

**AGENDA**  
**MONDAY, OCTOBER 5, 2009 AT 7:00 PM**

**PERMISSIBLE PRELIMINARIES:**

**FIRST GAVEL**

**INVOCATION\*:**

**PLEDGE OF ALLEGIANCE**

**EUCLID CITY COUNCIL MEETING BUSINESS:**

**SECOND GAVEL**

**ROLL CALL OF MEMBERS**

**COMMUNICATIONS:** Liquor Permits

**COUNCIL MINUTES:** September 21, 2009

**ADMINISTRATION REPORTS & COMMUNICATIONS:**

**REPORTS & COMMITTEE MINUTES:** Police Report – August, 2009  
Auditor of State Audit Report – 12/31/2008  
Board of Control Min.: 9/24/09; 9/21/09  
Executive & Finance Committee Min.: 9/14/2009

**COMMITTEE OF THE WHOLE FOR LEGISLATIVE MATTERS ONLY**

**LEGISLATION**

| <b><u>ACTION</u></b>                               |   | <b><u>PROPOSED</u></b> |
|--|---|------------------------|
| <b>Second Reading Passed 8-0 176-2009</b>          | 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 260 <sup>th</sup> Street, Permanent Parcel No. 648-07-004. (Sponsored by Planning & Zoning Commission)   | Res.<br>(389-09)       |
| <b>Add Entire Council Passed 8-0 177-2009</b>      | 2. A resolution authorizing the Mayor of the City of Euclid to submit a Grant Application to the Northeast Ohio Areawide Coordinating Agency (NOACA) seeking a Seventy Five Thousand and 00/100 Dollar (\$75,000.00) Planning Grant from the Transportation for Livable Communities Initiative (TLCI) to provide Federal funding to conduct or contract for the planning of transportation improvements that will strengthen community livability along the Euclid Avenue Corridor in the City of Euclid. (Sponsored by Mayor Cervenik)   | Res.<br>(398-09)       |
| <b>Add O'Neill, Gruber Passed 7-1 178-2009</b>     | 3. A resolution in support of Issue 105, the passage of which would be greatly beneficial to the Euclid City Schools. (Sponsored by Mayor Cervenik, President Holzheimer Gail, Councilpersons Jones, Langman, Scarniench and Van Ho)  | Res.<br>(396-09)       |
| <b>Add Mayor &amp; Council Passed 8-0 179-2009</b> | 4. A resolution urging the State to place a moratorium on Oil and Gas Well Drilling in heavily populated residential areas until amendments to the Ohio Revised Code with respect to drilling have been made. (Sponsored by Councilman Van Ho)  | Res.<br>(394-09)       |
| <b>To Safety Comm.</b>                             | 5. An ordinance enacting Chapter 573 "Spray Paint and Graffiti" of Title Five, the General Offenses Code of the Codified Ordinances of the City of Euclid to prohibit the selling or furnishing aerosol spray paint and broad tipped indelible markers to minors, to prohibit a minor from purchasing or possessing aerosol spray paint and broad tipped indelible markers and to create a specific section, aside from Criminal Damaging E.C.O. 541.10, that prohibits the application of graffiti or spray paint to public or private property. (Sponsored by Councilman Gruber by request of Police Chief) | Ord.<br>(397-09)       |

**To  
Planning  
&  
Zoning** 6. An ordinance repealing Section 1387.06, Parallel Fences, of Chapter 1387 of Ord. Title 13 of the Planning and Zoning Code of the Codified Ordinances of the (395-09) City of Euclid. (Sponsored by Councilman Van Ho by request of CS&ED Director)

**Add  
Entire  
Council  
Passed  
8-0  
180-2009** 7. A Resolution encouraging the Ohio Department of Commerce and Division of Res. Liquor Control to review their standards for the issuance of liquor permits and (399-09) to give deference to the City of Euclid in their objections to the issuance of certain liquor permits. (Sponsored by Councilman Van Ho)

**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

A resolution authorizing the Mayor of the City of Euclid to submit a Grant Application to the Northeast Ohio Areawide Coordinating Agency (NOACA) seeking a Seventy Five Thousand and 00/100 Dollar (\$75,000.00) Planning Grant from the Transportation for Livable Communities Initiative (TLCI) to provide Federal funding to conduct or contract for the planning of transportation improvements that will strengthen community livability along the Euclid Avenue Corridor in the City of Euclid.

WHEREAS, the City of Euclid intends to undertake a planning project eligible for such assistance, said project being the Euclid Avenue Corridor Transportation and Redevelopment Project; and

WHEREAS, the stated goals of the Transportation for Livable Communities Initiative include assisting the redevelopment of urban core communities, enhancing the economic viability and quality of life of existing communities, improving the safety and efficiency of the existing transportation system; and facilitating accessibility by improving the range of transportation choices by adding or improving pedestrian and bicycle facilities, and;

WHEREAS, said stated goals are consistent with the recommendations of the 1996 City of Euclid Master Plan.

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

Section 1: That the Mayor of the City of Euclid is hereby authorized to submit a Grant Application to the Northeast Ohio Areawide Coordinating Agency (NOACA) seeking a Seventy Five Thousand and 00/100 Dollar (\$75,000.00) Planning Grant from the Transportation for Livable Communities Initiative (TLCI) to provide Federal funding to conduct or contract for the planning of transportation improvements that will strengthen community livability along the Euclid Avenue Corridor in the City of Euclid.

Section 2: Funds to pay for said planning activities to be derived from the Transportation for Livable Communities Initiative grants, and 20% non-Federal match required from the City of Euclid.

Section 3: That this Council does hereby authorize the Mayor to execute any and all documents necessary to submit, including the preparation and submission of the applications, to the Northeast Ohio Areawide Coordinating Agency.

Section 4: That this Council does hereby agree to obligate the grant funds to conduct or contract for the planning of transportation improvements that will strengthen community livability should the application be approved for funding through the Transportation for Livable Communities Initiative.

Section 5: 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 6: That this resolution shall take immediate effect.

Attest:

\_\_\_\_\_  
Clerk of Council

\_\_\_\_\_  
President of Council

Passed:

Approved:

\_\_\_\_\_  
Mayor

Resolution No.

By – Councilman Van Ho

A resolution urging the State to place a moratorium on Oil and Gas Well Drilling in heavily populated residential areas until amendments to the Ohio Revised Code with respect to drilling have been made.

WHEREAS, the Legislature passed House Bill 278 giving the Division of Mineral Resources Management in the Department of Natural Resources exclusive authority to regulate the permitting, location and spacing of oil and gas wells in the state and that the Oil and Gas Law rules adopted under it constitute a comprehensive plan with respect to all aspects of the locating, drilling and operation of oil and gas wells in Ohio, and repealed all statutory authority of local governments to regulate oil and gas exploration and operation; and

WHEREAS, the bill repealed all provisions of current law that grant or allude to the authority of local governments to adopt concurrent requirements with the state concerning oil and gas exploration and operation as well as all provisions limiting that authority. It gave the Division of Mineral Resources Management sole and exclusive authority of regulating the permitting, location, and spacing of oil and gas wells within the state. Further, the bill provided that the regulation of oil and gas activities was a matter of general statewide interest that require uniform statewide regulation and that the Oil and Gas Law and rules adopted under it constituted a comprehensive plan with respect to all aspects of the locating, drilling, and operation of oil and gas wells within Ohio, including site restoration and disposal of wastes from those wells; and

WHEREAS, there has been a proliferation of oil and gas well drilling in heavily populated residential areas; and

WHEREAS, oil and gas well drilling in heavily populated residential areas causes a host of problems including, but not limited to, extreme noise twenty-four hours a day during the drilling process, potential for well water contamination, potential safety issues for surrounding residents if explosions occur; and

WHEREAS, there is currently an attempt to amend the Ohio Revised Code with respect to oil and gas well drilling which will restore local control, remove mandatory pooling, increase safety setbacks, protect the environment, demand disclosure and accountability and require financial and legal liability.

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

Section 1: That the Council of the City of Euclid wishes to urge the State to place a moratorium on oil and gas well drilling in heavily populated residential areas until amendments to the Ohio Revised Code with respect to drilling have been made which restore local control, remove mandatory pooling, increase safety setbacks, protect the environment, demand disclosure and accountability and require financial and legal liability.

Section 2: That the Clerk of this Council is hereby authorized and directed to certify a copy of this resolution to Governor Strickland, and the Ohio State Representatives and State Senators representing our area urging them to place a moratorium on oil and gas well drilling in heavily populated residential areas until amendments to the Ohio Revised Code with respect to drilling have been made which restore local control, remove mandatory pooling, increase safety setbacks, protect the environment, demand disclosure and accountability and require financial and legal liability. The Clerk is further authorized to forward a copy of this resolution to all cities in Cuyahoga County as an indication of the Council's urging for them to pass similar legislation.

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:

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Clerk of Council

Passed:

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President of Council

Approved:

\_\_\_\_\_  
Mayor

Ordinance No.

By – Councilman Van Ho (by request)

An ordinance repealing Section 1387.06, Parallel Fences, of Chapter 1387 of Title 13 of the Planning and Zoning Code of the Codified Ordinances of the City of Euclid.

WHEREAS, over the years the Planning & Zoning Commission has received and granted numerous requests for variances from the distance requirements between parallel fences of Section 1387.06, Parallel Fences; and

WHEREAS, the creation of dead spaces between fences is not desirable; and

WHEREAS, the current restriction creates a significant potential for conflicts between adjacent homeowners, with no apparent public benefit; and

WHEREAS, the current law establishes preferential treatment for fences installed first, regardless of the condition or type of fence in question; and

WHEREAS, as a result, at the July 14, 2009 Planning & Zoning Commission meeting, the Commission requested that the process be initiated to eliminate Section 1387.06, Parallel Fences.

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

Section 1: That Section 1387.06, Parallel Fences, of Chapter 1387 of Title 13 of the Planning and Zoning Code of the Codified Ordinances of the City of Euclid is hereby repealed.

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 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 ordinance shall be in full force and effect from and after the earliest period allowed by law.

Attest:

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Clerk of Council

\_\_\_\_\_  
President of Council

Passed:

Approved:

Effective:

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Mayor

Resolution No

By – Mayor Cervenik, Council President Holzheimer Gail,  
Councilpersons Jones, Langman, Scarniench, and  
Van Ho

A resolution in support of Issue 105, the passage of which would be greatly beneficial to the Euclid City Schools.

WHEREAS, Issue 105 will help to reinvigorate the neighborhoods and economy of the City of Euclid by building 4 new elementary schools at the following sites: Glenbrook, Roosevelt, Thomas Jefferson, and Upson; and

WHEREAS, the elementary schools selected to be replaced are between 50 and 90 years old and face serious building problems such as outdated and unsafe electrical and drainage systems, ineffective heating systems and boilers, leaking roofs, drafty windows, and flooding cafeterias, classrooms, and basements. School buildings that are in this condition do not provide Euclid students with the secure and safe environment they need in order to succeed, and Issue 105 provides the district with a long term solution so that it will not have to continue making costly repairs to these buildings; and

WHEREAS, under Issue 105 the State of Ohio will pay will pay 41% of the cost of the construction of the four new schools, making the cost to the average City of Euclid homeowner under \$2 a month per new school; and

WHEREAS, this plan will save the school district more than \$1 million every year, and the citizens of Euclid need to take advantage of this plan, before the state's money runs out; and

WHEREAS, the school district has formed a Community Inclusion Plan regarding the construction of these new schools which guarantees construction jobs for Euclid residents and Euclid companies, ensuring that the entire community will benefit from this project along with the students of the Euclid City Schools.

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

Section 1: That this Council and Administration do hereby support Issue 105 for the benefit of Euclid City Schools as well as the City of Euclid.

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 enacting Chapter 573 "Spray Paint and Graffiti" of Title Five, the General Offenses Code of the Codified Ordinances of the City of Euclid to prohibit the selling or furnishing aerosol spray paint and broad tipped indelible markers to minors, to prohibit a minor from purchasing or possessing aerosol spray paint and broad tipped indelible markers and to create a specific section, aside from Criminal Damaging E.C.O. 541.10, that prohibits the application of graffiti or spray paint to public or private property.

WHEREAS, graffiti is criminal vandalism defacing public and private property costing citizens, businesses and the City thousands of dollars annually to remove and repair; and

WHEREAS, such criminal activity has negative effects on houses and neighborhoods in the City of Euclid; and

WHEREAS, such defacement of property is most often committed by persons under the age of eighteen years using aerosol cans of spray paint and broad tipped indelible markers; and

WHEREAS, such aerosol cans and indelible markers are frequently stolen from retail stores by such persons; and

WHEREAS, the sale of such aerosol cans and markers to persons under eighteen years of age should therefore be prohibited and persons who are engaged in the retail sale of aerosol spray paint cans and markers should be required to take reasonable steps to prevent the theft of such aerosol cans and markers; and

WHEREAS, when any such person under eighteen years of age has a legitimate need for aerosol spray paint cans and markers, the same may be furnished by a parent, guardian or teacher.

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

Section 1: That Chapter 573 "Spray Paint and Graffiti" of the General Offenses Code of the Codified Ordinances of the City of Euclid be, and the same is hereby enacted to read as follows:

#### CHAPTER 573 SPRAY PAINT AND GRAFFITI

##### 573.01 Selling or Furnishing Aerosol Containers of Paint or Broad Tipped Indelible Markers to Minors Prohibited

(a) (1) It shall be unlawful for any person, firm, or corporation to sell to another person, who is under the age of 18 years, any aerosol container of paint or any broad tipped indelible marker that is capable of defacing property without first obtaining bona-fide evidence of majority and identity.

(2) It shall be unlawful for any person, firm, or corporation to furnish or give to another person, who is under the age of 18 years, any aerosol container of paint or broad tipped indelible marker that is capable of defacing property.

(b) For purposes of this section, "bona-fide evidence of majority and identity" is any document evidencing the age and identity of an individual which has been issued by a federal, state or local governmental entity, including, but not limited to, a motor vehicle operator's license, a registration certificate issued under the federal Selective Service Act, or an identification card issued to a member of the armed forces.

(c) Subsection (a)(2) hereof shall not apply to the furnishing of an aerosol container of paint or a broad tipped indelible marker to a minor for the minor's use or possession while engaged in a lawful activity under the supervision and control of the minor's parent, guardian, teacher or employer.

(d) Subsection (a)(2) hereof shall not apply to aerosol containers of paint, broad tipped indelible markers, or related substances that are furnished for use in school-related activities as part of the instructional program when used under the control and supervision of a teacher, instructor or other adult supervisor for such activities, either within the classroom or on the site of a supervised project. These containers shall be inventoried by the teacher, instructor, or adult supervisor upon completion of the activity or project.

(e) After 30 days from passage of this section, all retail businesses within the City of Euclid that sell or offer for sale aerosol containers of paint shall post in a conspicuous area near such containers a notice that states:

"WARNING: SALE OF SPRAY PAINT OR BROAD TIPPED INDELIBLE MARKERS TO MINORS PROHIBITED"

"(1) It is unlawful in the City of Euclid for any person under the age of 18 to purchase an aerosol container of paint or a broad tipped indelible marker.



"(2) It is unlawful in the City of Euclid for any person under the age of 18 to possess or to be furnished with an aerosol container of paint or a broad tipped indelible marker, except while engaged in a lawful activity under the supervision and control of a parent, guardian, teacher, or employer."

(f) After 30 days from passage of this section, whoever violates subsection (e) hereof is guilty of a minor misdemeanor and shall be fined not more than one hundred fifty dollars (\$150.00).

(g) Whoever violates subsections (a)(1) or (a)(2) hereof is guilty of selling or furnishing an aerosol paint container or a broad tipped indelible marker to a minor, a misdemeanor of the first degree.

#### **573.03 Purchase or Possession of Aerosol Containers of Paint or Broad Tipped Indelible Markers by Minors Prohibited**

(a) It shall be unlawful for any person under the age of 18 years to purchase an aerosol container of paint or a broad tipped indelible marker that is capable of defacing property.

(b) It shall be unlawful for any person under the age of 18 to possess or to have under his control an aerosol container of paint or a broad tipped indelible marker that is capable of defacing property.

(c) Subsection (b) hereof does not apply to the possession of an aerosol paint container or a broad tipped indelible marker by a person under the age of 18 in the circumstances described in subsections (c) and (d) of preceding Section 573.01.

(d) Whoever violates this section is guilty of unlawful purchase or possession of an aerosol container of paint or a broad tipped indelible marker, a misdemeanor of the first degree.

#### **573.05 Spray Painting Property; Graffiti**

(a) "Graffiti" means any unauthorized inscription, word, figure, painting or other defacement that is written, marked, etched, scratched, sprayed, drawn, painted, or engraved on or otherwise affixed to any surface of public or private property, to the extent that the graffiti was not authorized in advance by the owner or occupant of the property, or, despite advance authorization, would be highly offensive to a reasonable person and is not protected by the state or federal constitution .

(b) No person shall intentionally, maliciously or recklessly apply graffiti or destroy, damage or deface in any way any public or private property by the use of spray paint or any other paint or any other similar substance. Public or private property shall include the following:

(1) Public or private buildings, including sidewalks about such grounds and all appurtenances thereto, fences or trees;

(2) Public street lights, fire hydrants, pumps, fountains, inlets, manholes or sewer ventilators;

(3) Telephone or telegraph wires or electric wires of any kind or the poles sustaining or attaching thereto;

(4) Statues, monuments or plaques;

(5) Official notices or signs posted by the State, the City or any other public agency.

(c) Whoever violates this section is guilty of spray painting property, a misdemeanor of the first degree.

Section 2: That Chapter 573 "Spray Paint and Graffiti" of the General Offenses Code of the Codified Ordinances of the City of Euclid is hereby enacted.

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:

\_\_\_\_\_  
Mayor

(399-09)

Resolution No.

By - Councilman Van Ho

A Resolution encouraging the Ohio Department of Commerce and Division of Liquor Control to review their standards for the issuance of liquor permits and to give deference to the City of Euclid in their objections to the issuance of certain liquor permits.

WHEREAS, the City of Euclid encourages new proprietors to establish their business in the City but recognizes that at times, certain business proprietors maybe objectionable to the City; and

WHEREAS, the Council of the City of Euclid and Administration believe the community is best served when the Ohio Department of Commerce and Division of Liquor Control balances the concerns expressed by the Council and Administration in the review process for license renewal or relocation; and

WHEREAS, the City of Euclid objected to the issuance of several liquor permits based on the permit holder having multiple alcohol convictions, convictions for falsifying an Ohio Drivers License and assault on a peace officer; location in proximity to the senior high school; or saturation of a liquor licenses in a particular neighborhood; and

WHEREAS, the City of Euclid only objects to those liquor permits where they believe that the issuance of the permit will adversely impact the decency, peace and good order of a neighborhood or interfere with the morals, safety or welfare of the public; and

WHEREAS, in each instance and over the objections of the public body representing the residents of the City of Euclid, liquor licenses were approved.

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

Section 1: That Council for the City of Euclid encourages the Ohio Department of Commerce and Division of Liquor Control to take into consideration the serious concerns of the City of Euclid in permitting certain liquor establishments to which they object.

Section 2: Council for the City of Euclid encourages the Ohio Department of Commerce and Division of Liquor Control to give deference to the City of Euclid in their objections to certain liquor permits as they know how saturation, location and an applicant's criminal past or drug/alcohol addiction have an impact on the city and individual neighborhoods.

Section 3: The Clerk of Council is hereby directed to send copies of this resolution to Governor Ted Strickland; Ohio Department of Commerce Director Kimberly Zurz, 77 South High Street, 23<sup>rd</sup> Floor, Columbus, Ohio 43215-6123; Division of Liquor Control Superintendent Terry Poole, 6606 Tussing Road, P. O. Box 4005, Reynoldsburg, Ohio 43068-9005; Senator Nina Turner, Senate Building, Room 336, Columbus, Ohio 43215; and State Representative Kenny Yuko, 77 South High Street, Columbus, Ohio 43215.

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