

AGENDA
MONDAY, SEPTEMBER 21, 2009 AT 7:00 PM

PERMISSIBLE PRELIMINARIES:

FIRST GAVEL

INVOCATION*: Pastor Martha Forrest of Faith Baptist Church

PLEDGE OF ALLEGIANCE

EUCLID CITY COUNCIL MEETING BUSINESS:

SECOND GAVEL

ROLL CALL OF MEMBERS

COMMUNICATIONS: Liquor Permits

COUNCIL MINUTES: September 8, 2009

ADMINISTRATION REPORTS & COMMUNICATIONS:

REPORTS & COMMITTEE MINUTES: 2008 Comprehensive Annual Financial Report (CAFR)
Monthly Finance Report thru August, 2009
Board of Control Min.: 9/8/09

COMMITTEE OF THE WHOLE FOR LEGISLATIVE MATTERS ONLY

LEGISLATION

- | | |
|----------------------|--|
| First Reading | <ol style="list-style-type: none">1. A resolution granting a Use District Exception, pursuant to Chapter 1375.01(a)(3) of the Codified Ordinances of the City of Euclid, to Carmen DiGeronimo to allow a storage/warehouse use in a U-4 (Local Retail) Use District at 1260 East 260th Street, Permanent Parcel No. 648-07-004. (Sponsored by Planning & Zoning Commission) Res. (389-09)2. A resolution designating April 1, 2010 as Census Day in Euclid, Ohio, and appointing a Complete Count Committee. (Sponsored by Mayor Cervenik) Res. (381-09)3. A resolution authorizing and in support of JJR, LLC's submittal on behalf of the City of Euclid of a Stewardship Grant pre-proposal application to the National Fish and Wildlife Foundation for funding from the Great Lakes Restoration Initiative for the Euclid Shoreline Restoration/Harbor Town Lakefront Marina Project. (Sponsored by Mayor Cervenik, Councilpersons Holzheimer Gail, O'Neill and Langman) Res. (391-09)4. A resolution authorizing the Mayor of the City of Euclid to execute a Capital Improvement Grant Pass-through Agreement with the State of Ohio, Department of Natural Resources (ODNR) in the amount of \$495,000.00 for the Capital Improvement Legislative Grant as designated in Amended House Bill No. 562 of the 127th General Assembly of the State of Ohio for costs associated with the Euclid Marina Breakwater Project. (Sponsored by Mayor Cervenik and Councilpersons Holzheimer Gail, O'Neill and Langman) Res. (392-09)5. A resolution authorizing the Mayor of the City of Euclid to prepare and submit an application to participate in the 2010 Ohio Public Works Commission State Capital Improvement and/or Local Transportation Improvement Program(s), (Issue I), and to execute contracts as required. (Sponsored by Councilman Wojtila by request of Service Director) Res. (383-09)6. A resolution authorizing the Mayor of the City of Euclid to apply for, accept and enter into an agreement on behalf of the City of Euclid with the Ohio Environmental Protection Agency, Division of Environmental and Financial Assistance, for planning, design and/or construction of Dille Road and East 204th Street Sanitary Sewer Facilities. (Sponsored by Councilman Wojtila by request of Service Director) Res. (388-09) |
|----------------------|--|

7. An emergency ordinance authorizing the Mayor of the City of Euclid or his designee to negotiate with and enter into a Power Purchase Agreement (PPA) and such related documents necessary to lease City rooftop space to a third party developer to install a photovoltaic (solar) generation system for the City of Euclid Administration Building, and to sell the resulting clean power to the City at a savings over traditional energy sources. (Sponsored by Mayor Cervenik, Councilpersons Holzheimer Gail, Scarniench and Langman by request of CS&ED Director) Ord. (387-09)
8. An emergency ordinance authorizing the Director of Finance of the City of Euclid to enter into contracts with U.S. Specialty Insurance Company written through the firm of Love Insurance Agency, 34920 Ridge Road, Willoughby, Ohio 44054, insuring City-owned property, contents, boiler and machinery, inland marine, and against crime for the period October 1, 2009 through September 30, 2010. (Sponsored by Mayor Cervenik) Ord. (380-09)
9. An ordinance authorizing the Director of Finance of the City of Euclid to enter into a contract with James G. Zupka, C.P.A., Inc., 5240 East 98th Street, Garfield Heights, Ohio 44125, for the preparation a Comprehensive Annual Financial Report for the City of Euclid. (Sponsored by President Holzheimer Gail by request of Finance Director) Ord. (386-09)
10. An emergency ordinance authorizing the Director of Finance of the City of Euclid to renew a contract with New World Systems, Inc. to provide software support services to the City's financial and payroll systems for a three-year period. (Sponsored by President Holzheimer Gail by request of Finance Director) Ord. (382-09)
11. An ordinance amending City of Euclid Codified Ordinance 121.20, governing Councilpersons' Comments to include a provision providing for dignity and decorum in electronic communications and communications via cell phone made by Councilpersons. (Sponsored by Councilman Langman) Ord. (384-09)
12. An ordinance amending City of Euclid Codified Ordinance 351.13 governing restrictions on the parking of commercial vehicles on public and private property to include an exception allowing such vehicles to be parked in a parking lot for the purpose of patronizing a business. (Sponsored by Councilman Gruber by request of Police Chief) Ord. (390-09)
13. An ordinance to establish Chapter 797 of Title Seven, Business Regulation and Taxation, of the Codified Ordinances of the City of Euclid, to levy an admissions tax on admissions to exhibition halls, motion picture theatres, club or private golf courses and golf ranges, and performance theatres of all kinds; fixing the amount and providing for the collection thereof and prescribing penalties. (Sponsored by Mayor Cervenik) Ord. (393-09)
14. An emergency ordinance authorizing the Mayor of the City of Euclid or his designee to enter into an extension of a lease-management agreement in the amount of Ten Thousand Four Hundred Fifty Four and 80/100 Dollars (\$10,454.80), including related direct costs, with the Coral Management Company (Coral); such agreement outlining the terms for Coral to lease the Shore Cultural Centre from the City and to manage the property through December 31, 2009. (Sponsored by Mayor Cervenik by request of CS&ED Director) Ord (385-09)

**COMMITTEE OF THE WHOLE – PUBLIC PORTION
COUNCILMEN'S COMMENTS
ADJOURNMENT**

*Any invocation that may be offered before the start of the official business of the Council shall be the voluntary offering of a private citizen, to and for the benefit of the Administration and Council. The views or beliefs expressed by the invocation speaker have not been reviewed or approved by any City official. The City of Euclid does not endorse the religious beliefs or views of this or any other speaker.

Resolution No.

By: Mayor Cervenik and Councilpersons Holzheimer Gail,
O'Neill and Langman

A resolution authorizing the Mayor of the City of Euclid to execute a Capital Improvement Grant Pass-through Agreement with the State of Ohio, Department of Natural Resources (ODNR) in the amount of Four Hundred Ninety-Five Thousand and 00/100 Dollars (\$495,000.00) for the Capital Improvement Legislative Grant as designated in Amended House Bill No. 562 of the 127th General Assembly of the State of Ohio for costs associated with the Euclid Marina Breakwater Project.

WHEREAS, with support of State Representative Kenny Yuko and former State Senator Lance Mason, the 127th General Assembly of the State of Ohio set aside funds from the State Capital Improvement Budget for capital facilities costs associated with the Euclid Marina Breakwater project; and

WHEREAS, such funds will be allocated to the City in the form of a Capital Improvement Legislative Grant to be administered by ODNR; and

WHEREAS, the City of Euclid prepared and submitted a Project Information Package as required by ODNR designating land acquisition as the primary use of the grant funds; and

WHEREAS, acquisition of lands for public use is an eligible use of said funds; and

WHEREAS, specifically, the purchase of the land in the vicinity of the parcel owned by the City would secure necessary land for public use and improvements associated with the Euclid Marina Breakwater Project.

NOW, THEREFORE, be it resolved by the Council of the City of Euclid, State of Ohio:

Section 1: That this Council authorizes the Mayor to execute a Capital Improvement Grant Pass-through Agreement with the state of Ohio, Department of Natural Resources (ODNR) in the amount of Four Hundred Ninety-Five Thousand and 00/100 Dollars (\$495,000.00) for the Capital Improvement Legislative Grant as designated in Amended House Bill No. 562 of the 127th General Assembly of the State of Ohio for costs associated with the Euclid Marina Breakwater Project.

Section 2: The Agreement will be in the form as approved by the Director of Law and is on file with the Clerk of Council.

Section 3: That the Clerk of this Council is hereby authorized and directed to certify a copy of this resolution to State Representative Kenny Yuko, 77 South High Street, Columbus, Ohio 43215, and Lisa Wilson, Grant Coordinator, Ohio Department of Natural Resources, Division of Real Estate and Land Management, 2045 Morse Road, C-4, Columbus, OH 43229-6693.

Section 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5: That this resolution shall take immediate effect.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Ordinance No.

By – Mayor Cervenik

An emergency ordinance authorizing the Director of Finance of the City of Euclid to enter into contracts with U.S. Specialty Insurance Company written through the firm of Love Insurance Agency, 34920 Ridge Road, Willoughby, Ohio 44054, insuring City-owned property, contents, boiler and machinery, inland marine, and against crime for the period October 1, 2009 through September 30, 2010.

WHEREAS, the City of Euclid received a quote from Wells Fargo Insurance Services and a renewal quote from Love Insurance Agency; and

WHEREAS, after review of the quotes, the City has determined the quote furnished by Love Insurance Agency through U.S. Specialty Insurance Company is in the best interest of the City; and

WHEREAS, the City of Euclid wishes to renew the coverage for an additional year, through September 30, 2010 with Love Insurance Agency through U.S. Specialty Insurance in an amount not to exceed Fifty Four Thousand Dollars (\$54,000), with the option for a rate guarantee, based on claims experience for an additional two (2) years; and

WHEREAS, the subject matter of this ordinance constitutes an emergency in that the same provides for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and for the daily operation of a municipal department.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Director of Finance is hereby authorized to enter into contracts with U.S. Specialty Insurance Company written through the firm of Love Insurance Agency for insurance of City-owned property, contents, boiler and machinery, inland marine, and against crime for the period of October 1, 2009 through September 30, 2010, in an amount not to exceed Fifty Four Thousand Dollars (\$54,000) with the option to renew for a rate guarantee, based on claims experience for an additional two (2) years should the premium be equal to the current rate. The summary of coverage and cost is on file with the Clerk of Council.

Section 2: Funds to pay for this expenditure are to be derived from the General Fund, Wastewater Treatment Fund, Recreation Operating Fund, and Golf Course Enterprise Fund.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and provided it receives the two-thirds vote of all members of Council elected thereto, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Resolution No.

By – Mayor Cervenik

A resolution designating April 1, 2010 as Census Day in Euclid, Ohio, and appointing a Complete Count Committee.

WHEREAS, the kick off day for the 2010 Census is April 1, 2010; and

WHEREAS, an accurate census count is vital to our community and residents' wellbeing by helping planners determine where to locate schools, day-care centers, roads and public transportation, hospitals and other facilities, and is used to make decisions concerning business growth and housing needs; and

WHEREAS, more than \$300 billion per year in federal and state funding is allocated to states and communities based on census data; and

WHEREAS, census data ensures fair Congressional representation by determining how many seats each state will have in the U.S. House of Representatives as well as the redistricting of state legislatures, county and city councils and voting districts; and

WHEREAS, the 2010 Census creates jobs that stimulate economic growth and increase employment opportunities in our community; and

WHEREAS, the information collected by the census is protected by law and remains confidential for 72 years; and

WHEREAS, as a 2010 Census partner, Euclid, Ohio will support the goals and ideals for the 2010 Census and will disseminate 2010 Census information to encourage community participation; encourage people in Euclid, Ohio to place an emphasis on the 2010 Census and to participate in events that will raise overall awareness of the 2010 Census to ensure a full and accurate count; support census takers as they help our community complete an accurate count; and appoint a Complete Count Committee to seek opportunities to collaborate with other like-minded groups in our community, to utilize high profile, trusted people to advocate on behalf of the 2010 Census.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That this Council and Administration hereby designates April 1, 2010 as Census Day in Euclid, Ohio and joins the rest of the nation as a 2010 Census Partner.

Section 2: That a Complete Count Committee consisting of a broad cross section of community leaders and representatives will be appointed by the Mayor to assist with the 2010 Census:

Section 3: That the Clerk of this Council is hereby authorized and directed to certify a copy of this resolution to Senator George V. Voinovich, 524 Hart Senate Office Building, Washington, DC 20510, Senator Sherrod Brown, 713 Hart Senate Building, Washington, DC 20510, Congresswoman Marcia L. Fudge, 1513 Longworth Building, Washington, DC 20515, Dwight P. Dean, Regional Director U.S. Census Bureau-Detroit Regional Office, 1395 Brewery Park Blvd., Detroit, MI 48207 and U.S. Census Bureau, 4600 Silver Hill Road, Room 5H107, Washington, DC 20233.

Section 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5: That this resolution shall take immediate effect.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

(382-09)

Ordinance No.

By – Councilwoman Holzheimer Gail (by request)

An emergency ordinance authorizing the Director of Finance of the City of Euclid to renew a contract with New World Systems, Inc. to provide software support services to the City's financial and payroll systems for a three-year period.

WHEREAS, New World Systems has provided computer-related services for the City of Euclid since 1991; and

WHEREAS, the current contract expired in August, 2009, making this renewal necessary to the maintenance and service of software; and

WHEREAS, New World Systems services include upgrades/new releases of application packages and telephone support among other items; and

WHEREAS, the subject matter of this ordinance constitutes an emergency in that the same provides for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and for the daily operation of a municipal department.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Director of Finance is hereby authorized, empowered and directed to enter into a renewal of the contract with New World Systems, Inc. to provide software support services to the City's financial and payroll systems.

Section 2: Funds to pay for this expenditure are to be derived from the General Fund.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and provided it receives the two-thirds vote of all members of Council elected thereto, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Resolution No.

By – Councilman Wojtila (by request)

A resolution authorizing the Mayor of the City of Euclid to prepare and submit an application to participate in the 2010 Ohio Public Works Commission State Capital Improvement and/or Local Transportation Improvement Program(s), (Issue I), and to execute contracts as required.

WHEREAS, the State Capital Improvement Program and the Local Transportation Improvement Program both provide financial assistance to political subdivisions for capital improvements to public infrastructure; and

WHEREAS, the City of Euclid is planning to make capital improvements to:

1. East 217th Street and Edgecliff Drive SSO Elimination.
2. East 274th Street and East 275th Street Relief Sewer for SSO Elimination.
3. East 246th Street Sewer, Water and Paving Improvements.
4. East 266th Street Sewer, Water and Paving Improvements.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Mayor is hereby authorized to apply to the Ohio Public Works Commission for funds as described above.

Section 2: That the Mayor is further authorized to enter into any agreements as may be necessary and appropriate for obtaining this financial assistance.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this resolution shall take immediate effect.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Ordinance No.

By – Councilman Langman

An ordinance amending City of Euclid Codified Ordinance 121.20, governing Councilpersons' Comments to include a provision providing for dignity and decorum in electronic communications and communications via cell phone made by Councilpersons.

WHEREAS, technology is advancing at a rapid rate, with electronic communication becoming common place, along with text messaging and the use of cell phones; and

WHEREAS, the City of Euclid acknowledges that members of Council will engage in these new forms of communications and, at times, discussions of public matters may arise in these venues; and

WHEREAS, the City wants to ensure that its Councilpersons act with decorum and dignity at all times when public matters are being discussed, including situations where the oral or written communications take place electronically over the internet, or via cell phone.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That Section 121.20 of the Administrative Code of the Codified Ordinances for the City of Euclid is hereby amended to read as follows:

121.20 COUNCILPERSONS' COMMENTS.

Councilpersons' comments would directly follow the second Committee of the Whole. No councilperson shall speak for more than five minutes during Councilpersons' comments unless the President or a majority of Council agree to waive the rule. The request to waive the time limit should be made before a particular member begins his or her presentation.

Councilpersons' comments should not be used as a forum for routine matters or common complaints which may be handled expeditiously outside of a regular Council meeting. Discussion on legislative matters to be acted on at that meeting should be limited. The place for such comment is directly prior to a vote on the particular piece of legislation.

Calling a meeting of a committee and requests for legislation for future meetings are in order. Introductions of members of the audience may be made at this time.

Questions concerning the administration not regarding legislation and not concerning routine matters or common complaints not previously discussed with administration may be asked.

Petitions, reports or material of interest to Council or the administration may be circulated and discussed by the member bringing the material forward.

General comments on the state of the City may also be added.

Dignity and decorum in words and action is befitting of a member of Council. The image of the entire Council and the confidence and respect of the community is enhanced by such behavior. All councilpersons should act in a dignified and respectful manner not only during councilpersons' comments but at all times. Insinuations about unethical behavior, personal attacks and insults, and loud and obstreperous conduct are out of place and demeaning to the entire Council. These requirements of dignity and decorum apply to oral and written communications relating to public matters made by Councilpersons electronically, over the internet, or via cell phone.

The President will be primarily responsible for the enforcement of these rules as well as the control of meetings in general.

Section 2: That Section 121.20 of the Codified Ordinances is hereby amended.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Effective:

Mayor

Ordinance No.

By – Mayor Cervenik (by request)

An emergency ordinance authorizing the Mayor of the City of Euclid or his designee to enter into an extension of a lease-management agreement in the amount of Ten Thousand Four Hundred Fifty Four and 80/100 Dollars (\$10,454.80), including related direct costs, with the Coral Management Company (Coral); such agreement outlining the terms for Coral to lease the Shore Cultural Centre from the City and to manage the property through December 31, 2009.

WHEREAS, City Council authorized an agreement with Coral Management Company by Ordinance 98-2009, wherein the Coral Management Company provided leasing and management services for a period of four months; and

WHEREAS, Council has determined that the lease and management of the building through Coral Management Company should continue through December 31, 2009; and

WHEREAS, the subject matter of this ordinance constitutes an emergency in that the same provides for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and for the daily operation of a municipal department and to allow the extension of the lease-management agreement for the Shore Cultural Centre to go forward in an expeditious manner, without interruption.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Mayor of the City of Euclid or his designee be, and is hereby authorized, empowered and directed to enter into an extension of a lease-management agreement in the amount of Ten Thousand Four Hundred Fifty Four and 80/100 Dollars (\$10,454.80), including related direct costs, with the Coral Management Company (Coral); such agreement outlining the terms for Coral to lease the Shore Cultural Centre from the City and to manage the property through December 31, 2009.

Section 2: Funds to pay for this expenditure are to be derived from the Shore Operating Fund.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and provided it receives the two-thirds vote of all members of Council elected thereto, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Ordinance No.

By – Council President Holzheimer Gail (by request)

An ordinance authorizing the Director of Finance of the City of Euclid to enter into a contract with James G. Zupka, C.P.A., Inc., 5240 East 98th Street, Garfield Heights, Ohio 44125, for the preparation a Comprehensive Annual Financial Report for the City of Euclid.

WHEREAS, the firm of James G. Zupka will perform services to prepare a Comprehensive Annual Financial Report of the City's financial condition for the period beginning June 30, 2009 through December 31, 2013. A copy of the letter of engagement is on file with the Clerk of Council.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Director of Finance is hereby authorized to enter into a contract with James G. Zupka, C.P.A., Inc., 5240 East 98th Street, Garfield Heights, Ohio 44125, for the preparation of a Comprehensive Annual Financial Report of the City's financial condition for the period beginning June 30, 2009 through December 31, 2013 in the following amounts: 2009 - \$27,640; 2010 - \$27,820; 2011 - \$27,990; 2012 - \$28,150; 2013 - \$28,300.

Section 2: Funds to pay for this expenditure are to be derived from the General Fund and various other funds.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Effective:

Mayor

Ordinance No.

By – Mayor Cervenik and Councilpersons Holzheimer Gail,
Scarniench and Langman (by request)

An emergency ordinance authorizing the Mayor of the City of Euclid or his designee to negotiate with and enter into a Power Purchase Agreement (PPA) and such related documents necessary to lease City rooftop space to a third party developer to install a photovoltaic (solar) generation system for the City of Euclid Administration Building, and to sell the resulting clean power to the City at a savings over traditional energy sources.

WHEREAS, in early 2009 the City commissioned a Renewable Energy Feasibility Study to assess the viability of solar energy for municipal buildings, which concluded that the Administration Building is a good candidate for installation of a solar system given the large expanse of open flat roof and plans for a new roof installation; and

WHEREAS, per Ordinance 111-2009, Council authorized the Administration to pursue a joint solar project with the Euclid Public Library, and to report back to Council once a viable proposal to implement a solar project is obtained; and

WHEREAS, the City of Euclid and the Euclid Public Library, via a thorough RFQ and RFP review process, have solicited and reviewed proposals and identified a third party developer to be the most attractive and cost effective candidates to supply the City with a solar generation system; and

WHEREAS, as a result of the negotiation of the PPA, the City and the Library will grant the winning party a non-exclusive rooftop easement to install a photovoltaic (solar) generation system on the City of Euclid Administration Building and Public Library; and

WHEREAS, the City will purchase all of the power created by the photovoltaic (solar) generation system; and

WHEREAS, the funds for costs associated with negotiating and entering into the power purchase agreement will be taken from the City's Energy and Conservation Block Grant through the U.S. Department of Energy Recovery Act of 2009; and

WHEREAS, City research has indicated that the City will realize a savings in energy costs by moving toward energy independence with the execution of the PPA, further insulating the City from utility cost increases from traditional energy sources; and

WHEREAS, the subject matter of this ordinance constitutes an emergency in that the same provides for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and for the daily operation of a municipal department, and to allow the partnership with the Euclid Public Library and the installation of a solar system to go forward in an expeditious manner.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: The Mayor or his designee is hereby authorized to negotiate and enter into a Power Purchase Agreement (PPA) and such related documents necessary to lease City rooftop space to a third party developer to install a photovoltaic (solar) generation system for the City of Euclid Administration Building, and to sell the resulting clean power to the City at a savings over traditional energy sources.

Section 2: That funds to pay for costs associated with negotiating and entering into the Power Purchase Agreement will be taken from the City's Energy and Conservation Block Grant through the U.S. Department of Energy Recovery Act of 2009.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, safety and welfare of the citizens of the City of Euclid, and provided it receives the two-thirds vote of all members of Council elected thereto, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Resolution No.

By – Councilman Wojtila (by request)

A resolution authorizing the Mayor of the City of Euclid to apply for, accept and enter into an agreement on behalf of the City of Euclid with the Ohio Environmental Protection Agency, Division of Environmental and Financial Assistance, for planning, design and/or construction of Dille Road and East 204th Street Sanitary Sewer Facilities

WHEREAS, the City of Euclid nominated the Dille Road and East 204th Street Sanitary Sewer Facilities for American Recovery and Reinvestment Act of 2009 (ARRA) funds to be awarded through the Ohio Environmental Protection Agency (OEPA); and

WHEREAS, the City of Euclid seeks to upgrade its existing sanitary sewer facilities; and

WHEREAS, the City intends to apply for ARRA funds for the planning, design and/or construction of the subject sanitary sewer facilities; and

WHEREAS, the Ohio EPA requires the local governmental authority to pass legislation for application for funds and the execution of an agreement.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That the Mayor be, and is hereby authorized, to apply for ARRA funding, sign all documents for, and enter into an agreement with the Ohio Environmental Protection Agency for planning, design and/or construction of the Dille Road and East 204th Street Sanitary Sewer Facilities on behalf of the City of Euclid.

Section 2: That the Council and Administration of the City of Euclid hereby requests that the Ohio Environmental Protection Agency, Division of Environmental and Financial Assistance consider and fund its application.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this resolution shall take immediate effect.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Resolution No.

By – Planning and Zoning Commission

A resolution granting a Use District Exception, pursuant to Chapter 1375.01(a)(3) of the Codified Ordinances of the City of Euclid, to Carmen DiGeronimo to allow a storage/warehouse use in a U-4 (Local Retail) Use District at 1260 East 260th Street, Permanent Parcel No. 648-07-004.

WHEREAS, at its meeting on September 15, 2009, the Planning and Zoning Commission approved a Use District Exception to allow a storage/warehouse use in a U-4 (Local Retail) Use District at 1260 East 260th Street, Permanent Parcel No. 648-07-004; and

WHEREAS, the terms of the lease will be on a month-to-month basis; and

WHEREAS, Chapter 1375 of the Codified Ordinances provides that whenever the Planning and Zoning Commission approves a Use District Exception, that decision must be confirmed by a Council Resolution before it becomes effective.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That a Use District Exception to allow a storage/warehouse use in a U-4 (Local Retail) Use District at 1260 East 260th Street, Permanent Parcel No. 648-07-004, on a month-to-month lease basis, is hereby granted.

Section 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this resolution shall take immediate effect.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Ordinance No.

By – Councilman Gruber (by request)

An ordinance amending City of Euclid Codified Ordinance 351.13 governing restrictions on the parking of commercial vehicles on public and private property to include an exception allowing such vehicles to be parked in a parking lot for the purpose of patronizing a business.

WHEREAS, throughout the course of their day, drivers of commercial vehicles may find it necessary to park their vehicles for a short time in a parking lot in order to patronize a business; and,

WHEREAS, the City of Euclid would like to encourage drivers of commercial vehicles to visit and patronize local businesses without fear that they will receive a parking ticket.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That Section 351.13 of the Traffic Code of the Codified Ordinances for the City of Euclid is hereby amended and replaced to read as follows:

351.13 RESTRICTIONS ON PARKING COMMERCIAL VEHICLES ON PUBLIC AND PRIVATE PROPERTY.

(a) No person shall park a truck tractor, trailer, tractor trailer rig, school bus, commercial tractor, truck of more than one-half ton capacity, bus trailer, semitrailer, pole trailer, moving van, or any motor vehicle or motorcycle bearing commercial license plates or otherwise conspicuously identified as being used in an on-going commercial enterprise, within a residential district of the City, including a public street or highway, except to make deliveries or pick-ups, or for the loading or unloading of persons, or while engaged in the normal course of business, unless such truck tractor, trailer, tractor trailer rig, school bus, commercial tractor, truck, bus, trailer, semitrailer, pole trailer, moving van, or any motor vehicle or motorcycle bearing commercial license plates or otherwise conspicuously identified as being used in an on-going commercial enterprise is parked or stored in a completely enclosed structure.

(b) No person, shall park a truck tractor, trailer, tractor trailer rig, school bus, commercial tractor, truck of more than one-half ton capacity, semi-trailer, pole trailer, moving van, or any motor vehicle or motorcycle bearing commercial license plates or otherwise conspicuously identified as being used in an on-going commercial enterprise, on any parking lot, playground, athletic field, vacant lot, public or private school, or church premises, except to make deliveries or pick-ups, or for the loading or unloading of persons, or while engaged in the normal course of business, or for a period of two hours or less while parked in the parking lot of a business that is open to the public for the purpose of patronizing said business.

(c) The existence of any unattended truck tractor, trailer, tractor trailer rig, school bus, commercial tractor, truck of more than one-half ton capacity, bus trailer, semi-trailer, pole trailer, moving van, or any motor vehicle or motorcycle bearing commercial license plates or otherwise conspicuously identified as being used in an on-going commercial enterprise, on any parking lot, playground, athletic field, vacant lot, public or private school, or church premises, or within any residential district in the City shall be prima facie evidence of a violation of this section and the burden of proof of the existence of an exception shall be on the person charged with a violation.

Section 2: Section 351.13 of the Traffic Code of the Codified Ordinances of the City of Euclid be and the same is hereby amended.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Effective:

Mayor

Resolution No.

By: Mayor Cervenik and Councilpersons Holzheimer Gail, O'Neill and Langman

A resolution authorizing and in support of JJR, LLC's submittal on behalf of the City of Euclid of a Stewardship Grant pre-proposal application to the National Fish and Wildlife Foundation for funding from the Great Lakes Restoration Initiative for the Euclid Shoreline Restoration/Harbor Town Lakefront Marina Project.

WHEREAS, per Ordinance 83-2009 passed by Euclid City Council on April 20, 2009, the City has retained JJR, LLC for professional consultant services related to the lakefront, including assistance to the City in identifying potential funding sources for implementation of lakefront related improvements; and

WHEREAS, JJR, LLC has identified an immediate potential funding opportunity through the Stewardship Grants which are intended to support large-scale restoration, enhancement and protection projects, such as the proposed Euclid Shoreline Restoration/Harbor Town Lakefront Marina Project; and

WHEREAS, Stewardship Grants can be used for land acquisition, easements and partial engineering costs associated with projects that restore, enhance and protect shoreline and upland habitats.

NOW, THEREFORE, be it resolved by the Council of Euclid, State of Ohio:

Section 1: That this Council hereby authorizes and lends its support and assistance to JJR, LLC in the submittal on behalf of the City of Euclid of a Stewardship Grant pre-proposal to the National Fish and Wildlife Foundation for funding from the Great Lakes Restoration Initiative.

Section 2: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberation of this Council and any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 3: That this resolution shall take immediate effect.

Attest:

Clerk of Council

President of Council

Passed:

Approved:

Mayor

Ordinance No.

By – Mayor Cervenik

An ordinance to establish Chapter 797 of Title Seven, Business Regulation and Taxation, of the Codified Ordinances of the City of Euclid, to levy an admissions tax on admissions to exhibition halls, motion picture theatres, club or private golf courses and golf ranges, and performance theatres of all kinds; fixing the amount and providing for the collection thereof and prescribing penalties.

WHEREAS, Admission taxes are authorized by section 715.013 of the Ohio Revised Code; and

WHEREAS, over thirty communities throughout Cuyahoga County have levied an admissions tax ranging from three percent (3%) to eight percent (8%); and

WHEREAS, the City desires to charge admissions taxes for admissions to exhibition halls, motion picture theatres, club or private golf courses and golf ranges, and performance theatres of all kinds; and

WHEREAS, the money received as a result of the admissions tax will be used to offset the increased costs to be supported by the general fund of the City of Euclid for police and fire services as well as increased costs for city road maintenance and improvements.

NOW, THEREFORE, be it ordained by the Council of the City of Euclid, State of Ohio:

Section 1: That Chapter 797 is hereby established to read as follows:

CHAPTER 797 ADMISSION TAX

797.01 DEFINITIONS

As used in this chapter:

- (a) "Admission charge" means the charge made for the right or privilege to enter into any place or upon property, provided, however, that if admission to any place or any property is free and a charge is made or a membership fee is levied for the use or rental of property, real or personal, or for services, such shall be deemed to be an admission charge. If a lesser charge is made to persons who do not desire to use such property or services offered, the lesser charge shall constitute the admission charge. The designation or nomenclature attached to the use or rental of the property or for services rendered shall not be construed to avoid the application of the tax hereinafter provided for admission.
- (b) "Person" means any individual, corporation, partnership, receiver, assignee, firm, joint venture, company, joint stock company, association, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise
- (c) "Place" includes and is limited to: exhibition halls, motion picture theatres, club or private golf courses and golf ranges, and performance theatres of all kinds.

797.02 TAX LEVIED; RATES.

There is hereby levied and imposed upon every person who pays an admission charge to any place:

- (a) A tax of percent on the amounts paid for admission to any place, including admission by season ticket or subscription. The tax shall apply to every admission within the City for which a charge is made, notwithstanding that the sale of the ticket or other evidence of right of admission thereto is made outside of the City of Euclid.
- (b) A tax of percent on the excess of the amounts paid for tickets or cards of admission to theaters and other places of amusement, sold at newsstands, hotels and places other than the ticket offices of such theaters or other places of amusement, over and above the amounts

representing the established price thereof at such ticket offices, such tax to be returned and paid in the manner provided in Section 797.04 by the person selling the ticket.

- (c) A tax of [redacted] percent on the amount paid for admission to any public performance for profit at any roof garden, cabaret or other similar entertainment in case the charge for admission is in the form of a service charge, cover charge or other similar charge
- (d) A tax of [redacted] percent on the amount paid as annual membership dues by every club or organization maintaining a golf course, and a tax of [redacted] percent on greens fees paid to golf courses either under club or private ownership.

797.03 ADMISSIONS EXEMPT FROM TAX

No tax shall be levied under this chapter with respect to any admission all the proceeds of which inure:

- (a) Exclusively to the benefit of religious, educational or charitable institutions, societies or organizations receiving substantial support from voluntary contributions, so long as no part of the net earnings thereof inures to the benefit of any private stockholder or individual.
- (b) Exclusively to the benefit of persons in the military or naval forces of the United States or of National Guard organizations, reserve officer associations or posts or organizations of war veterans, or auxiliary units or societies of any such posts, organizations, units or societies organized in the State of Ohio, if no part of their net earnings inures to the benefit of any private stockholder or individual.
- (c) Exclusively to the benefit of persons who have served in the military or naval forces of the United States and are in need.
- (d) Exclusively to the benefit of members of the police or fire departments or divisions of any municipal corporation, or the dependents or heirs of such members.
- (e) Exclusively to the benefit of the general revenue fund of any municipal corporation or exclusively to the benefit of any fund of any municipal corporation under the control of a recreation commission.

Immediately after the event for which an exemption from the admission tax has been allowed, the treasurer of the institution, society or organization for whose benefit such event was held shall file an itemized statement with the Finance Director, setting forth the amount of money actually received by such treasurer, together with the expenses of promoting and conducting such event. Such statement shall be used as a basis of subsequent requests for exemption from the admissions tax for the benefit of such institution, society or organization and if the statement shows a disproportionate expenditure for promoting and conducting the event in relation to the profits, if any, no such exemption shall thereafter be allowed to such institution, society or organization.

The exemption from tax provided in this section shall not be allowed to any institution, society or organization which does not control the sale of admissions to the event for which the exemption is requested, nor shall any exemption be allowed where talent, services or other items are compensated for on a percentage basis if such percentage results in a payment in excess of the flat rates ordinarily charged for the same talent, services or other items.

797.04 TAX COLLECTION AND METHOD OF PAYMENT

Every person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the Finance Director as herein provided.

Any person required to collect the tax imposed under this chapter who fails to collect the same or, having collected the same, fails to remit the same to the Finance Director in the manner prescribed by this chapter, whether such failure is the result of his own act or the result of acts or conditions beyond his

control, shall nevertheless be personally liable to the City for the amount of such tax and, unless the remittance is made as herein required, shall be guilty of a violation of this chapter.

The tax imposed hereunder shall be collected at the time the admission charge is paid by the person seeking admission to any place and shall be reported and remitted by the person receiving the tax to the Finance Director in monthly installments and remittances therefor on or before the thirtieth day of the month next succeeding the end of the monthly period in which the tax is collected or received. Payment or remittance of the tax collected may be made by check, unless payment or remittance is otherwise required by the Finance Director, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Finance Director unless the check is honored and is in the full and correct amount.

The person receiving any payment for admissions shall make out a return upon such forms and set forth such information as the Finance Director may require, showing the amount of the tax upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the Finance Director with a remittance for such amount; provided that the Finance Director may, in his discretion, require verified annual returns from any person receiving admission payments, setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable.

Whenever any person makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Finance Director shall be the judge, the Finance Director may require the report and remittance of the admission tax immediately upon the collection of the same, at the conclusion of the performance or exhibition or the series of performances or exhibitions, or at such other times as he shall determine. Failure to comply with any requirement of the Finance Director as to report and remittance of the tax as required shall be a violation of this chapter.

The books, records and accounts of any person collecting a tax herein levied as to admission charges and tax collections shall be subject to examination and audit at all reasonable times by the Finance Director. If the tax imposed by this chapter is not paid when due there shall be added as part of the tax, interest at the rate of one percent per month from the time the tax became due until paid.

797.05 CERTIFICATION OF REGISTRATION.

Any person conducting or operating any place for entrance to which an admission charge is made shall, on a form prescribed by the Finance Director, make application to and procure from the Finance Director a Certificate of Registration. Such Certificate shall continue valid until December 31 of the year in which the same was issued. The Certificate of Registration or duplicate original copies thereof, to be issued by the Finance Director, shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.

797.06 CERTIFICATE FOR TEMPORARY OR TRANSITORY AMUSEMENT.

Whenever a Certificate of Registration is obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition by persons who are not the owners, lessees or custodians of the building, lots or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 797.04 by such owner, lessee or custodian, unless paid by the person conducting the place. The applicant for a Certificate of Registration for such purpose shall furnish, with the application therefor, the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and the owner, lessee or custodian shall be notified by the Finance Director of the issuance of such Certificate and the joint liability for collection and remittance of such tax.

797.07 IMPLEMENTING RULES AND REGULATIONS.

The Finance Director shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied. A copy of such rules and regulations shall be made available in his office. Failure or refusal to comply with any such rule or regulation shall be deemed a violation of this chapter.

797.08 APPEALS.

Appeals from any ruling hereunder of the Director of Finance shall be made to the Board of Review established under the authority of Section 791.49, and the Board of Review shall have authority to annul, modify or affirm any ruling appealed from, in conformity with the intent and purpose of this chapter.

797.09 CONFIDENTIALITY OF INFORMATION

All returns and information relating to the business of any person required to collect the tax imposed by this chapter and coming into the possession of the Director of Finance, or his agents and employees, shall be held confidential. No person shall disclose information thereof unless ordered by a court of competent jurisdiction, except, however, that the Director of Finance may furnish the Bureau of Internal Revenue, Treasury Department of the United States, with copies of returns filed.

797.99 PENALTY.

(a) Whoever, being a person charged by this act with the duty of collecting or paying the taxes imposed by this chapter, willfully fails or refuses to charge and collect or to pay such taxes, or to make return to the Director of Finance as required by this chapter, or to permit the Director of Finance or his duly authorized agent to examine his books and other records, in or upon any premises where the same are kept, to the extent necessary to verify any return made or to ascertain and assess the tax imposed by this chapter if no return was made, or to maintain and keep such books and other records for three years or such lesser or greater time as may be permitted or required by the Director of Finance, shall be deemed guilty of a misdemeanor of the first degree and upon conviction thereof shall be imprisoned not more than 180 days, or fined not more than One Thousand Dollars (\$1000.00) or both. If a corporation or organization convicted of an offense under this chapter shall be fined not more than Five Thousand Dollars (\$5000.00).

(b) Whoever violates Section 797.09 shall be deemed guilty of a misdemeanor of the first degree and upon conviction thereof shall be imprisoned not more than 180 days, or fined not more than One Thousand Dollars (\$1000.00) or both and shall be subject to immediate dismissal.

Section 2: That Chapter 797 of Title Seven, Business Regulation and Taxation, is hereby established.

Section 3: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 4: That this ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:

Clerk of Council

President of Council

Passed:

Approved

Effective:

Mayor