

**COUNCIL MINUTES
MAY 19, 1997**

The regular City Council Meeting was held on Monday, May 5, 1997 at 7 PM in the Euclid City Hall Council Chamber. President Cervenik presided.

Mayor Oyaski delivered the Oath of Office to Kirsten Holzheimer Gail, the new Ward One Council Person.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.
Excused: Korosec

Councilwoman McGarry moved to excuse Councilman Korosec. Councilwoman Miller seconded. Yeas: Unanimous.

Others Present: Mayor Oyaski, Law Director LeBarron, Service Director DiNero, CS&ED Director Koran, Administrative Director Johnson, Finance Director Balazs, Building Commissioner Apanasewicz, Zoning Commissioner Hayes, Housing Manager Tollerup, Chief Baumgart, Asst. Fire Chief O'Connell, Asst. Service Director Gulich, Sgt.-at-Arms Stankus, Clerk of Council Cahill.

COUNCIL MINUTES

Councilwoman Miller moved to receive and approve the Council Minutes of May 5, 1997. Councilman Vadnal seconded. Yeas: Unanimous.

Communications

Council has received the following communications:

- A memo from Mayor Oyaski regarding a Neighborhood Associations meeting on May 29, 1997.
- A Notice from the Ohio Department of Liquor Control continuing the appeal date of Colson Pyramid Lounge & Restaurant.
- From Director LeBarron, a summary of legislation on tonight's agenda.

Administration Reports & Communications

Asst. Chief O'Connell - The Fire Department will begin its annual hydrant flushing program tomorrow. The program will run for approximately 6 weeks, until all the hydrants have been flushed. Some people may experience discoloration of water. If they do they should run the water until it clears up. As in the past, the area that will be flushed will be posted the day before. If there are problems, questions, comments, just contact the Fire Dept.

Director DiNero - I would like to give Council a brief report on our waterline projects. We are in the process, we are going to hire Mike Benza to do our waterline projects. We are going to start over at the hospital and recirculate the one line that goes from 189 Street to 190. We are going to clean and reline East 200 Street and replace all the 4" hydrants with 6" hydrants. Also, Lake Shore Blvd., from East 222 to East 280 to the city line, we are going to replace all the 4" hydrants and increase them to 6". This will give all the high rises in that particular area more fire protection.

Our water lines will be the project for the balance of this year and some of the first part of 1998. The reason we are doing 200 Street first is if everything goes on schedule, chances are East 200 will be resurfaced, new curbs and sidewalks and aprons. The State somewhere in the first part of January or February, that job will go out for bids if everything goes right and the financing is available.

About two weeks ago, I made a trip with our city engineer to Columbus to see if we could get some emergency money to repair the wall at 225 and Edgecliff. The Mayor received a letter today, Wednesday of last week I got a call from the State at Issue 2 asking me if I was interested in taking a 50/50 grant. I said the City would be happy to take any grants that we could get. We had to send them some information about the cost of the job. Our Engineer estimated the cost for engineering and construction of approximately \$429,000. With a 50/50 grant, we will be received \$214,500 as a grant from the State. It sure helps us out on this. Hopefully the engineer will have plans and specs ready by the first week in June so we can go out for bid and hope we get a better price and our share will be a lot less. It was well worth our trip to Columbus and we appreciate Issue 2.

Mayor Oyaski presented Res. 116-1997 to Joseph Sterk for receiving the Presidential Scholar Medallion.

Reports & Committee Minutes

Councilwoman Miller moved to receive and approve the Fire Report of April, 1997; Humane Officer's Report of April, 1997; Executive Committee Minutes of April 29, 1997; Safety Committee Minutes of May 7, 1997; Finance Committee Minutes of May 12, 1997; Board of Control Minutes of 4-28-97 & 5-5-97. Councilman Farrell seconded. Yeas: Unanimous.

Committee of the Whole

Councilman Dallos moved to go into the Committee of the Whole for Legislative Matters Only. Councilman Farrell seconded. Yeas: Unanimous.

Mrs. Helen McCarthy - 22350 Lakemont. I'm going to read 2/3 of this because it is very similar to previous statements CPRC, Citizens Pet Responsibility Committee, has made to Council. Raising yet again the question of barking dogs in Ord. (375-97) certainly requires some discussion. The proposed rewording is so broad as to leave dog owners at the mercy of any neighbor who at any time in the day or night, or even the briefest incident of a dog barking, may call the Animal Control Officer. At the very least we would like to see the interval between 11:00 pm and 7:00 am, and a distance of 100 feet specified as limitations on a barking dog.

Ord. (376-97) seems reasonable raising penalties for a number of animal control policies. CPRC accepts these stronger penalties at this time.

Far from rephrasing Ord. 505.06(b) with Ord. (327-97) so that chicks and ducks are exempted from current laws against fowl within Euclid City limits. CPRC would like to see the law left as is and chicks and ducks not allowed in the Euclid School system. Children of today can benefit from videos to show them many aspects of farm animal production and there are many worthwhile facilities like Lake County Farmpark where children can see many interesting facets of animal life.

Federal and state animal regulations are very strict on the care and confinement of all animals. It would seem prudent for Euclid to avoid any problems in the future by simply not allowing live animals in Euclid schools, period. Further this idea that farms will be found where a certain number of chicks that have survived three weeks may be taken needs further defining. CPRC asks City Council to vote against this ordinance. We ask the Dog Warden to initiate legislation specifically to prohibit chicks and ducks from Euclid Schools and to enforce the prohibition. Such a stand requires moral courage with the elimination of potential misery to these animals who certainly provide justification.

Dog and cock fighting and other forms of animal combat usually for profit to the animal's owner are so uncivilized and depraved that it is hard to understand why specific reference to them should be eliminated. While it is true that ordinances 959.15 and 959.16 in the Ohio Revised Code prohibit dog and cock fighting, CPRC requests specific ordinance numbers to verify the penalties for these activities that justifies removal of the combat wording from the Euclid Code.

Finally, when will the seemingly endless review of the Euclid Animal Code be over except for necessary legislation that updates. The Animal Control Department appears to generate far more legislation year after year than any other Euclid City Department. The Euclid Animal Control laws have been revised, devised, up-vised, down-vised, over-vised, under-vised, con-vised and pro-vised. The only thing that left for Euclid Animal Ordinances is for them to be levi-ised. From time-to-time the working staff at the Pound has complained about being overworked. Cannot some of the energy put into endless rehashing of the Animal Control ordinances be put to better use doing some of the physical work at the pound? Thank you.

Mrs. Dorothy Fike - 20271 Delaware Road. #10, what is the cost of the insurance? #13, what is the process from here on? Where will it go? Into the Law Department? I assume it will come back to Council sometime. Reading it is quite confusing. Tonight's one of the nights I wish we had Solon's tv things where they could put the map up and show us on the screen. If somehow you could explain what these transfers are and what the city is giving away and what they are leasing back, it is very confusing. I wish it would be explained.

President Cervenik - It will be explained. A number of Council people told me that they were wondering exactly which pieces were there and our Building Commissioner will have all of that for us when we discuss it.

Councilman Flowers moved to rise and report. Councilwoman Holzheimer Gail seconded. Yeas: Unanimous.

LEGISLATION

Ord. 117-1997 (375-97) Barking Dogs

An ordinance amending Section 505.11(a)(1) of the General Offenses Code of the Codified Ordinances of the City of Euclid by removing the fifteen minute duration requirement as it relates to barking dogs. (Sponsored by Councilwoman Miller by request of the Police Chief) (Recommended for passage by the Safety Committee)

Councilwoman Miller moved for passage, Councilman Vadnal seconded.

Chief Baumgart - I don't believe Helen was present at the meeting when we discussed this. This does not mean that as soon as a dog barks we will be there to arrest the owner. This gives the officer some discretion on the road. An officer has to witness the violation to make the arrest. It is difficult for an officer to sit for 15 minutes and hope the dog barks the entire time, that doesn't always happen. If an officer can come to the scene and realize that the dog is a disturbance to the neighborhood, he can then warn the owner of that dog and certainly have some power behind him in the form of these ordinances to take action if need be. This is not to go out and have the neighbors calling up and saying the dog is barking next door I want him arrested, that won't happen. In order for someone to do that, they have to bring evidence toward the Court in order to prosecute. If some neighbor would like to get a warrant for that to happen, the Prosecutor reviews these before he would issue a warrant.

Councilman Flowers - This was discussed at the Safety Committee meeting because I'm not too crazy about passing legislation, sometimes I think we over legislate. The Dog Warden brought up some unique situations where the scenario was the resident should have been cited. That's why we are really putting this in force. Your Police Department will use discretion when it comes to these items. It is important that the public know we hashed that out. Thank you.

Councilman Vadnal moved to close debate, Councilwoman McGarry seconded. Yeas: Unanimous.

Councilman Flowers moved to suspend the rules, Councilman Dallos seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 118-1997 (376-97) Increase Penalties

An ordinance amending Section 505.08(c) of the General Offenses Code of the codified Ordinances of the City of Euclid to increase the penalty for violation to a first degree misdemeanor, and Section 505.09(c), 505.12(b) and 505.19(e) to increase the penalties for violation to a second degree misdemeanor, as they relate to animal control enforcement. (Sponsored by Councilwoman Miller by request of the Police Chief) (Recommended for passage by the Safety Committee)

Councilwoman Miller moved for passage, Councilwoman Holzheimer Gail seconded.

Chief Baumgart - As you heard at the Committee Meeting, the CPRC is for this measure. It just means that we are upping the penalties in this particular case. The ordinances stay the same, they do not change.

Councilman Dallos moved to close debate, Councilwoman McGarry seconded. Yeas: Unanimous.

Councilwoman Miller moved to suspend the rules, Councilman Vadnal seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 119-1997 (377a-97) Chicks/Ducks Schools

An ordinance amending 505.06(b) of the General Offenses Code of the Codified Ordinances of the City of Euclid by the addition of subsections (1) and (2) to allow schools, for educational purposes, to raise chicks and/or ducks. (Sponsored by Councilwoman Miller by request of the Police Chief) (Recommended for passage by the Safety Committee)

Councilwoman Holzheimer Gail moved for passage, Councilman Farrell seconded.

Councilwoman Miller - I believe on this piece of legislation, we were going to put a time limit on it?

Chief Baumgart - The time limit recommended is two weeks after hatching of the ducks and chicks.

Councilwoman Miller moved to amend. Councilwoman McGarry seconded.

Director LeBarron - To keep the record clear, you would be amending subsection B (2), so that the language would read, "when finished or no later than two weeks after the chicks and/or ducks have hatched, the Schools must give the fowl to a farm authorized to handle such animals."

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Amended.

Councilwoman Miller - I also talked to some of the teachers that are involved with this and they stated that they are within the time line of the two weeks and they do always find farms for the chicks and/or ducks.

Councilwoman Miller moved to close debate, Councilman Flowers seconded. Yeas: Unanimous.

Councilman Farrell moved to suspend the rules, Councilman Dallos seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 120-1997 (395a-97) Animal Combat

An ordinance amending Section 505.20(j) of the General Offenses Code of the codified Ordinances of the City of Euclid to increase the penalty for violation to a first degree misdemeanor. (Sponsored by Councilwoman Miller by request of the Police Chief) (Recommended for passage by the Safety Committee)

Councilwoman Holzheimer Gail moved for passage, Councilman Dallos seconded.

Director LeBarron - On your desk I have asked the Council Clerk to pass out to you (395b-97), which you may recognize as being the original piece that was introduced. There was an error in some of the statements made at the Safety Committee Meeting. It is my opinion that this Council should amend it to the (395b-97) version that's on your desk. You are removing from our local ordinance the references to dog fighting, cock fighting or other combat between animals or between animals and humans.

Councilwoman Miller - Is there any way we can follow the suggestion of CPRC and add the State's ordinance to this?

Director LeBarron - You cannot do that because the State has turned this into a felony offense. Our Home Rule powers do not allow us to have the same offense at a misdemeanor classification. It is a felony because the State has said it is a felony. Our Home Rule powers do not allow us to have it as a misdemeanor. If someone would be charged as a misdemeanor, all their attorney would have to argue is that they have been improperly charged because it is a felony under State law and the conviction would be thrown out.

Council President Cervenik - That pretty much takes care of (395a-97).

Director LeBarron - Correct. You need an motion to amend to the "B" version.

Councilwoman Miller moved to amend Ord. (395a-97) to the (395b-97) version. Councilman Farrell seconded.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Amended.

Councilman Dallos moved to close debate, Councilman Flowers seconded. Yeas: Unanimous.

Councilwoman McGarry moved to suspend the rules, Councilwoman Miller seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 121-1997 (423-97) Council Committees

An emergency ordinance amending Ordinance 247-1995 by the reassignment of certain Council Committees. (Sponsored by Councilman Cervenik)

Councilman Cervenik moved for passage, Councilwoman McGarry seconded.

President Cervenik - We reassigned a number of people to committees to take the place of our departed Joseph Farrell. The only real change from anyone here is we moved Kevin Farrell to the Finance Committee as the next member of seniority. That pretty much put Kirsten Gail at all the positions where Joe Farrell was at.

Councilman Vadnal moved to close debate, Councilwoman McGarry seconded. Yeas: Unanimous.

Councilman Farrell moved to suspend the rules, Councilman Dallos seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 122-1997 (424-97) Bids Vehicle Fire Dept.

An ordinance authorizing the Director of Public Service of the City of Euclid to enter into a contract after advertising for bids for the purchase of one (1) utility-type vehicle for the Fire Department. (Sponsored by Councilwoman Miller by request of the Service Director)

Councilman Farrell moved for passage, Councilwoman Holzheimer Gail seconded.

Asst. Fire Chief O'Connell - The Fire Department is requesting to purchase a new Blazer for use by the Fire Prevention Bureau. Historically we bought cars, the Chief got the car and all the cars were subsequently passed down. The Fire Prevention represents the Fire Department on a daily basis and they are always getting a car that is 6-8 years old. They are out in the public eye a lot so we decided to break this trend and instead by a new vehicle for them. This vehicle will make it a lot easier for them to carry their equipment that they use in fire investigations. We feel it will represent the city a lot better than the cars they are driving now.

Councilman Flowers - You said that you are replacing this versus another vehicle you would purchase any how. Are you going to say you need the same vehicle next year now in the capital improvement budget? You said that you were replacing this utility-type vehicle versus another car that you were looking to purchase this year. Are you going to come back to us next year and say we didn't get the car last year and we need to replace it?

Asst. Fire Chief O'Connell - Not necessarily. We are replacing a vehicle, the Chief's car is a 1994, mine is a 1991. This is a new car for Fire Prevention. The Training Officer is driving a 1985 car. How well that car holds up, whether we have to replace another car next year, I don't know.

Councilman Flowers - I just don't want it to be, oh well, we pushed back not buying this car this year, let's buy this utility vehicle and then next year we didn't buy the car we asked for last year, now we need it, that's my concern.

Asst. Fire Chief O'Connell - We didn't necessarily ask for a car to replace the Chief's car. We asked to replace a vehicle because we have a 1985 and a 1987. We were looking to replace one of those cars.

Councilman Flowers - I just don't want us to be spending money just because we have it. I want to make sure we are not doing that.

Asst. Fire Chief O'Connell - We would not be doing that, no.

Police Chief Baumgart - The Fire Department does what the Police Department does on a smaller scale, they rotate the vehicles. Here's a vehicle that they want to show in the public and it is a very old vehicle. Instead of replacing the Chief's car, he is going to hold onto it for another year or two depending on how their particular fleet goes. Mr. Akos helps us decide how long the cars can stay in service or not. If one of their cars becomes so bad it can't stay in service, yes, they may be coming back next year asking for another car to replace the Chief's car and pushing the cars down again. It is just a natural progression. The Fire usually goes in two year spurts or so, 2-3 depending on how the fleet is going. This is just replacing the bottom car instead of the top car.

Councilman Flowers moved to close debate, Councilman Dallos seconded. Yeas: Unanimous.

Councilwoman McGarry moved to suspend the rules, Councilwoman Miller seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 123-1997 (425-97) Bids Willow Pool

An ordinance authorizing the Director of Parks & Recreation of the City of Euclid to enter into a contract after advertising for bids for the reconstruction and repair of Willow Pool, located in Willow Park in Euclid, for an amount not to exceed One Hundred Fifty Thousand Dollars and 00/1000 (\$150,000.00). (Sponsored by Councilwoman McGarry by request of the Parks & Recreation Director)

Councilwoman McGarry moved for passage, Councilwoman Miller seconded.

Director DeMinico - The City of Euclid has the luxury of having 6 outdoor swimming pools. Everyone is very familiar with Memorial Pool, which is a deep water pool. Valley Pool is also a deep water pool, it is 9 feet deep, that was given to us by the apartment complex of Willo Arms, I'm not sure how many years ago but it was quite some time ago, we maintain that. There was 4 neighborhood pools, Glenbrook, Indian Hills, Roosevelt and Willow. They were built over 40 years ago. Three of the four have had pool bottoms replaced. It has come the time to have Willow's pool bottom to be replaced. Through the improvements we are also going to be required to upgrade the influent and effluent lines which is the filtration system of sand and gravel, pumps and motors as well. In keeping with the times in some of the other communities, with some of the newer things and stuff that goes on in the pools, we are going to be having a Willow pool a zero depth entry which is a ramp, there won't be a step down which is in all of the other pools. We should have the funds available to add a water feature of some type. This money was budgeted in the 1997 Capital Improvement account and this ordinance will allow us to go out for bids and enter into a contract.

Councilman Dallos - What about the time frame? What is the time frame as far as, will the pool be closed this summer?

Director DeMinico - The pool will be open. We are doing the renovations and improvements right now to keep it open for the 1997 swimming season. At the completion of the season, late August early September, this construction will begin.

Councilman Dallos moved to close debate, Councilman Farrell seconded. Yeas: Unanimous.

Councilwoman McGarry moved to suspend the rules, Councilwoman Holzheimer Gail seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 124-1997 (426-97) Bids Paint Ice Arena

An ordinance authorizing the Director of Parks & Recreation of the City of Euclid to enter into a contract after advertising for bids to paint the exterior of the C.E. Orr Ice Arena, located in memorial Park, for an amount not to exceed Fifteen Thousand Dollars and 00/100 (\$15,000.00). (Sponsored by Councilwoman McGarry by request of the Parks & Recreation Director)

Councilwoman McGarry moved for passage, Councilwoman Miller seconded.

Director DeMinico - This is another item that was set aside in the 1997 recreation capital budget. The arena was last painted approximately 10 years ago. We have several areas that are deteriorating in the rear and the side of the building. They need to be scraped and repainted. This is a precautionary measure. We are initially going out for informal bids, we have not received any. It is a pretty busy time right now. We have called several contractors. We wanted to get this passed in case our informal bidding process, it is above \$10,000 and it allows us to go out and competitively bid this item.

Councilman Vadnal moved to close debate, Councilwoman McGarry seconded. Yeas: Unanimous.

Councilman Flowers moved to suspend the rules, Councilman Dallos seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.
Passed.

Ord. 125-1997 (427-97) Sidewalk Program

A resolution pursuant to Chapter 903 of the Codified Ordinances of the City of Euclid, declaring that certain specified sidewalks and aprons be constructed or repaired in the manner provided by said Chapter 903. (Sponsored by Councilman Dallos by request of the Service Director)

Councilman Dallos moved for passage, Councilwoman Holzheimer Gail seconded.

Director DiNero - When we started our sidewalk program, we cited just 193 Street. When we sent a letter to Indian Hills, the response from the owner was that he would like to do all the sidewalks including East 191 Street. That's why we are here with this ordinance to include East 191 Street too. On the Indian Hills property right-of-way, the owner of the property would like to have all his sidewalks replaced and aprons. He doesn't want any patching, he wants completely new through both streets of 191 and 193. He did sign a letter that I have here for him agreeing to be assessed for all the sidewalks.

President Cervenik - So in effect he not only pays the assessment but he is charged a fair rate of interest for three years is it?

Director DiNero - Three years, yes.

Councilman Dallos - This will make a big improvement in that area. We have already completed 196 and 195. Now we will 193 and 191 all having new sidewalks, this will be a great improvement in that area.

Councilman Flowers - Mr. DiNero, do we have any idea how much this is going to be, dollar amount?

Director DiNero - This will be approximately, our estimate is around \$70,000.

Councilman Flowers - Mr. Balazs, we go out for notes on this right?

Director Balazs - It is part of the city sidewalk assessment program and we are going to try to use the available money in the sidewalk program to fund the project. Once we assess the homeowner here being Mr. Villanueva's complex, on a three year basis, that will get money back into the sidewalk rotary program.

Councilman Flowers - How does that affect the rest of our programs?

Director Balazs - Usually when you have a job like this, sometimes the assessment years go on for longer than three years. We are indicating now to keep it at three years so that money will come back in and restore the money in the sidewalk program.

Councilman Flowers - Traditionally it is not three years is it?

Director Balazs - Yes it is because their amounts are a lot smaller than \$70,000. The average homeowner may go \$300-\$500 per year on sidewalk assessment.

Councilman Flowers moved to close debate, Councilwoman Miller seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.
Passed.

Ord. 126-1997 (428-97) Bids Building, Contents & Boiler Insurance

An ordinance authorizing the Director of Administration of the City of Euclid to enter into a contract(s) after advertising for bids for the purchase of Building, Contents and Boiler Insurance for up to a three year period commencing July 30, 1997. (Sponsored by Councilman Cervenik by request of the Administrative Director)

Councilman Farrell moved for passage, Councilwoman Miller seconded.

Director Johnson - This is a rather routine piece of legislation which we present to this Council every three years. It authorizes us to go out for bids for insurance coverage for all of our buildings and the contents of those buildings, as well as boilers and small pieces are machinery. In answer to Mrs. Fike's question for boiler and machinery coverage we pay about \$4,900 a year for the last 3 years. We pay about \$57,000 for building and contents insurance per year for the last 3 years.

Councilman Flowers - In some areas we are self-insured. Have we every considered self-insurance on this route?

Director Johnson - Under advice from our Risk Management services that to try to self-cover buildings and contents could be bankrupt.

Director LeBarron - Self-insuring the building and the contents is not a good risk for the city to undertake. We are self-insured for liability purposes, which it is cyclical so there is a way to budget for it. That's why we have a self-insurance liability fund that has been set up and funded by Council. To do so for buildings and boilers and the equipment that's involved, it would be a very large risk for the city to undertake.

Councilman Flowers - You've looked into it and the consultants said no.

Director LeBarron - Yes.

Councilman Flowers moved to close debate, Councilman Dallos seconded. Yeas: Unanimous.

Councilman Vadnal moved to suspend the rules, Councilwoman McGarry seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 127-1997 (430-97) Proposals Storm/Sanity Naumann Ave.

An emergency ordinance authorizing the Director of Public Service of the City of Euclid to enter into a contract after seeking informal proposals for the repair and replacement of storm and/or sanitary sewers on Naumann Ave. (Sponsored by Councilman Dallos by request of the Service Director)

Councilwoman Holzheimer Gail moved for passage, Councilman Dallos seconded.

Director DiNero - About two weeks ago we were doing our normal maintenance cleaning sewers and we started on 195 to clean Naumann and the very first section the jet hose got stuck in the sanitary sewer. We hired United Survey to come in and camera it. When we camera it, we found that there were sections of the sanitary sewer that are completely missing. We tv'd the storm sewer and that is oval and egg-shaped. We need to replace approximately 450 feet of sewer, storm and sanitary. This project, what we are going to do if you approve this ordinance tonight is to put that sewer back so it won't have to be replaced. In 5-10 years from now we decide to do the rest of it, this particular 450 feet won't have to come out. Estimate for this job with engineering and construction is approximately \$130,000.

Councilman Flowers - Is that amount we expected to be put into the appropriation figures?

Director DiNero - This was not in the budget. This came up from an emergency.

Councilman Flowers - If we don't have this in the budget, will we be able to find it in the budget? How are we going to pay for this?

Director Balazs - As the Service Director indicated, it is an emergency repair. It was not found in the budget, it wasn't approved in the 1997 budget. Other than the fact that we were fortunate enough to anticipate emergencies we had a contingency account that we set up within the 1997 capital budget and that's for \$150,000. At this time I have no other recourse than to use that account. To see the spending pattern of the capital budget in 1997 through the end of the year, we might have a savings in there. At this time, we are going to have to use the emergency fund.

Councilman Farrell - Why does the ordinance say informal proposals?

Director DiNero - To go out for normal bids, we have to advertise for three weeks and by the time we got contracts it would be two months or better to get into contracts. Since this is an emergency, I would like to go out for informal bids. We have the plans and specs and I've called 5 different contractors and we will open the bids at our next Board of Control Meeting on Tuesday, May 27.

President Cervenik - This is Naumann between 185 Street and 200 Street. I've had a number of calls this weekend saying that we just replaced the streets on Naumann. That was Naumann between 222 and 200 Street. This is on the other side.

Councilman Flowers - You are basically going through the same process you usually do when you go through a bidding process outside of the advertising in the newspaper? You are going to get the same amount of bids.

Director DiNero - That's right. Usually when we go out for bids through the advertising maybe we get 8-9 people.

Councilman Flowers - You are going to be contacting the people who usually bid?

Director DiNero - Right. Usually we get 5-6 bidders to turn in a bid. I wanted to do this, it is basically informal, but we are going to go through the same process on normal bids.

President Cervenik - Just speeding it up a bit by eliminating the newspaper advertisement.

Councilman Farrell moved to close debate, Councilman Dallos seconded. Yeas: Unanimous.

Councilwoman Holzheimer Gail moved to suspend the rules, Councilman Flowers seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Ord. 128-1997 (431-97) Bids Roof Parks Maintenance Garage

An ordinance authorizing the Director of Parks & Recreation of the City of Euclid to enter into a contract after advertising for bids to repair the roof at the Parks & Recreation maintenance Garage, for an amount not to exceed Fifteen Thousand Dollars and 00/100 (\$15,000.00). (sponsored by Councilwoman McGarry by request of the Parks & Recreation Director)

Councilwoman McGarry moved for passage, Councilman Vadnal seconded.

Director DeMinico -The Parks & Recreation Maintenance Garage is located next to the Animal Dog Pound. It had a second addition put on 30 years ago. The original building roof is proposed to be replaced right now. We have patched it several times. It is above and beyond the ability of our Parks & Recreation Maintenance and above and beyond what Public Buildings would be able to complete. At all costs we try to use our Public Buildings employees for matters that we can handle in-house, unfortunately this one is a little bigger than what we are able to handle.

Councilman Farrell moved to close debate, Councilwoman McGarry seconded. Yeas: Unanimous.

Councilman Flowers moved to suspend the rules, Councilwoman Miller seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

Res. 129-1997 (433-97) Agreement Irish American Club/Tanning Salon

A resolution approving a Preliminary Agreement in Principle between the City of Euclid, the East Side Irish American Club, Inc., and the South Shore Tanning Salon, Inc., to make improvements to the parking lot shared by East Side Irish American Club, Inc. and South Shore Tanning Salon, Inc. and located behind the two businesses on Lake Shore Blvd. (Sponsored by Mayor Oyaski)

Councilman Flowers moved for passage, Councilman Farrell seconded.

Mayor Oyaski - This Resolution represents a breakthrough after a long period of disagreement between the Tanning Salon and the Irish American Club down on Lake Shore Blvd. If you can allow me to digress. If you recall 15 years ago Moss Point next to Wendy's used to have 11 different properties and they did not always cooperate with each other. They had spite fences up and the one tenant would not allow another tenant to park on the property. It was counterproductive to business. The City eventually went in 1981-19982 and put the roadway and parking in using block grant funds to benefit the entire area. As time went on, Fotomat was turn down on East 228 street. That was purchased by a tenant, the tanning salon, behind and next to the Irish American Club. They have had a series of disagreements that have repeatedly involved the Police Department. It has not been a productive, harmonious, efficient situation. Although the Council has authorized funding for both the block grant and the permanent improvement program to make comprehensive improvements to the city-owned lot, I asked the Building Commissioner who just joined us last year to attempt to expedite a resolution. I said that I would ask the Council's blessing when and if the Tanning Salon and the Irish American Club agreed to work together cooperatively. This Resolution indicates that they have come to a meeting of the minds. I want to commend Mr. Apanasewicz for reaching this point. He can tell you how he did it and answer any detailed questions.

Commissioner Apanasewicz - This is an agreement to resolve a parking dispute between the Irish American Club and South Shore Tanning Salon. For the city's participation in this, the parties did have to come to an agreement and it had to be a public benefit to have any city participation. The problem with parking, I have here a chart that shows the parking as it exists today. The pink areas are the Tanning Salon and the green areas are the Irish American Club property. The properties are not well defined. The signage is inadequate in areas. Anybody unfamiliar with the area, parking in the spaces could inadvertently park in the wrong area. What this agreement intends to do is more easily define the areas with landscaping and signage and also get some sort of public benefit so that the sharing of parking throughout.

The agreement states that there will be a trade in land. This portion of land which used to be the Irish American Club driveway, we traded for approximate same amount of land with the Tanning Salon. Green indicates Irish American Club and pink area indicates Tanning Salon. There is an uneven amount of land being traded and part of the city's participation will be an approximate 1200 sq. ft. of land that is currently our driveway to the rear theater, would be included in the trade to make up the difference in the amount of land that's being traded. The Tanning Salon would get 2300 sq. ft. and the Irish American Club would also get 2300 sq. ft., 1200 sq. ft. is being thrown in by the city.

One of the conditions of our participation is that there is a public benefit to it. This map shows how the parking will break down after the agreement is instituted. The Tanning Salon would have exclusive parking in the pink area. The Irish American Club would have the green areas. The public parking area of 12-14 spaces would be the yellow. That could be used by either party, the theater or any one else who wants to park in that area.

Councilman Farrell - With the 1200 sq. ft. that we are including in the deal, is that a lease for no dollars?

Commissioner Apanasewicz - 1200 sq. ft., we are actually conveying the land. There is no fee or trade of money. That land is currently not taxed so it is going back onto the tax rolls. As far as other costs, we are talking about \$10,600 which is already budgeted through block grant money to the capital improvement budget that goes for surveying properties, preparation of plat, title work and landscaping and signage. That work will be accomplished when the paving is done, the lot behind the theater. The improvements are coordinated with that, which I understand the bids for that will go out next month.

Councilman Farrell - That additional space won't have any problem with ingress or egress?

Commissioner Apanasewicz - No it was approximately 50 feet away and the right-of-way of 15 feet, most of the curb section will allow parking for a larger number.

Director LeBarron - This is an agreement of intent. When the actual time comes to do the land swapping that's been described to you, that particular parcel of property that belongs to the city will have to be approved by Council. What's in front of you is the Resolution of the intent to agree to this proposal that the Building Commissioner has given you.

Councilman Farrell - So the potential to lease it as opposed to giving it away is still open?

Director LeBarron - Anything you want to talk about in terms of that, yes. To do that with city property needs councilmatic action which would come eventually.

President Cervenik - Both parties have agreed in principle to this?

Director LeBarron - Yes.

Councilwoman Miller - Down here, is that the driveway that leads into the public parking from 228 Street?

Commissioner Apanasewicz - Yes.

Councilwoman Miller - There will not be any problem here of being able to use that for public?

Commissioner Apanasewicz - No. It has been measured off. We have 50 feet sections. We will convey 15 feet, leaving a balance of 35 feet, which is plenty for two lanes.

Councilwoman Miller - I know the history here. I just want to make sure that the public is allowed to use that portion to drive into the public parking area.

Councilman Flowers - Is this is an agreement of intent, I'm surprised we are not voting on it now. Is it so that you can go back to them and say Council in general is willing to go by this?

Commissioner Apanasewicz - The city is going to have to spend some money to do the title work. If Council is not willing to go along with this agreement, then we don't want to expend those funds. We will be writing leases, some easement agreements, there is going to be a plat that has to be prepared, surveying. We do have to go to Planning and Zoning. There is a lot to be done and this is the first step to accomplish that.

Councilman Dallos - The very last page of the agreement, the signature of the Irish American Club was not initialled by the other party. Is there a reason?

Commissioner Apanasewicz - The copy that Council has received is not a copy of the original. The Tanning Salon did sign off on Wednesday on all points.

Councilman K. Farrell moved to close debate, Councilwoman McGarry seconded. Yeas: Unanimous.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

CEREMONIAL RESOLUTION

Res. 116-1997 (429-97) Joseph Sterk

A resolution congratulating Euclid resident, Joseph Sterk for receiving the Presidential Scholar Medallion. (Sponsored by Mayor Oyaski and the entire Council)

Councilman Dallos moved for passage, Councilwoman Holzheimer Gail seconded.

Roll Call: Yeas: Dallos, K. Farrell, Flowers, Holzheimer Gail, McGarry, Miller, Vadnal, Cervenik.

Passed.

COMMITTEE OF THE WHOLE

Councilman Dallos moved to go into the Committee of the Whole. Councilman Flowers seconded. Yeas: Unanimous.

Mayor Oyaski - I just wanted to state for the record, the Parade is next Monday. It was reported in the local newspaper that the parade is on Sunday. The Parade is next Monday at 10:00 on East 222 Street. I urge the Council and anyone marching to meet in front of the Tanning Salon at 9:45 next Monday morning.

Mrs. Fike - 20271 Delaware Road. I'm still a little confused about this agreement with the Irish American Club and the Tanning Salon. The part that you are talking about giving to the Irish American Club, is that next to the theater, the back entrance?

Commissioner Apanasewicz - It will be to the east of the theater. I don't know if you remember where the Fotomat was, that property.

Mayor Oyaski - The crux of the matter, Dorothy, is that the Tanning Salon owned property directly behind the Irish American Club. The Irish American Club owned property directly behind the Tanning Salon. This trades those parcels so that the IA owns property contiguous and behind itself and the Tanning Salon will have control over property behind itself and they will not have these intersecting conflicts of private property behind their own property. There's a map here that I suggest you take a look at.

Mrs. Fike - I understand that Mayor because I was at the meeting where they gave permission for it to be fenced off. Since then I see the fencing, I understand. I'm still questioning, right behind the theater where you park is where the handicap parking is for the theater, that is not going to be involved at all?

Mayor Oyaski - From what you are saying, no, I don't believe so.

Mr. Robert Butler - 26151 Lake Shore Blvd. If things go as planned, Al Hasit Temple will participate in the parade Monday and that should be a real treat for Euclid.

Mr. Harvey Mlachak - 23831 Lake Shore Blvd. - First let me compliment Councilwoman McGarry for the Ward 2 meeting that they had at St. Robert's Church. I thought that was a good meeting. I thought it could be very productive.

I am again appearing before you people in a state of confusion. I think that when laws, rules, regulations are passed and recommended, I believe we must obey them without exception. I also believe that these laws must be enforced without being arbitrary or selective in their enforcement. If you don't like or agree with a law, you don't defy it, you work to change it. At the December 2, 1996 Council Meeting, I quote Mayor Oyaski, "based on what the Fire Chief advised me today, as a Safety Director, I will no longer permit the use of the Henn House. Based on the conversation I had with the Fire Chief this afternoon, I do not believe it is prudent at this time forward to allow any further use of the Henn House." I believe that was prompted by building code violations and the house is unsafe. Why then was the Euclid Police Department along with police departments of several other communities permitted to use the Henn House on May 8? Why were women and several children allowed to be in the Henn House at that time? They also had a picnic and/or cook-out as I observed the gas fire grill outside of the doors. Inside there were a couple of tables set up with hot dog buns, condiments and so forth. They were also permitted to be in the park after dark. As I last observed them in the park it was 9:35 pm.

Do not the rules and regulations of this City apply to them? Or are they arbitrarily and selectively enforced? Last week after the meeting or whatever it was at the Henn House by the Police Department, last week my grandson and I were fishing at Sims Park. As it began to get dark I said to my grandson, Pat we have to get the hell out of here because the park closes at dark. By the time we got to the parking lot, it was just dark. It takes this old man a little while to get his stuff together and climb down off the rocks. We were met at the park by an employee who informed us in no uncertain terms that the park closes at dark. I asked him for who? Why was the Henn House occupied and also the park after dark? After an exchange of a few words with both of us being gentlemen, we settled down and the conversation got pretty friendly. He told me that if I was unhappy with the situation and the enforcement of the laws to take it up with the Mayor and the Council. I just did.

Is this selective and arbitrary enforcement of the laws? I think so. After I aggravated a few people, as an aside, while my grandson and I were fishing, we were fishing with the one-armed fisherman. Do you know he caught a fish that long.

Chief Baumgart - I don't remember the Mayor's exact words but he talked about a group gathering for meeting purposes. This was a training exercise. We hold these training exercises bi-annually. One of the best uses of that home has been for us to practice entry techniques, house searches and to train other departments as well in our practice. There were many hours spent there into the evening, yes.

Mr. Mlachak - Chief, I quoted the Mayor's words from that December meeting. The house is closed, he shut it down. This is a violation of the law.

Chief Baumgart - That's not what was said.

President Cervenik - I'm not going to allow a debate. This is not a debate forum. You got an answer and you can discuss it further later.

Asst. Fire Chief O'Connell - The Fire Department does not want any public use of that building. As far as the police using it for training, that's all right with us. We have used abandoned properties for training ourselves in the past. This type of use, we have no problem.

Mr. Jack Fraier - 235 Greenbriar Court. This statement is slightly overdue but I do wish to commend Frank & Ellen Ivory of Kennison Avenue in Ward One. They were gracious enough to allow the City and the Shade Tree Commission to have our annual Arbor Day ceremonies on their treelawn. Mrs. Ivory in particular was a most gracious host. In fact she did such a fine job I would like to have her appointed as a ceremonial host for all future Arbor Day ceremonies. I would also like to acknowledge the third grade classes of Lincoln Elementary School. They participated in the tree planting ceremonies. Before the classes arrived, I asked many of the adults in the audience, who invented Arbor Day? None of the adults could answer. When I asked the children from Lincoln Elementary School, they knew the answer and I was most pleased. There is obviously a high quality of teaching and high quality of learning going on in that building. I regret we did not have television cameras there from one of the tv stations. The conduct of the students was excellent. To often our sleazy television journalist go into a shopping mall, corral a few teenagers, confront them with simple questions like what is the capital of South Dakota or what is the highest mountain in South America, they can't answer it. The television stations lead one to believe that there is no learning going on in school today.

A question has been asked, what were the trees planted on Kennison Ave. On the south side it is the Royal Burgundy Flowering Cherry. I have the latin name available for anyone who wishes it. This is an unusual cherry tree. Thanks to cloning, it will bear no fruit, do not buy jelly jars. On the north side of Kennison Ave. it is called the Autumn Flowering Cherry. The name is somewhat misleading. The tree will bloom in the spring and if weather conditions are right, and if the people living on Kennison Ave. will water those trees during dry spells in the summer, there is a possibility the tree will bloom again in the fall.

I wish to call attention to the fact that we've had now in the past 15 years at least 40 different kinds of trees planted in Euclid. This reflects the influence of Rachel Carson and her book, Silent Spring. Where she advised and admonished communities across the country to plant many different kinds of trees in their cities. Many cities planted nothing but elms, and we all know what happened to the elm trees. The dutch elm disease came and wiped them out. There have been other plagues hitting our trees. About 15 years ago a virus came and killed ash trees. This area was badly hit. Right at this moment, anthracnose is killing off many dogwoods. If you have a dogwood in your backyard and it is dying, that's anthracnose. The piece of resistance of diseases is on its way, or pests I should say. The gypsy moth is headed to Euclid from the east from Ashtabula and Lake county. It is coming up from the south through the Chagrin River Valley. The gypsy moth will devour almost any kind of tree but its favorite is oak. Euclid has many oaks, many over 100 years old. We should be aware that this problem will hit one of these days. How do you know when the gypsy moth has arrived? Around the fourth of July, if you step outside and you see green blobs on your sidewalk, driveway, windshield of your car, porch furniture, those are the larvae of the gypsy moth munching away on the leaves. I brought this to the attention of Mr. DeMinico and Mr. Springer about this problem and I think they are aware that we may be able to get some State aide for this problem of the gypsy moth.

I do wish to commend Mr. Mlachak for keeping such a sharp eye on the Henn House. We are not the only two in this city who favor some final resolution to that problem. I commend Mr. Mlachak for his sharp eye.

President Cervenik - Jack, you mentioned the third grade students. Do you happen to recall the names of the teachers?

Mr. Fraier - With the help of Mrs. Miller, she can give me the other two names.

Councilwoman Miller - Mrs. Filby and Mr. Kubay.

President Cervenik - As well as Fay Miller.

Mr. Joe Podnar - 165 East 225. The street that has a lot of water down at the end. I have a question as a small group of the Henn trustee people, that is a small group, why can't we use the Henn House for our meetings? I think it is a double standard. It isn't right.

Chief Baumgart - Once again the city is worried about the liability of having civilians in the building. When we work in the building, we work for the city. We are liable for our own actions and for the property itself.

President Cervenik - Council in the next few weeks will be taking action as requested by your group to consider a lease for your organization so you will be able to use that building as long as it is brought up to the proper building codes. I think most of us are cooperating. This is a little different situation than the general public coming down and using it. We do get a public benefit from them using it for training.

Mr. Podnar - It is a dangerous building for them too and they are my public servants.

President Cervenik - A lot of the buildings they go into to rescue somebody are dangerous and this could be some of the training that they get along with this. We'll take care of this in the next couple of weeks.

Councilman Flowers moved to rise and report. Councilman Dallos seconded. Yeas: Unanimous.

COUNCILMEN'S COMMENTS

Councilwoman Miller - In this Resident's guide to Euclid, I noticed the logo. I don't believe we voted on that. We had a selection of 4 and we never really voted on it. We were shown the display.

Mayor Oyaski - We welcome your input. If Council would like to vote on a logo I can assure you we will use your chosen logo. We did as we indicated to Councilman Farrell's committee want to move forward on these promotional items and seeing as the Council had not made any decision on the logo we made the best decision we could regarding the cover and the contents. It is a matter of taste and we wanted to make a decision and move forward.

Councilwoman Miller - We weren't asked to vote that night. Had we'd been asked we could have voiced our opinion. My next concern is he mentioned several different public relation ideas and I don't want to come down the freeway and see a billboard up there without us being asked to vote on it.

Mayor Oyaski - Would you like to sponsor legislation?

Councilwoman Miller - No I would not. I am not in favor of billboards. Because this came out this way, I don't want him to go on with the public relations because he told us about it and thinks that we all approve of it, I think that's a very major step. He wanted to put up 4-6 of them. I'm totally against that but I think everyone should have the right to speak to it and make a final decision if we want to see billboards up in the City of Euclid.

President Cervenik - Are we about ready for an update on how that program is going and what direction it is taking?

Mayor Oyaski - We did have a recent update and we are implementing the plan that we discussed with you. Billboards was suggested as one possible alternative. No decision has been made. Council will vote at that time. We were given the service directory in the most recent ad so you can see the product that has been produced in accordance with the plan reviewed by the Council. If you would like an update, we can do that in the fall. I don't know if any use would be served right now by having an update but we are always willing to update you if want to have an update.

President Cervenik - What's the program going to do between now and the fall? We don't know. I guess that's the point.

Mayor Oyaski - I'll submit the information that was given to Councilman Farrell's committee to you which had a rather detailed schedule in it. I don't remember the details off the top of my head.

Councilman Farrell - It might serve the purpose if we could have a report. We put a plan in place at the meeting a couple of months ago which is now moving forward. I think having a meeting would be counter-productive but in a form of a letter to be put in our Council package might be good.

Councilwoman Miller - Councilman Farrell, were billboards discussed at your meeting?

Councilman Farrell - Billboards were discussed but it was also very clear that there will be no billboard put up unless there was action by Council and Planning & Zoning.

Councilman Flowers - Was that supposed to be a selling point promoting the city?

Mayor Oyaski - I didn't know that the Council hoped to vote on that. We showed you a number of things and ideas and concepts that were under consideration. This is not the seal. It is just some artwork that was considered as a way of tying things together with our various promotional items.

Councilman Flowers - If we do change a seal, it is a whole different story. But it isn't a seal, just a different way to promote the city.

Mayor Oyaski - It is just like changing the type on how we write the word Euclid.

President Cervenik - On Wednesday, May 21, there will be an Executive Committee meeting. There are two items on the agenda. The first is a Use District Exception for the Henn House. I'm going to ask as Chairman of that Committee, to move it to Council without a recommendation. The lease and the use district exception should be discussed at the same time. The other item on the agenda will be a presentation by Bob DeMinico and the architects on the Shore renovation proposal. That is Wednesday at 7:00 pm.

ADJOURNMENT

Councilman Flowers moved to adjourn. Councilwoman McGarry seconded. Yeas: Unanimous.

Attest:

Clerk of Council

President of Council