

MADEIRA CITY COUNCIL  
REGULAR MEETING MINUTES  
AUGUST 10, 2020

I. CALL TO ORDER

The meeting was called to order by Mayor Spencer at 7:32 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

The Invocation and Pledge of Allegiance were led by Mayor Spencer.

III. ROLL CALL

Members present:

Nancy Spencer, Mayor  
Scott Gehring  
Tom Henning  
Chris Hilberg  
Doug Moormann  
Brian Mueller  
Traci Theis

Officials/Staff present:

Brian Fox, Law Director  
Lori Thompson, Assistant City Manager  
David Schaefer, Police Chief  
C. Robert Paul, Treasurer  
Kristie Lowndes, Tax Commissioner  
Christine Doyle, Clerk of Council

Officials/Staff absent:

Tom Moeller, City Manager

IV. ACCEPTANCE OF THE AGENDA AND MINUTES

1. Changes to the agenda:

- None

2. Changes to the City Council Regular Meeting minutes from July 27, 2020:

- None

3. Res. No. 37-20: Resolution Levying Assessments for Sidewalk Replacement

**Motion to accept the agenda; the July 27, 2020 Regular Meeting minutes; and Res. No. 37-20: Resolution Levying Assessments for Sidewalk Replacement made by Mr. Henning, second by Mr. Moormann. Motion passed by unanimous roll call vote.**

V. MAYOR'S MOMENT

1. Public Comment Reminder

2. In the Community

- Mayor Spencer noted Madeira Schools are scheduled to begin on August 24. She thanked all the people who worked to make the first day possible, whether the students are learning from home or from in the buildings.

3. Special Recognition

- None

VI. NOTICES OF OTHER MEETINGS AND EVENTS

- Parks and Recreation Board

August 12, 2020 at 7:00 p.m.

- Planning Commission August 17, 2020 at 7:00 p.m.
- City Council August 24, 2020 at 7:30 p.m.

## VII. COMMITTEE AND OFFICIAL REPORTS

1. Board of Zoning Appeals meeting on August 3, 2020
  - Ms. Thompson reported there were five cases on the agenda.
    - A request for setback variances for a tree/play structure at 7112 Maple was approved.
    - A request for a side yard setback variance to relocate an A/C unit at 6532 Madeira Hills was approved.
    - A request for a setback variance for a privacy fence on a corner lot at 7235 Thomas was approved.
    - A request for setback variances to build a home on a legal nonconforming lot at 7332 Osceola was approved.
    - A request for a curb cut variance to relocate a driveway at 6248 Coachlite was approved.
2. Law and Safety Committee meeting on August 5, 2020
  - Mr. Henning reported the Committee discussed the timing of the HAWK signal. The Committee agreed to work with the contractor to try to add a visual or audible signal to let pedestrians know that the signal has been activated.
  - The Committee agreed to ask the Administration to draft legislation to allow a percentage of property to be converted to native meadow. The meadow could be anywhere on the property except the right-of-way. The legislation would include a list of plants that would and would not be permitted. A permit would be required, and the permitting process would require a sketch of the area and a list of what would be planted. The Committee recommends that bamboo be allowed, but once it spreads to an adjacent property, it would be in violation; this mirrors the State of Ohio code.
  - Mr. Henning thanked the community for all the feedback on the police cruiser design package, and he noted the respectful nature of that feedback. After discussion, the Committee agreed to consult with Mr. Fox on whether the First Amendment precedents for City land apply to City vehicles as well. The Committee will discuss again at their next meeting and then come back to Council with a recommendation. Mayor Spencer noted this is a particularly complicated issue because it relates to the Police Department, which is held in very high regard in the community. She said it's important to separate the support of the work of the Police with the issues that arise when the City allows material to be displayed on public property.
3. Fire Report
  - Chief Oughterson reviewed the report included in the packet. He noted three part-time members tested positive for Covid-19. The department is operating under an Incident Action Plan, which includes guidelines for how to treat and transport people and what to do if a member gets sick.
  - The new members have performed well, and staffing levels are now averaging 7.7 personnel per day; the goal has been to average 8.
  - The department has purchased a new pickup truck/mini-rescue unit that will be delivered by the end of the year. The 2020 ambulance will be purchased in the next couple weeks for delivery in March.
  - The department continues to review the deployment of staff and equipment between the two stations. Rather than having both ambulances in Madeira, they will be running one from Indian Hill.

- During the Covid crisis, the department has modified fire inspections. High-risk properties will be inspected by end of the year. Low-risk properties were asked to fill out a self-questionnaire and could request an inspection if desired.
- Chief Oughterson discussed training with Council. He said behavioral health training is part of the annual renewal of certifications. In behavioral health runs, they treat the medical end of it and rely on the Police to handle the safety end. More training is needed, and he said he'd work with the Police to know what is available. In general, policy and procedure training between the department and the Madeira Police and Indian Hill Rangers is cooperative, with invitations to training sessions extended to the other agencies. Joint training has been done in the past and will continue once circumstances allow.
- When asked, Chief Oughterson said overdose numbers are down overall, but area departments still see some very busy periods and some down periods.
- Mr. Gehring recommended Chief Oughterson attend Council meetings biannually for a report.

#### VIII. COMMUNITY PARTICIPATION

1. Guests and Registered Visitors
  - None
2. Correspondence
  - Mayor Spencer said the City received quite a bit of correspondence about the police design package; there was feedback both for keeping the design as is and for removing the elements that do not identify the vehicles as Madeira Police.

#### IX. ORDINANCES AND RESOLUTIONS

1. Res. No. 36-20: Authorizing the City Manager to Enter into an Agreement with Avant Communication & Technology for the Purchase and Installation of Audio and Visual Equipment for the Council Chambers
  - Ms. Thompson reported the Administration and Chief Schaefer have been researching audio/visual equipment for Council Chambers. This system would allow for banks of Council members to be filmed, so viewers can more easily see the person speaking. It would allow for meetings to be live-streamed to allow for social distancing and for packet documents to be displayed during meetings. The cost of the package would be \$21,000; because the equipment is being installed in response to Covid-19, to allow residents to attend meetings remotely, the cost would be reimbursed by CARES Act money.
  - Mr. Mueller asked if this would then eliminate the need for the audio/visual upgrade to be included in the capital improvement budget; Ms. Thompson confirmed the CARES Act would reimburse 100% of the cost.
  - When asked, Chief Schaefer said the Wi-Fi throttling issue the City has been experiencing is being investigated, so the new system shouldn't have that issue.
  - Mr. Henning recommended the City look into an extended warranty for the equipment.
  - Mayor Spencer suggested that equipment be added to a smaller conference room for recording committee meetings. Council decided to move forward with this legislation but asked that Staff look into upgrading a conference room as well.

**Motion to approve Res. No. 36-20: Authorizing the City Manager to Enter into an Agreement with Avant Communication & Technology for the Purchase and**

**Installation of Audio and Visual Equipment for the Council Chambers made by Ms. Theis, second by Mr. Hilberg. Motion passed by unanimous roll call vote.**

Mayor Nancy Spencer	yes
Scott Gehring	yes
Tom Henning	yes
Chris Hilberg	yes
Doug Moormann	yes
Brian Mueller	yes
Traci Theis	yes

X. NEW BUSINESS

- None

XI. OLD BUSINESS

1. Neighborhood Inclusion Committee for Equity

- Mayor Spencer outlined her proposal for the community-led committee that would report through to the Administration, not Council. They would act in an advisory capacity, meeting monthly or more often as needed. The proposed objectives would be to:
  - Develop strategy to increase diversity (not limited to race) on boards, commissions, and interest in elected office.
  - Review current City policies/practices, recommending changes if needed to beneficially support equitable outcomes. The committee would determine which policy is to assess based on interest.
  - Recommend community engagement opportunities specifically developed to create a more inclusive environment that welcomes all community members.
  - Identify challenges that deter inclusion for non-residents working or visiting our community and recommend corrections.
- Mr. Henning asked if the committee meetings would be open to the public. Mayor Spencer said the City of Montgomery offers a little more latitude in how the meetings are managed and publicized, but the intent would be to make them as accessible to the public as possible.
- Council discussed whether the committee should report to Council instead of the Administration. Mr. Hilberg said he pictured it like the annual brainstorming session, where the committee would present areas for Council to prioritize and act upon. Mr. Moormann agreed, saying he wouldn't want the committee to go down a path and then bring it to Council to react to.
- Mr. Moormann asked if there was any concern about the City getting involved in who runs for elected office. Mr. Fox said he would look into it. Mayor Spencer said she could limit that sentence to boards and commissions.
- Mayor Spencer said she would rework the proposal with this feedback and hoped to have the final document published in an upcoming City newsletter.

2. Litigation Status

- Mr. Fox said the Ohio Supreme Court in late March declared an emergency with state courts to suspend civil procedures through July 30. Now that the order has expired, he gave updates on three cases.
  - In 2018, the City of Madeira filed a lawsuit to have a defendant declared a vexatious litigator. When the case was filed, Mr. Fox thought it was on a

reasonable trajectory for resolution; however, the defendant's counsel changed, and it now appears a jury trial is necessary. The trial is scheduled for November 16. The case is now in the discovery phase. The City has responded to the discovery requests in good faith, providing thousands of documents; the City has not received any of the documents it requested.

- In October 2019, Doug Oppenheimer filed suit against the City relative to certain provisions in its sign code. Within days, the City responded by withdrawing the contested provisions of the sign code, as well as other provisions that were deemed borderline. Although the City provided relief within days, the plaintiff is pursuing damages and continues to litigate the case.
- In May 2020, Mr. Oppenheimer filed a case against the City that effectively attempts to re-litigate some of the issues that were litigated in the first vexatious litigator case. In that case, counsel for Mr. Oppenheimer filed multiple motions for sanctions, one of which was arguing that the City, in pursuing the lawsuit, was filing an anti-SLAPP lawsuit. The Trial and State Court overruled that request and denied that motion. The City's motion to dismiss the May case is pending.

## XII. EXECUTIVE SESSION

### 1. Pending Litigation

**Motion to adjourn into Executive Session for the purpose of discussing disputes involving the City that are subject of pending, possible, or imminent court action or to discuss legal opinions of the Law Director on such matters that could reasonably involve future litigation made by Mr. Hilberg, second by Mr. Moormann. Motion passed by unanimous roll call vote at 8:42 p.m.**

## XIII. ADJOURNMENT

**Motion made by Ms. Theis, second by Mr. Gehring to adjourn Executive Session and return to regular session at 8:54 p.m. Motion passed by unanimous roll call vote.**

**Motion made by Mr. Henning, second by Ms. Theis, to adjourn the regular meeting at 8:57 p.m. Motion passed by unanimous roll call vote.**

  
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Christine Doyle, Clerk of Council