

Finance Committee
Monday, May 15, 2019
5:30 p.m., Multi-Purpose Room

In attendance: John Coyne-Chairman, Jim Shields, Paul Rose, Bill Lamb, Dennie Simpson, Eric Heffinger, and Bob Starcher

Also present: Mayor Hanwell, Greg Huber, Keith Dirham, Patrick Patton, Nino Piccoli, Jonathan Mendel, Kimberly Marshall, Dan Gladish, Jansen Wehrley, Mike Wright, Chief Kinney, Christy Moats, Sean McDonald, Dominic Carrino, and Bob Finnan

1. Assignment of Requests for Council Action

2. Motion to Approve MCRC Sponsorships

Mr. Wright stated there are two ads that need approval, the first one is a Howard Hanna for the back of membership cards. Dynamerica is the second one for track rails. Mr. Shields moved to approve, seconded by Mr. Simpson. Motion Passes 6-1abs/JS

3. 19-086-5/13 – Budget Amendments

#2019-019 – Airport Storm water Detention Basin

Mr. Dirham stated there will be a request for an advance for this at the next meeting. Mr. Coyne states this is just for the engineering and surveying of the detention basin. Mr. Shields moved to approve, seconded by Mr. Simpson. Motion Passes 7-0.

#2019-020 – Twin Towers Memorial Project

Mr. Dirham stated this is a pass through, the rotary got this grant but it has to be paid to us. Mayor Hanwell stated they asked them to install security cameras down there after the damage to the one over in York Township and they have agreed to do so. Mr. Shields moved to approve, seconded by Mr. Simpson. Motion Passes 7-0.

4. 19-088-5/13 – PY19 CDBG Allocation Grant Application

Jonathon stated this is to apply for the Small Cities Community Development Allocation grant Program. \$150,000 total. Couple of public meetings have occurred already, application is due June 14th and because of that the emergency clause is needed. Discussion of the transit was had and the cut routes. Mr. Shields moved to approve with the emergency clause, seconded by Mr. Simpson. Motion Passes 7-0.

5. 19-089-5/13 – Rezone 216, 222 and 226 S. Jefferson St. – R-3 to M-U

Mr. Mendel stated this went to Planning Commission and they did not recommend the requested rezoning to City Council (failed 2 – 3). Mr. Rose stated the applicant put forward a very good presentation, however there were several residents – those who live on the street about the properties asked to not rezone it and keep the area residential. Paul stated as a member of the board as he looked at the properties he felt it was spot zoning and if they wanted it to be multi-use he would do the whole side of the street because there are still people that live there including the whole block. He voted to not recommend the rezoning.

Mr. Coyne questioned the conversation and their thoughts from the people that were for it. Mr.

Rose stated he felt there wasn't any real conversation for it, there was a lot of conversation against it.

Mr. Simpson stated he has the utmost respect for Dino and Dom and the entire Carrino Family and feels their business is such an asset to the City of Medina. Dennie stated he knows there are other areas in the city that have small office spaces with parking lots behind them and so forth. He understands what the Carrino family is asking for. The only reason that he would probably not vote for it is that the City has invested so much in the parking deck. That was such a controversial decision to make at that time, now it's been one of the wisest decisions they've made. With the parking deck being right across the street and he understands that Dominic wants to have the three houses turned into office space but again the parking deck is right across the street. Dennie understands the concerns the neighboring residents have. With his no vote he hopes they understand it is nothing against Dominic or his business, it has the longevity of success in the restaurant business and Dennie appreciates that.

John Coyne asked Mr. Mendel what were the issues that he had seen. Jonathon stated in reviewing it and looking at the proposal and the policy documents they had and regulatory framework that is being opposed, he recommended approval changing of the property from R-3 to M-U. It is consistent with the goals of the comprehensive plan, consistent with the M-U zoning district which allows low scale commercial but also still residential, and opens the marketed value of them and market demand for these properties. It makes sense at the transitional area between C-2 in the Historic District on the west side of Jefferson into the R-3 fully residential area to the east and was recommended of the rezoning of the property to M-U.

Mr. Coyne questioned rezoning only three of the properties without rezoning all of them.

Mr. Mendel stated the M-U District doesn't have a minimum district requirement. It's codified in zoning codes, it's kind of an item to be explicit about if you want to have this zoning district you need to have this minimum district area. Jonathon stated they don't have that in the code as a small unit transitional, we have areas of very small amount of M-U just a block away on North side of Washington going up to two properties that are on the frontage of East Liberty. Jonathon stated they can't tear down the houses under the M-U zoning. The M-U zoning is very explicit that the intent of that zoning district is to allow the flexibility of use of residentially character of areas that are residential character and part of that residential character is the existing houses. Under the current R-3 zoning the houses could be potentially demolished with a demolition permit request and as long as they meet the procedural and submittal requirements of the demolition permit, we would have to issue it.

Mr. Mendel stated the current three homes in question have pretty much been residentially occupied pretty much their entire existence.

Mr. Coyne stated that once they are changed to M-U then they can be changed to business and Jonathon stated yes, small low intensity office or retail, but a restaurant is a conditionally permitted use. It could also continue to be residential occupancy.

Mr. Coyne asked what the biggest change could be rezoning it from R-3 to M-U. Is the biggest change that they can pave the whole backyards? Mr. Mendel stated that would be the biggest functional change from R-3 to M-U. Mr. Coyne asked what the setback between the residential properties is and how far is that required to be if they do this. Jonathon stated the minimum setback is 5 ft. and there is extensive landscaping, screening and buffering requirements of

chapter 1149 of the zoning code. There are options, there's distance in landscaping verses fencing, solid fencing and landscaping which is part of the BZA request.

Tony Vacanti with Tucker Ellis LLP requested to give a brief explanation of what they are trying to do. They have proposed as part of this a 5 foot landscape buffer in addition to a fence to protect those residential properties. Tony handed out some visuals to Council.

Mr. Simpson stated he attended the initial meeting they had and the resident's concern is that if you have a dental/lawyer offices there but after 5 p.m., the patrons from the restaurant would be parking over there and that was their main concern expressed. Dominic stated that his parking problem is from 11 a.m. to about 7:30 – 8 p.m. when the Library closes. When the Library closes he has plenty of parking available so he doesn't see his customers using the across the street parking as an overflow. Dennie feels some sort of signage stating there is more parking at the parking deck facility would be beneficial. Dominic stated that people just don't want to use that parking deck especially during the winter months. Dominic feels this is two separate issues, he bought those three houses under the assumption that in the Master Comprehensive Plan that he could do a commercial building. It's very hard to rent these houses and he even has to go to Municipal Court tomorrow to evict someone. It's hard to get paying renters on that street. He didn't do it to become a landlord, he bought them for commercial use to drive more business to his area. Currently he is losing money having these homes as residential.

Mr. Vacanti stated this is a very important issue for his client and it does raise some very substantial legal issues. They are seeking a rezoning to mixed use or multi use as the zoning code calls it.

This proposal is supported by the Comprehensive Plan which is legislatively adopted, it's supported by the planning staff of the city, and supported by good planning practices. His client before investing in these properties went to the City of Medina and reviewed the Comprehensive Plan. These properties were identified for future rezoning as mixed use and in reliance on that proceeded to close on those properties and engage in this process and procedure. His letter that Council received indicates courts have routinely indicated that it is proper for residents and property owners to rely on the Comprehensive Plan when investing in properties because there should be a reasonable likelihood of rezoning and conformance with that. We are dealing with constitutional property rights. Any denial of rezoning or imposition of zoning has to substantially advance a legitimate governmental purpose, it can't be arbitrary. That's where the role of the Comprehensive Plan steps in and right now it supports what we are proposing. Denying it raises constitutional issues and puts his client in a hardship both economically, because of very limited economically feasible uses as Jonathon Mendel noted in his report, and it doesn't make much sense. The whole purpose of the mixed use or multiuse zoning district is to allow the maintenance of these residential structures but the City is recognized in this area it's unlikely that there is going to be a residential demand, they are across from commercial corridor, Jefferson is a commercial corridor, there is heavy truck traffic and so in order to maintain the residential character but allow for economical feasible use, this mixed use or multiuse zoning designation was arrived at. By allowing this rezoning to go through you are actually protecting these properties because the owner can have them torn down. Mr. Carrino has invested over \$2 million dollars in this corner of the facility and invested over \$300,000 in acquiring these properties for multiuse in reliance to the Comprehensive Plan. Tony reviewed some material in the packets he handed to Council. These 3 properties are all across the street from C-2 Commercial properties they are not across the street from residential properties making them more unique than the

other properties down Jefferson St. on the eastside. It's not spot zoning, he agrees with Mr. Mendel that it is perfect transitional type of zoning.

Mr. Vacanti asked that Council remain open minded, they are willing to work with the City and BZA commission to address some of the concerns.

Mr. Simpson stated that if this is approved and three new businesses come in, would you be willing to post signage stating parking is strictly for the specific businesses only. Mr. Carrino stated there is no way to control parking, if that was the case then why does everyone from the Library park in their lot. Dominic would be willing to put up signs saying after such time.

Mr. Coyne asked Mr. Huber if he had any time to review any of these legal arguments that have been presented or do we need more time to digest this. Mr. Huber stated once again that Mr. Mendel has not said anything about the legal issues coming out of his office. Except for a two minute conversation this afternoon, this is actually the first he is hearing of this.

Mr. Coyne questioned Mr. Mendel on the property to the south, there is a huge parking lot in the back is that the dentist and is it multi-use. Mr. Mendel stated it's basically an existing nonconforming. Jonathon stated medical office, convenience retail are uses that are permitted in the C-2 and the M-U district.

Mr. Lamb asked Mr. Huber to explain his self. Mr. Huber stated that apparently this is an issue that has been in the Planning Department going on for a month, and nobody from the Planning Department has come over to the Law Department to say a word about this until Jonathon poked his head in this afternoon and mentioned this issue, so literally that is the first he has heard of it so why that is he doesn't know. Seems like this is something that a good department head would wake up and come over and say something. Mr. Mendel asked Mr. Huber to not say that in a public meeting.

Mr. Lamb does not agree with Jonathon's report for a number of reasons, and one being this is what frequently happens in public bodies when these issues come up. Bill fully understands the business side of what Dominic is talking about and that he has legal representation and that the reference to the people that live in proximity to what he wants to do have been referred to as complaints but there is no resident here and there is nobody representing residents here to balance out this conversation which is a failure to fairness to have this discussion. Bill asked Mr. Huber if the Comprehensive Plan is codified. Mr. Huber stated the vast ordinances is to create the Comprehensive Plan it's not the law of the City in terms of zoning it's just a plan. Mr. Lamb stated it is a plan and he mentioned to the President of Council before the meeting that he has a comprehensive plan that he has marked with about 32 or 33 notes that are notes where we have not followed the Comprehensive Plan and much of it he thinks was detrimental to the development that we did because we ended up doing things that were not good for the city but he thinks harmed the city. In his view as a public official, a plan is a plan and unless you codify it, it is not law and if someone wanted to test that then it would be up to them.

Mr. Lamb went on to say he doesn't feel that there can be an argument for parking. He stated Dominic said you can't have a good business without parking. He looks at the historic businesses and most of them actually have no parking and people generally find a way to get to them otherwise we wouldn't be working to expand the buildings in the historic district. The integrity of the residential property and the property that buffers the historic district is essential in

his view to the continued success of the downtown. Surface parking which the city has demonstrated by the fact that they are committing over \$3 million dollars to build another parking deck.

Tony Vacanti stressed that there will be a public hearing before City Council where residents will be given an opportunity and stated that he is dealing with his clients fundamental property rights which needs to be balanced against residential concerns. Tony stated the case law sent in his letter and what would be the point of a comprehensive plan then and to the extent that the city is not following it, and there are many instances of it he would just say that exposes the city to substantial liability. Tony stated he doesn't want to get adversarial but he has to represent his client's interests and it's very concerning from a property rights stand point, that is very concerning what he just heard and he just asks that you keep an open mind.

Mr. Starcher feels there needs to be further discussion both as a committee and as administration that they take some more time to look at it. All Council agreed.

Mr. Coyne stated this would give Mr. Huber more time to brush up on it and get some more information about it so he can advise us as our legal counsel for the City on some of the issues that were raised by the property owner's legal counsel so we can better make an informed decision about what the facts at least from the City's perspective would be. Public Hearing has been set for June 24th, 2019.

6. 19-090-5/13 – MCRC Program & Activity Rate Change Proposal

Mr. Wright stated this is to update the Recreation Center's Program and Activity rates. Christy Moats stated their original proposal was passed in 2002 and last updated in 2008. We evaluate every couple of years to make sure the rates we are charging are in accordance with the ordinance.

They have no intentions of increasing their rates at this time they just want to be covered for the next few years in case they do raise rates. The original ordinance is 25 pages so this one has simplified it greatly we are down to 3 or 4 pages a year. The special events rates when we had our audit this year it came to their attention that they had not had any ordinance about their rates they charge for special events like the fireworks festivals, food trucks and things like that. So they want it in writing to have a sliding scale with a minimum and a maximum daily charge for all those events to be in compliance. Mr. Shields questioned the basketball season pricing going from \$40 a season to over \$100. Christy stated usually the competitive leagues would be ones where we would play against other rec centers, we have not typically done that and when we wrote this it was in 2002 and we had no idea what programs they were going to offer so they just made a huge range and they haven't actually done some of these. Right now they've just done youth camps and things. Mr. Shields asked for an example in the Program Category special event vendor fee because that goes from \$10 to \$500 dollars. Christy mentioned Puppy Palooza and we have ten vendors out at the pool and maybe a hundred people come we are not going to charge a vendor a \$100, but if it's a fireworks festival where we are going to have thousands of people we can charge more based on attendance, cost of running the event. Mr. Shields feels like that's an awful lot of discretion. Mr. Shields stated he is trying to protect them, what if someone said how did you pick \$30 this time and that group got charged \$50? Jim questioned if the rec center advisory is going to have any say in this and Mr. Wright stated typically they don't, but they can ask if that is something you want run by them. Christy stated they can take it to the BOC. Mr. Shields moved to approve, seconded by Mr. Simpson. Motion Passes 7-0.

7. 19-091-5/13 – Amendment #11 – Delta Airport – North-Detention Basin

Mr. Patton stated they are required to install a detention basin out at the airport, they were trying to get grants but that was not successful. So they are pushing ahead with at least the design part of it right now. This involved them in hiring two consultants. One was approved and they are doing the surveying and engineering for the design of the detention basin. Second one is Delta Airport consultants and they will be preparing and submitting some FFA forms that are required and submitting safety plan as well as a categorical disillusion. Pat stated the account is to be determined. Mayor Hanwell stated the last two hangars that were built were built subject to this being put in. The fee for this work is \$19,000.00. Mr. Shields moved to approve, seconded by Mr. Simpson. Motion Passes 7-0.

8. 19-092-5/13 – Accept ODOT Resolution Re: Zoning requirements for SR 18 Project

Mr. Patton stated this was submitted to us by ODOT on the State Route 18 Project which starts basically at Alber Drive and heads east all the way to Nettleton. The portion that is in the City they are asking us to pass an ordinance, they are getting started with their property acquisitions, right of way purchases. What this ordinance in their mind would do is to go out and start negotiating with property owners, it confirms they are not going to be suddenly in noncompliance with our zoning requirements. Mr. Mendel stated the plans they received from ODOT already which could be subject to change, but as they show now, the actual physical land takings won't create any substandard setback conditions or minimum lot area standards.

Mr. Coyne asked how does it affect those who the taking creates a safety issue with respects to that, and this doesn't cover anything like some of the businesses maybe along the corridor will be required to have right in right out only, and how will this affect those properties. Pat stated they are done taking properties, really it's the only one affected is the condos off of Foote Rd.

Mr. Mendel stated the Glenshire house is losing a little and two of the lots on Glenshire Lane are losing a little slither of their frontage on Rt. 18 but it doesn't change the minimum lot size.

Pat stated inside the city there is not much widening, it's basically a reconstruction, the widening starts as you approach Foote Rd.

Mr. Coyne stated you have all those businesses leading up to I-71 that could be affected if you take away their access.

Mr. Starcher questioned Glenshire Lane and the couple properties there stating it's awfully tight there, how much of an effect and will it still be within requirements. Jonathon stated the one occupied house on the northwest corner of Glenshire and Route 18 or Washington has an 80 foot plus set back from the south property line along Washington and the actual land taking is like 6 to 8 feet off of that 80 feet.

Mr. Rose's concern is if we do adopt some sort of ordinance what safe guards, can we put in to make sure it is for this project only, and they can't go and take it somewhere else down the road and the state can go in and say oh they said we can have this but let's take this. Patrick stated they submitted this to us as a recommendation but we can massage the language however we want to. Mr. Coyne stated it would be subject to Mr. Huber's review and approval. It states in there that the city requires a moratorium upon enforcement of zoning requirements located in the city to landscaped area between the right of way and developed portion of the site. Mr. Coyne brought up the use of temporary lighting during construction and how they don't want anyone

complaining about the temporary lighting. Council agreed to bring this back and talk about it once it's reviewed and modified.

9. 19-093-5/13 – Increase P.O. #2019-513 – Ohio Regional Development Corp. PY17 CHIP
Mr. Mendel stated this is for their existing CHIP grant. Within this grant they are going to be doing the Fair Housing training. They need to add to the P.O. \$2,000 to help to pay them for that function which is one of the specific functions on our agreement that we have. Mr. Shields moved to approve, seconded by Mr. Simpson. Motion Passes 7-0.

Update on Parking Structure

Mr. Patton stated after the last discussion on the parking deck council made a number of suggestions for changing the request for proposals for the second go around. Pat tried to summarize those to present to council to make sure all is in agreement to go forward.

Project parameters decided on were to remain with 200 spaces minimum all within the parking deck itself. Footprint is basically all the city owned property adjacent to City Hall except for that 80 by 140 section along West Liberty Street. So basically we are saying to put the parking deck wherever you want, however you want as long as it's in that footprint. The orientation – previously we had a basis of design preferred design which was more south, we discussed obviously east and west and are saying we are not going to prefer one over the other it's up to you, you are free to submit on whichever one or do multiples. The next point was we had a discussion about possibly maintaining some spaces throughout construction that in the future surface parking next to city hall we would prefer to have those spaces but would not be a requirement. Upon submitting this to Mr. Coyne he had some hesitation with that and Greg did as well. Mr. Coyne stated it was just the last sentence. He doesn't feel we want to tell anybody that the technical proposal includes surface parking will receive favorable consideration. He doesn't want that used against us and feels the committee should decide that. Surface parking is a desire not a requirement. In terms of brick accents we are going to add some more language emphasizing importance of that, also we understand that these companies would love to give us all the brick we want but they are constrained by our budget and they have to submit a project that is within budget. Different sizes of the deck were discussed, whether or not the west side should be enhanced more than the east side and it was decided not to do that at all with referencing. Budget will remain at \$3.8 million. They could submit a project that meets that \$3.8 million dollars and say for \$100,000 more we can give you some more brick and we can consider that after we receive them.

Design review and scoring, the old committee had 5 members and we decided to go with 7 members and 2 of which will be members of Council and try to include a local developer as an additional member. The other members are himself, Jonathon, Chip, Leslie and John. Pat stated they had a couple developers that showed us a beautiful rendering in the deck and we all loved it and they said well that's not what you are getting so we want them to show us what we can get for \$3.8 million. Scoring will be the same – 50% technical, 50% cost. The cost score will be based on cost per parking space and that parking space will be within the deck. The design review committee will not determine any ties.

Mr. Coyne questioned the timeline on this if we get this out this week because we are running out of time. Patrick stated they gave them 4 weeks to respond. Mr. Coyne states by July 1st we should have a decision. Mr. Starcher questioned if we are still saying entrance off Elmwood? Mr.

Coyne stated we will let them give us what they think is functional.

11. Executive Session: (land Acquisition)

It was moved by Mr. Shields and seconded by Mr. Simpson to enter into Executive Session at 7:15 p.m. to consider the purchase of property for public purposes or the sale of property at competitive bidding because premature disclosure would give an unfair competitive or bargaining advantage to a person who's personal, private interest is adverse to the general public interest to include the Mayor, Law Director and Jansen Wehrley. The roll was called and motion passes by the yea votes of B. Lamb, P. Rose, J. Shields, D. Simpson, B. Starcher, J. Coyne and E. Heffinger.

Executive session adjourned at 7:32 and Finance Committee immediately reconvened. There being no further business the Finance Committee meeting adjourned at 7:32p.m.

John M. Coyne, Chairman