

MADEIRA CITY COUNCIL  
REGULAR MEETING MINUTES  
SEPTEMBER 23, 2019

I. CALL TO ORDER

The meeting was called to order by Mayor Theis at 7:33 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

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

III. ROLL CALL

Members present:

Traci Theis, Mayor  
Melisa Adrien  
Scott Gehring  
Chris Hilberg  
Doug Moormann  
Brian Mueller  
Nancy Spencer

Officials/Staff present:

Brian Fox, Law Director  
Tom Moeller, City Manager  
Lori A. Thompson, Assistant City Manager  
David Schaefer, Police Chief  
Kristie Lowndes, Tax Commissioner/Treasurer  
Christine Doyle, Clerk of Council

IV. ACCEPTANCE OF THE AGENDA AND MINUTES

1. Changes to the agenda:

- Mayor Theis added Executive Session to discuss pending litigation before Mayor's Moment. She also added Ord. No. 19-04 to new business, as requested by Mr. Fox.
- Mr. Mueller asked to combine the two Parks and Recreation meetings in Committee and Official Reports.

2. Changes to the City Council Regular Meeting minutes from September 9, 2019:

- None

3. Res. No. 34-19: Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the necessary Tax Levies and Certifying Them to the County Auditor

**Motion to accept the amended agenda; the September 9, 2019 minutes; and Res. No. 34-19: Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the necessary Tax Levies and Certifying Them to the County Auditor made by Ms. Adrien, second by Mr. Moormann. Motion passed by unanimous roll call vote.**

V. EXECUTIVE SESSION

**Motion to adjourn into Executive Session to discuss pending litigation made by Mr. Hilberg, second by Ms. Spencer. Motion passed by unanimous roll call vote at 7:36 p.m.**

**Motion to return to regular session made by Mr. Moormann, second by Ms. Spencer. Motion passed by unanimous roll call vote at 8:15 p.m.**

VI. MAYOR'S MOMENT

1. Public Comment Reminder

2. Mayor's Moment

- Mayor Theis shared her experience of seeing the play *Come From Away* about the planes that were diverted to Newfoundland after the 9/11 attacks; she and her mother later discussed how much had changed after the attacks, but her 20-year-old daughter noted the lack of change, notably the treatment of people who are different, especially people of Middle Eastern descent. Mayor Theis learned that people of different generations and cultures might live through the same experiences but have very different takeaway.
- After the Sandy Hook shooting, changes included teaching behind locked doors and conducting mass shooting drills. Out of the tragedy came the Start with Hello program that Madeira Elementary School and the Police Department are participating in that promotes inclusion and connectedness.
- Sometimes policies and procedures change because of tragedies or events or they are outdated, but every generation can contribute to the conversation, providing different points of view and solutions.

3. Special Recognition

- None

VII. NOTICES OF OTHER MEETINGS AND EVENTS

- |   |                                     |
|---|-------------------------------------|
| • Document Shredding Event<br>(Madeira Elementary School) | September 28, 2019, 9:00 a.m.–Noon  |
| • Bonfire on the Ballfield (McDonald Commons)             | September 28, 2019, 6:00–10:00 p.m. |
| • City Council Goal Setting                               | September 30, 2019, 6:00 p.m.       |
| • Mayor's Court   | October 2, 2019, 6:30 p.m.          |
| • Fall Leaf Collection Begins                             | October 7, 2019, 7:00 a.m.          |
| • Board of Zoning Appeals                                 | October 7, 2019, 7:00 p.m.          |
| • Parks and Recreation Board                              | October 9, 2019, 7:00 p.m.          |
| • City Council  | October 14, 2019, 7:30 p.m.         |

VIII. COMMITTEE AND OFFICIAL REPORTS

1. Parks and Recreation Board meeting on September 11, 2019 and Special Meeting September 17, 2019

- Mr. Mueller reported the Board discussed past and upcoming events.
- The goal-setting session was at held at the shelter house at McDonald Commons. The Board compiled the following list of potential goals to be voted on at the next meeting.
  - Move July 4 festivities to McDonald Commons to improve City's net loss on the event
  - Name the area at the bottom of Sellman Park
  - Add a winter event that would possibly be held in a school gym
  - Hold a Sellman Park nature day
  - Implement plans for McDonald Commons playscape
- The Board was tasked with reducing the net loss of City events, and in 2019 the Street Dance net loss was reduced from \$7000 to \$4800. Swiping of credit cards for beer sales made a significant impact on sales. The Board is looking forward to continuing the trend in 2020.

2. Planning Commission meeting on September 16, 2019

- Ms. Thompson reported there were no cases on the agenda. The evening was spent using the decision matrix in the Comprehensive Plan to score some of the recommendations.

The Commission members will individually score the entire matrix and get their scores to her before the Council goal-setting session on September 30.

3. Law and Safety Committee meeting on September 20, 2019

- Mr. Gehring reported the Committee discussed the nuisance grass policy and the following potential changes to the existing policy: reduce permitted height of the grass from 10 inches to 8 inches; have notice of violation valid for one year; increase the fine structure; and establish a zero tolerance of tall grass. The Committee recommends researching the policies in neighboring communities and asking Mr. Fox for feedback on which options make the most sense.
- Regarding the sticker provided with the solicitation policy, residents seem to like the idea but would prefer an aesthetically pleasing cling rather than the black sticker. Pricing for clings will be researched.
- The Committee reviewed the nuisance vehicle policy and the storing of recreation vehicles in residential areas. The Committee recommends researching the policies in neighboring communities and asking Mr. Fox for feedback.
- Regarding storm water drainage, in analysis, new construction reduces water to existing homes because they are required to direct water runoff from the front of the structure to the street. The Committee would like to work with Mr. Fox on language that would require all roof water to drain to the street but also gives the building department flexibility to make adjustments to specific projects during the permitting process.
- Regarding coyote management, Chief Schaefer is working with Indian Hill and Kenwood Country Club to patrol their green spaces.

4. Budget and Finance Committee meeting on September 23, 2019

- Ms. Spencer said the monthly financials were favorable with earnings taxes up and expenses at expectations.
- The Committee heard Chief Schaefer's request for two new Tahoes in 2020. The Committee unanimously recommended approval but asked for a more detailed 5-year capital plan from the Department for budgeting purposes.
- The Committee discussed the Joint Fire District's \$100,000 funding request from both Madeira and Indian Hill to support another full-time position, which would help the Fire District reach its goal of 8 firefighters per shift, rather than the current 6.7 per shift. Fire Chief Oughterson will be invited to the next Council meeting to explain the request and answer questions, and then Budget and Finance will discuss how to pay for the increase at their next meeting.
- Mr. Hilberg asked that building permits for new construction and remodels be broken out on the monthly financial reports.

5. Police Report

- Chief Schaefer commended the Auxiliary for their dedication to Madeira.
- Detective Byram attended Sexual Assault Investigations training in August.
- On August 15, Officer Miller and Karen Riesenbergh attended the Farmer's Market and had a great time interacting with kids about safety.
- The results of a blind traffic study on Shewango were presented. Ms. Spencer expressed concern about the top speeds, especially in a neighborhood with many children and no sidewalks. Council and Chief Schaefer discussed enforceability, since the first three miles over the limit are disregarded due to equipment, and the possibility of targeted enforcement on both Shewango and Miami Hills. It was decided the community would be

alerted to the enforcement with posts on Facebook and communication with Madeira High School.

- Results of the downtown business district speed study will be presented at the next meeting; the speed signs are currently on Thomas.
- On the monthly stats, minor misdemeanor citations are down due to legislation changes that make unusable the results of marijuana tests from the existing lab.
- Regarding the vehicle request, one Tahoe would fulfill the yearly request. The 2015 would be changed to an investigator vehicle for crime scene investigation. The second new Tahoe would replace the Chief's sedan, as the sedan is impractical for use as a command vehicle.
- Council discussed the status of the discussion about cost-sharing a School Resource Officer (SRO) and asked Mr. Moeller to re-initiate the conversation with the School District. Grant opportunities for an SRO were discussed.

#### IX. COMMUNITY PARTICIPATION

##### 1. Guests and Registered Visitors

- Robert Bartlett, 7816 Buckeye Crescent, asked if Mr. Oppenheimer's constitutional rights were violated when he was asked to remove the signs from his yard. Mr. Fox said he would not comment, as the case was subject to ongoing litigation.
- Christine Parker, 7411 North Timberlane and owner of Creativities, addressed Council regarding her upcoming lease renewal. She said her business markets the City and complements other area businesses. She would like to stay based in Madeira, but she would not be able to sustain her business at the current rate of rent. She expressed doubt that any business could make a go of it at that rate given the small size of the first floor. Ms. Spencer said Council was waiting for a proposal from her, and in the absence of one, presented its own proposal of a 10% rent increase. Ms. Parker said she would be in touch with her proposal.

##### 2. Correspondence

- None

#### X. ORDINANCES AND RESOLUTIONS

##### 1. Ord. No. 19-03: Authorizing the City Manager to Amend the Water Agreement with the Village of Indian Hill to Increase the Capital Water Main Replacement Surcharge—First Reading

- Motion to table Ord. No. 19-03 made by Mr. Gehring, second by Mr. Mueller, for new information from Indian Hill Water Works (IHWW).
- When asked about timing of a surcharge increase, Mr. Moeller said the City has submitted an application for a no-interest loan for \$2 million and engineering has started in advance of the street program. The current revenue source would extend the \$4 million immediate project over 30 years. To fund that over a shorter period or to fund the entire \$9 million project over 30 years would require an increased surcharge that should be enacted by the beginning of the year.
- Mr. Mueller said he is reconsidering his vote to recommend an interim surcharge and is now leaning toward remaining with IHWW, since Greater Cincinnati Water Works (GCWW) appears not to be the Hail Mary solution they had hoped. He suggested the Budget and Finance Committee review the latest information at their next meeting and consider skipping the interim increase and go to the final surcharge recommendation.

- Mr. Gehring said he prefers Council continue to do due diligence with both water districts to come up with a permanent solution rather than move ahead now with the ordinance.
- Mr. Moormann said he doesn't like the option of imposing a higher surcharge on the residents and suggested leasing the pipes to IHWW; the revenue would go toward replacing the pipes. Mr. Mueller said IHWW seems ambivalent about keeping Madeira as a customer and would likely pass those costs to the customers/residents. Mayor Theis said she did believe IHWW would like to keep Madeira as a customer.
- Council asked the administration to continue discussions with Indian Hill and agreed to table the ordinance until the end of November 25 or sooner if conversations go well.
- Mr. Moormann asked Mr. Fox to look into other lease agreements that might be similar to what he has suggested.

**Motion to table Res. Ord. No. 19-03: Authorizing the City Manager to Amend the Water Agreement with the Village of Indian Hill to Increase the Capital Water Main Replacement Surcharge until November 25 or sooner. Motion passed by unanimous roll call vote.**

2. Res. No. 35-19: Authorizing the City Manager to Contract with McCluskey Chevrolet, 9673 Kings Auto Mall, for the Purchase of 2020 Police Vehicles
  - Mr. Moeller reported one vehicle is budgeted for 2020, but the resolution would be for the purchase of two. The deadline to order the vehicles is this week, but payment would not be made until 2020.
  - Motion made by Mr. Gehring, second by Mr. Hilberg, to approve Res. No. 35-19.
  - Mr. Hilberg asked if the McCluskey price was less than the state cooperative price. Chief Schaefer confirmed it was. Chief Schaefer said the 2015 white Tahoe would have its markings removed for the investigator. The new vehicles would be silver.

**Motion to approve Res. No. 35-19: Authorizing the City Manager to Contract with McCluskey Chevrolet, 9673 Kings Auto Mall for the Purchase of 2020 Police Vehicles passed by unanimous roll call vote.**

Mayor Traci Theis	yes
Melisa Adrien	yes
Scott Gehring	yes
Chris Hilberg	yes
Doug Moormann	yes
Brian Mueller	yes
Nancy Spencer	yes

3. Res. No. 36-19: Authorizing the City Manager to Enter into a Contract with RA Miller Construction Company for the 2019 Sidewalk Reconstruction Program
  - Mr. Moeller reported the bids were considerably higher than for the 2018/2019 program; the lowest bid was \$233 per block and \$240 for driveway blocks. Council could choose to reject the bids and hope to get better bids next year; he did note, however, that the size of the project is much smaller than in the previous round.
  - Motion to approve Res. No. 36-19 made by Mr. Mueller, second by Mr. Gehring.
  - Council discussed the options. Mr. Mueller said he supports the resolution, as the City is providing this service as a courtesy, since it is the homeowner's responsibility to replace the sidewalks, and the City should not go out of its way to change the economics of the day regarding construction costs. Mr. Moeller said the homeowner has the choice to

contract the work on their own or go with the City. Mr. Gehring said he's in favor of getting the most competitive price possible; Mr. Moormann said he fears the numbers would come back higher if put out to bid again. It was noted that going forward, the replacement sidewalks in the whole City could be bid out at the same time.

**Motion to approve Res. No. 36-19: Authorizing the City Manager to Enter into a Contract with RA Miller Construction Company for the 2019 Sidewalk Reconstruction Program passed by unanimous roll call vote.**

Mayor Traci Theis	yes
Melisa Adrien	yes
Scott Gehring	yes
Chris Hilberg	yes
Doug Moormann	yes
Brian Mueller	yes
Nancy Spencer	yes

#### XI. NEW BUSINESS

1. Ord. No. 19-04: Repealing Certain Provisions from Chapter 159 of the Codified Ordinances of the City of Madeira, Ohio, and Declaring an Emergency
  - Mr. Fox stated because case law evolves and changes over time, a recent decision from the Sixth Circuit has questioned and clarified previous understandings as to what constitutes content-based regulations and First Amendment law. This is especially so as it related to, generally speaking, content-neutral regulations with exceptions. In an effort to be not only compliant with case law, but to be above reproach, he has taken a scalpel to the existing Sign Code. The Sign Code was originally enacted in 1985 and has been amended from time to time; the most recent amendment occurred in 2005. In light of that, Ordinance No. 19-04 represents an attempt to make the Code better conform to the Sixth Circuit's law. This legislation calls for the repeal of a number of provisions. However, this legislation does not supplant the repealed sections at this time. Case law often evaluates the rationale underlying regulating signs in a given fashion. If Council desires to regulate and create policies in this arena, he advised they begin to study the issue and take it up as they sees fit. The legislation was drafted with reference to Article 9, Section 1B of the City Charter so that it could become effective immediately. If Council wanted to enact this ordinance, he recommended that they first make a motion to dispense with the three reading requirement.

**Motion to dispense with the three reading requirement of Ord. 19-04: Repealing Certain Provisions from Chapter 159 of the Codified Ordinances of the City of Madeira, Ohio, and Declaring an Emergency made by Mr. Moormann, second by Ms. Spencer. Motion passed by unanimous roll call vote.**

**Motion to approve Ord. 19-04: Repealing Certain Provisions from Chapter 159 of the Codified Ordinances of the City of Madeira, Ohio, and Declaring an Emergency made by Mr. Mueller, second by Ms. Spencer. Motion passed by unanimous roll call vote.**

Mayor Traci Theis	yes
Melisa Adrien	yes
Scott Gehring	yes

Chris Hilberg	yes
Doug Moormann	yes
Brian Mueller	yes
Nancy Spencer	yes

XII. OLD BUSINESS

- None

XIII. EXECUTIVE SESSION

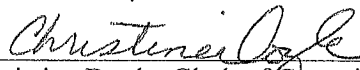
1. Real Estate – Sale/Purchase

**Motion to adjourn into Executive Session to consider the purchase or sale of real estate for public purposes made by Mr. Hilberg, second by Ms. Adrien. Motion passed by unanimous roll call vote at 9:59 p.m.**

XIV. ADJOURNMENT

**Motion made by Ms. Spencer, second by Mayor Theis, to adjourn Executive Session and return to the regular session at 10:21 p.m. Motion passed by unanimous roll call vote.**

**Motion made by Mr. Gehring, second by Mr. Hilberg, to adjourn the regular meeting at 10:22 p.m. Motion passed by unanimous roll call vote.**

  
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Christine Doyle, Clerk of Council