 2012.

Bids for the 2010 Sidewalk Program were opened on July 1, 2010. Four bids were received with the following results:

- R.A. Miller Construction Co. \$533,499.75
- Adleta Construction \$596,056.25
- Trend Construction \$617,042.00
- Prus Construction \$650,413.00

The low bid is \$50,000 under the Engineer's Estimate. R.A. Miller Construction Company has completed satisfactory work in Blue Ash in the past and is recommended for award of the contract for the 2010 Sidewalk Program at the unit prices indicated in their bid proposal.

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

Item 13.d.3. Motion rejecting bid received for the 2010 microsurfacing program

Bids were also recently solicited for microsurfacing road work in 2010. The sole bid received (from Strawser Construction) for the 2010 Microsurfacing Program was opened on July 1, 2010, for an amount of \$84,910.50.

However, as described above under 13.d.1. (within the paving program item), it is recommended that the streets being considered for microsurfacing (Brittany, Cynthia, Elizabeth, Leadwell, Summit and Tillsam) be included within that paving bid.

Given this recommendation, and assuming Council concurrence, it would be appropriate to pass a motion formally rejecting the bid received for the microsurfacing program.

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

Item 13.d.4. Ordinance No. 2010-37 - Authorizing acceptance of a grant of easement from Ethicon Endo-Surgery (related to the 2010 sidewalk program)

In conjunction with Council's intent to improve overall "connectivity" throughout our community, and as indicated with the above ordinance awarding a related bid, capital plans in 2010 include the construction of additional sidewalk. Ordinance Nos. 2010-37, 2010-38, and 2010-39 relate to necessary easements for sidewalk planned for 2010 on the west side of Reed Hartman Highway between Glendale-Milford and Creek Roads.

All three ordinances authorize the City Manager to accept a permanent grant of easement to be donated by three corporate citizens with property in this vicinity for the construction of sidewalk by the City – Ethicon (2010-37), Embassy Suites/Nesbitt (2010-38), and Duke Realty (2010-39). The three easements affect portions of the following properties as recorded with the Hamilton County Auditor's Office records:

- Book 612, Page 160, Parcels 10 & 12 (Ethicon) – 2010-37
- Book 612, Page 160, Parcel 13 (Embassy) – 2010-38
- Book 612, Page 151, Parcels 19 & 25 (Duke Realty) – 2010-39

Questions regarding these ordinances or the sidewalk program should be directed to the Public Works Director.

Item 13.d.5. Ordinance No. 2010-38 - Authorizing acceptance of a grant of easement from Embassy Suites (related to the 2010 sidewalk program)

See description above for Ordinance No. 2010-37.

Item 13.d.6. Ordinance No. 2010-39 - Authorizing acceptance of a grant of easement from Duke Realty (related to the 2010 sidewalk program)

See description above for Ordinance No. 2010-37.

Item 13.e.1. Ordinance No. 2010-40 - Authorizing general updates to the Blue Ash Code of Ordinances (Chapter 3, Traffic, & Chapter 5, General Offenses)

Ordinance No. 2010-40 incorporates the State law changes required for the Traffic Code and for the General Offenses Code as part of the annual Code of Ordinances update. These changes mirror revisions made at the State level, bringing the City's Code in compliance with the Ohio Revised Code and the Ohio Administrative Code. The current changes have been reviewed by Dinsmore & Shohl, as well as by the Police Administration. Attached to your ordinance is a highlighted version of the sections amended or enacted, with changes highlighted in yellow.

Please direct questions regarding this ordinance to Police Lieutenant Paul Hartinger at 745-6220 or via e-mail to phartinger@blueash.com.