

**COUNCIL MINUTES**  
**October 19, 2009**

The regular Council Meeting was held on Monday, October 19, 2009 at 7:00 PM in the Euclid Municipal Center Council Chamber. Council President Holzheimer Gail presided.

Invocation was given by Minister Kevin Smith from Imani Church of Christ.

Members Present: Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Excused: Gruber (arrived at 7:20 pm)

Councilwoman Scarniench moved to excuse Councilman Gruber. Councilwoman Jones seconded.  
Yeas: Unanimous.

Others Present: Mayor Cervenik, Law Director Frey, CS&ED Director Pietravoia, Finance Director Johnson, Service Director Smith, Chief Repicky, Fire Chief Cosgriff, Asst. Director Bock, Sgt.-at-Arms Novosel, Clerk of Council Cahill.

President Holzheimer Gail – We do have one additional Resolution that's on your desks. It is a Resolution of Congratulations to the Mary Mavec School. It wasn't on the original agenda so we do have to waive the 24 hour rules to place on the agenda.

Councilman Wojtila moved to waive the 24 hour notice rule and place on the Agenda Res. (411-09), a resolution of congratulations to Mary Mavec Opportunity School. Councilman Langman seconded.  
Roll Call: Yeas: Unanimous.

**COMMUNICATIONS**

Councilman O'Neill moved to receive and approve without objection a request for a transfer of a C1, C2, D6 liquor permit for EZ Energy USA, Inc., Db a 22311 Lake Shore Blvd. Councilman Wojtila seconded.

Roll Call Yeas: Jones, Minarik, O'Neill, Wojtila, Langman, Van Ho, Holzheimer Gail.

Nays: Scarniench

Approved.

Councilwoman Scarniench moved to receive and approve without objection a transfer of a C1,C2 liquor permit for Sunoco, 20710 S Lakeland Blvd. Councilwoman Minarik seconded.

Roll Call: Yeas: Jones, Minarik, O'Neill, Wojtila, Langman, Van Ho, Holzheimer Gail.

Nay: Scarniench

Approved.

**COUNCIL MINUTES**

Councilwoman Scarniench moved to receive and approve the Council Minutes of October 5, 2009. Councilman O'Neill seconded. Yeas: Unanimous.

**ADMINISTRATION REPORTS & COMMUNICATIONS**

Mayor Cervenik presented Res. 182-20098 to representatives of the Mary Mavec Opportunity school. Mayor Cervenik and Police Chief Repicky presented Res. 181-2009 to Sgt. Craig Stenger on his retirement from the City of Euclid Police Department.

Recreation Director Will – I would like to thank a lot of people, I know I'll probably miss a few but this past Saturday we did a playground express community build day through the persistence of Sherrie Zagorc and many, many volunteers. They had applied for a grant through KABOOM and KoolAid and we were granted that. She worked very, very hard over the year to make it possible for us to be able to have a playground unit that was for toddlers ages 2-5. If you haven't noticed because we did just install this and build it this past Saturday, there are two units, a gazebo with some plastic musical instruments that the kids can play on and also a train that the kids can play on. It has a whistle, a slide. We put together with 50 volunteers that came out this past Saturday at 7:00 AM and stayed until 4:00, in all of the mud and cold weather, I thank you. Thank you to the Mayor for supporting and writing the letters to KABOOM and KoolAid so we could move forward. Thank you to City Council for supporting it. An extra special thanks to the Council members that came out that day to help us, especially to Council President Gail and to Councilwoman Jones and a big huge thanks to Councilman O'Neill. It took us about an hour and a half to snap two pieces together and if it wasn't for his ability of climbing a ladder and put this part together, it still wouldn't be together. Thank you and I really appreciate it, so we got home in time for the Notre Dame game. Thank you.

Council Minutes

October 19, 2009

Page 2

Councilman O'Neill – I thought they wanted me there for my brains, but apparently that didn't work out.

Director Will – I was going to say that next, but again thank you to everybody, administration and all the residents that came out. I know we will be having a formal ribbon cutting ceremony once that is announced, we will make that announcement. We have a little bit more work to do with some cement and then we want to put the rubber surfacing down. I hope within the next 7-10 days that will be all set and then I will be announcing the grand opening and everybody can come out. Thank you again, it was a great day.

Remind everybody that this coming Monday we will be having out Howl at the Hall. It is for children 5 and under. We do have limited openings at our 11:30 time slot. If there's anybody there that wants to come out and bring their children, you can call our office and register. We have enough openings for about 15 kids, so give us a call if you want to get those spots. They will go trick-or-treating throughout the offices here at City Hall.

We also will be having three of our teams for our tackle football that have advanced to the semi-finals. They will be playing this weekend. I do not have the times yet, but they will be noted on our website as soon as those times become available to us.

We are still taking registration for Panther Hoops. It will be starting November 1<sup>st</sup>. It will fill up. We have about 50 spots available. Right now we have about 400 kids already registered for that program so it continues to grow. If you want to register for the Panther Hoops program, come on and see us, we have our registration hours tomorrow, at City Hall from 3:00-7:00 PM.

We will also be having our Drumstick Dash and Wishbone run. It is a 5K walk and run, on Saturday, November 7<sup>th</sup>. It starts at 7:30. Registration will take place at the C.E. Orr Ice arena. There is a cheaper fee if you pre-register. Come into our office and register or you can always check out the City website, [www.cityofeuclid.com](http://www.cityofeuclid.com) and go to the Recreation Dept. to list all of our special events.

Remind everybody that the C.E. Orr ice arena is open. On Tuesday, October 27<sup>th</sup>, from 7:00-8:45 PM, we will have our Spills and Chills Halloween event. Dress up and you can get a discount for ice skating. That's Tuesday, October 27.

We have ice skating lessons, the high school pool is open for open swims, adult swims, family swim and also swimming lessons.

I was asked to remind everybody that the Euclid Hockey Association, they will be having their big fundraiser for the year, their benefit night, Friday, November 6<sup>th</sup> at Tizzano party center. Doors open at 6:00 PM, it is \$35 per person and that will include your dinner. They'll be having Chinese Auction and lots of fun. Come out and support our Euclid Hockey Association children and all of the parents. If you need any information, call our office at 289-8114.

Let me go back to Shore Cultural Centre, they will be having their Haunted Hallway on October 23 and 24, 29 & 30, from 7:00-9:30 pm. That's at Shore Cultural Centre, 23, 24, 29 and 30 from 7:00-9:30. It is \$5 per person. They do have 17 different scary scenes for you to enjoy but they also have a room that is for children 9 and under or the older children that may not want to go see the scary scenes like myself. There's room and places for all ages to attend.

The Euclid Orchestra will be having their Fall Concert, this Sunday, October 25<sup>th</sup> at 3:00. The concert will begin at 3:00. If there's any information that you need, 289-8107.

Last but not least, I had received a phone call from two of our different associations. One of them was our Ohio Parks & Recreation Association. They had invited our Aquatics Director, Annemarie Finch, to come out and make a presentation. She had been selected through the State to do a presentation on the Long Fellow's Whales Tales. For anybody that was at the pools this summer, at designated times at certain days, they did a special safety program. They did this throughout the entire summer. We were recognized through our State for that wonderful program. She will be making a presentation on November 5<sup>th</sup> for a State Aquatics Symposium and then I know it is going to be introduced to our National Aquatics Dept. also. Once she makes the presentation, we will download it and have it available for everybody to watch. It was a great special event, she will continue it, but it is so nice for Euclid to be recognized for something.

The other item that we were recognized for was everybody is aware of Mac Stephens, our youth sports coordinator. He not only is doing all of this for teaching the children how to play sports or get involved in sports, but it is all about the character and how to develop a child from a young age all the way to adulthood. We have a mentoring program where the children have to show their report cards to their coaches. They have to maintain certain grades to be able to play that week. The coaches of our basketball and our football have followed through this guideline.

We were recognized through the American Youth Football League, which is the largest youth football organization in the United States. They're going to be adopting our mentoring program that we have and the tutoring ideas of how we do that. Again that's a great honor to get that. I had gotten that phone call within two days of each other.

But today we got a call from the National Championships Conference for coaches throughout

the whole United States. They asked for Mac Stephens to come and make a presentation about that mentoring program. I think that tells you a little bit about the staff that we have. I'm very proud of them and hopefully everybody here too can recognize the fact of the outstanding people that we have. Thank you very much.

Director Smith – I would just like to make a notice that leaf pick-up will begin on Monday, October 26, 2009. I forward an e-mail for your information. Initially we will have pick up the same day as garbage collection, however we certainly cannot keep up with that pace as leaf pick-up, as it continues, so therefore we will fall behind on schedule. What we intend on doing is provide a daily update on the city's website so the residents have an opportunity to find out when we'll be there for that service.

Mayor Cervenik – It is probably an action I should have taken earlier, the City of Euclid lost a great friend and patriot in Mr. Bill Tomko. Mr. Tomko past away. Many of us know him for his duties in Veteran's affairs, he was the King of the Memorial Day parade. He ran that parade for many, many years. There's some great pictures of him behind tanks and other things as well. He served with seven different Mayors in various capacities. The funeral will be Thursday at St. Paul's at 10:00 and then he will be buried at our own Euclid Cemetery. If we could all stand for a moment of silent prayer, thank you. That completes Administration Reports & Communications.

President Holzheimer Gail – I would like to acknowledge Councilman Gruber, welcome.

#### REPORTS & COMMITTEE MINUTES

Councilman Gruber moved to receive the Fire Report of April, May, June, July, 2009; Board of Control Minutes of 9/28/09 & 10/5/09. Councilman O'Neill seconded. Yeas: Unanimous.

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

President Holzheimer Gail – We know come to the Committee of the Whole for Legislative Matters Only. You may speak to any item on the Agenda for 5 minutes. Please state your name and address for the record. #11 the Charter submission will be sent to committee for full discussion.

Mr. Victor Goodman – 20201 Glen Russ Lane. That's exactly the one that I was going to talk about. Something for being that it is going to go into committee, for each council member to hopefully think about. Way back when, you stood up, you raised your right hand and you swore an oath to serve and to protect the people; not to serve and protect yourselves or other elected officials.

To change this particular charter amendment to me is paramount to self-interest. Why? Because I was told that no council seated can vote on things that would affect them. Being that six of nine of you are guaranteed your same exact seat, then that means there's already a majority that would be benefited in the event that the citizens of your particular wards, or the city as an entire, decided for some reason that you needed to be recalled. This is something that would definitely benefit you. Thus I would think it might be a conflict of interest. I hope you'll consider that point.

Now since our Charter was created, once, not 20 times, not frivolously, not 90 times, once in over 50 years was the recall invoked and it was simply a fact of the people who supported it to say we have the right to petition.

I went to most of the Charter Review meetings and probably was the single entity in this Hall, and the others that I didn't go to, I watched. One of the reasons that was given for this change was that other cities are doing it. Other cities have a shorter period of time or a higher number of people. Well there's nothing wrong in our system, it has not been abused. I find it fascinating that this even became a subject for the Charter Review Commission. They're supposed to take care of things that are abused or not right. There is nothing wrong with the way it sits on the books today and thus there is no need to tamper. If that be the case, then the City of Euclid should have already invoked laws to prohibit people to drive with cell phones in the car and many other things because other cities do the same thing. That excuse cannot be here. You have to see a reason why such a change would ever have to be made. You don't make it harder for the public to protect themselves from those who are serving them that people might think do not serve the best interest of what the people are.

Again I remind you, six of nine of you would benefit from the passage of this during your next term. I think the people would understand if you voted for this at some point. They would understand your thinking about yourselves and not the constituency you serve. Thank you.

Mr. Jeffrey Beck - 25540 Chatworth. I would like to speak to two items on this evening's agenda. The first is #9, the repeal of the Parallel Fence ordinance. I spoke to this two weeks ago here and again at the P&Z meeting last week. I'm against the repeal of this ordinance. A sufficient distance must be maintained between parallel fences in order for the homeowner to be able to keep the area between the fences clear of weeds and debris.

An area of 3 ft. was established, I believe this is the correct distance. Three feet will allow a lawn mower to get back there and offer sufficient walking space for the homeowner. By repealing this ordinance and allowing fences to be backed up to each other, this no-man's land between the fences will deteriorate with weeds and debris and will be attractive to rodents and other vermin.

If the second fence installed is a privacy fence, then the homeowner who installed it will never see the issues on the other side, but his neighbor will. If this homeowner decides to get between the fences and clean, the only way for him to do it would be by entering his neighbors property. If his neighbor has flowers against the fence, like mine does, then it only adds to the problem.

For these reasons I think it is a bad idea to repeal this ordinance and its repeal will only create neighbor problems. At the P&Z meeting last week, one reason mentioned for repealing this ordinance is that the last 10 people who asked for a variance were granted one. Not enforcing our ordinances is a poor reason for repealing them.

The second issue I want to speak to is #11, the Charter Amendment amending the recall portion of the city's charter. As a member of the Charter Review Commission, I wholeheartedly support this amendment and urge this Council to agree and pass this issue onto the voters for their approval. You're not approving an issue yourselves, you can be against the issue, but please pass it onto the voters and let them vote on it.

There are two changes that we recommend. One is the percentage of voters that is needed for a successful recall petition. The current number is 15% of the electors voting in the last general election. We are proposing a change of 25%. With the break up of the city into 8 wards and the number of voters per ward has exponentially decreased. Based upon the last Council election in Ward 2, there were 1,879 votes cast. If I wish to recall my council person, and I'm not, I would currently need 282 signatures. The proposed change would raise this to 470 signatures.

Also currently there is no time frame in the Charter to file a petition. Again if I wanted to recall my council person, all I would do is wait six months of their term, pull a petition and gather signatures until I have enough, even a year if I wanted to.

In researching other city's charters I found that all limited time after a petition has been pulled to when it was turned in. Most cities were 30 to 60 days. We felt that 45 days was sufficient. A campaign could be organized before pulling your petition, but once pulled, the clock starts ticking.

A recent PD editorial stated, and I'll read from that, but removing an elected official from office shouldn't be easy. If it were, long lines of malcontents and sore losers would only be to willing to try their luck. Recall elections rarely succeed and are often driven by poisonous politics rather than by good government altruism. Witness Akron Mayor Don Pasquale recent success in staving off a recall attempt and that was nothing more than an expensive exercise in well deserved futility.

We aren't trying to make it impossible to recall an official. We just feel that these changes make it fair and equitable process and again urge you to agree and send this onto the voters.

A question was brought up on why we should even look at the recall petition. As a member of the Charter Review Commission, we took a look at anything that had been invoked recently and the recall had been invoked recently so therefore we would look at that portion of the Charter to see if it was up to speed because it hadn't been changed in 50 years and we found these deficiencies.

Anyway, you don't have to agree with the amendment. But we're not asking you to do that we're just asking you to agree to pass it onto the voters and let them decide. Thank you.

Mr. Dave Hiscott – 1970 E. 224 St. I, too, am speaking to #11 and I also was a member of the most recent Charter Review Commission. Again, I want to assure you that during our two year existence this subject was discussed at length, debated and went through our non-binding voting process with the majority voting for it and with the binding again with majority and that's why it is in front of you today or will be discussed in Committee.

As Mr. Beck mentioned, the most important thing to remember is this is and should be a pass through for Council these are the things that come out of the Charter Review Commission that should go directly to the voters. These are the people that make the decision and it should be passed through to them with no changes, admissions or subtractions. I ask you to please do that.

I don't want to repeat a lot of the things that Mr. Beck mentioned but we do look at what other people are doing when we're looking at a subject as part of the total overall review to see if we're way out of line or if we're maybe right where we should be. As it turns out, the cities of Parma, Cleveland Hts., North Olmsted, South Euclid, Willoughby, Lyndhurst, Wickliffe, Strongsville, Westlake and Bay Village are all at and have been at 25% required of the number of signatures required from the most previous general election. Garfield Hts., Mayfield Village and Eastlake are at 20%. Euclid and Lakewood are at 15%. That kind of tells us that maybe we need to take a harder look at this and as Mr. Beck pointed out with the recent change from at-large to all wards, the numbers of electorate in the wards has dropped significantly. When you start taking percentage of what's needed for a recall you'll find that there's really not much of an increase at all to go to the 25%.

Several other things. Recalls are very serious matters and should be taken as a last resort, however it should be something that's in the Charter for the people to take advantage of when they feel it is necessary. There's no argument with that. However, there has been a rash of recalls around northeast Ohio in the past couple of years, not only with ours, but with others. Here in the City of Kent, five councilmen were up for recall. They wanted to recall seven but they couldn't get enough votes for the other two.

Among the reasons given, and these people were in office for five months when this recall came up was, they give people three minutes to speak and then they use a stop watch to time us. While people are speaking they play with their blackberries, read the paper, whisper to one another and act as if they're not listening. That is the kind of thing that needs to be addressed. Boy that calls for a recall. That cost them \$20,000 and the recall failed.

Akron Mayor Pasquale again that Mr. Beck talked about was recalled. Part of it had to do with missing city records and the red light cameras that were installed. That was the straw I guess. Of course Mayor Pasquale had been in office for well over 20 years when they decided to mount this recall because, well people didn't like him, was another reason. That failed, he over came that 3 to 1. That cost \$200,000 for the city and right after that, a few weeks later, the city council of Akron made a change. They required 20% of the electorate for signatures. They changed it to 20% of total registered voters. We have some 38,000 registered voters in the City, so we're not asking for anything like that, we're simply asking for changes to update, to get us to where we should be. Again I ask that you pass this onto the voters and let them make the final decision on it. Thank you very much for your time.

President Holzheimer Gail – Seeing no other public comments, we will move onto legislation.

#### **LEGISLATION**

##### **Ord. 183-2009 (409-09) J&J Refuse 5 Yr Contract**

An ordinance authorizing the Director of Public Service of the City of Euclid to enter into a five-year contract, commencing March 1, 2010, for the collection and disposal of solid waste materials for the City of Euclid with J & J Refuse, 3596 St. Rt. 39 NW, Dover, Ohio 44622. (Sponsored by Councilman Wojtila by request of Service Director)

Councilman Wojtila moved for passage, Councilman Langman seconded.

Director Smith – On Monday, August 24, 2009 bids were received for the collection and disposal of solid waste and/or recyclable materials for a five year term. Bids were received from J & J, Waste Management of Ohio, Republic Services and Rumpke. The bid document contained a fuel adjustment table in order to establish automatic adjustment charges in accordance with US Dept. of Energy standards.

Upon review of the bids and the submissions, it is my recommendation that J & J Services, a Kimble company, receive the award as the lowest and best bid received. The award shall include Item A, Option 1, standard curbside collection and disposal along with Item D, container services in addition to Item E, waste water treatment plant disposal services. I would also like to note that as a result of the competitive bid process the City of Euclid will recognize an approximate cost savings of \$281,000 in the general fund and \$55,000 in the Waste Water Treatment Fund. I would be happy to answer any questions if you have them.

President Holzheimer Gail – We did have a Finance Committee Meeting on this last week and we did hear directly from Mr. Johnson from J & J. Are there any additional questions from Council?

Councilman Gruber – I'm sorry I reviewed the meeting but I don't remember what were their other major clients, cities?

Director Smith – The major cities were very limited. I did perform a reference check of 8 or possibly 9. The comparisons weren't extremely accurate. The largest city that I was able to contact was Cuyahoga Falls with a 48,000 population. Unfortunately J & J has only the disposal contract and not the collection contract. This City of Alliance was 23,000. The City of Stow, 34,000 and it went down from there.

Councilman Gruber – Those of us that have been here for awhile remember we had a few other disposal companies come in and I hope that you keep this second bidder on file just in case. We brought a new company in that wasn't sufficient, all the Council members, I'm sure Councilman Langman remembers. We had several problems. I'm glad to see you did your due diligence and this is good, but keep the second bidder on redial.

Council Minutes

October 19, 2009

Page 6

Councilman Langman – What is the potential savings if we would bring on this firm as opposed to going with what we have for the next budget year?

Director Smith – The savings was in the amount of \$281,150, that was strictly based on the price that was obtained from Republic Services earlier this year if we went with a one year contract extension. That was specifically to the general fund with an additional \$55,000 at the Waste Water Treatment Plant for their services.

Mayor Cervenik – Because of the way we bid this out, not only by price per household but also broke it down into payment by tonnage for the first year of \$39 per ton, it will be behoove us, although doing full curbside recycling was going to cost well over \$300,000. By encouraging our residents to drop off recycling, papers, bottles and that at various places, we can actually achieve a higher savings of \$39 a ton because that will be taken out of our revenue stream. With the past contract and past contract, we did not have the ability, recycling by our residents would actually save us money. The savings could be higher in the general fund than \$281,000.

Councilman Langman- We need those savings for next year for sure. Is this a straight five year contract or is it a 3 year with options, or 4 year with option?

Director Smith – It is a straight five year contract at this time.

Councilman Langman – If either party is dissatisfied, what is the opt-out window?

Director Frey – We have not drafted the agreement with J & J subject to Council's authorization to do so tonight. What we had in the prior contract with Republic and prior to that with Waste Management is a provision that we will insist on in this agreement and that is we will give the vendor the opportunity to correct service deficiencies, but there are persistent deficiencies than we have the right to give a notice of cancellation. With Republic we gave them a two year period to perform before we would exercise that right, so that there could be some reasonable amortization of the equipment. J & J is committed to new equipment as the gentleman indicated at the Executive and Finance Committee meeting so we are going to need to give them a reasonable period of time to correct their deficiencies. We're not in the business of trying to cause financial hardship with the companies we contract with. We will have a provision in that contract that will allow us to address the deficiencies to demand satisfaction as to those and if not, then a reasonable cancellation period, probably no less than 180 days.

Councilman Langman – While it is always a risk going with a firm like this, but again given the potential savings, that has to be weighed rather heavily given our projected budgeted for 2010. Thank you.

Councilman Wojtila – Director Frey, you said you haven't done the contract yet, but I would hope that we would have in the contract that we do curbside recycling that we're not precluded from doing that, we could use another vendor and not necessarily only J & J?

Director Frey – We did not award through this legislation any recycling. So if at some later time, neither is it included in the budget numbers attached to this legislation. This is just the pick up of household and waste water and other public buildings. Just the general trash/rubbish pick up. Not part of this is recycling. We are not precluded from finding a recycling contractor if something else changes. If there's something in the dynamics of that business that makes that make sense, we're not precluded from that, but that is not part of this at all.

Councilman Wojtila – I just want to make sure there is no preclusion, because a five year contract, things can change and hopefully we'll have curbside recycling back before that. Have we done five year contracts before with a waste hauler or is this going to be a first?

Director Frey – When we were working with the County Solid Waste District and this was before Director Smith was here, it was their opinion that we would get our best price point if we went with a 5 year contract. I think several other communities had gone to five years and it achieved significant savings and I think makes sense because it allows the vendor to spread the cost of that equipment, which is substantial over a much larger period of time. That was their recommendation. We followed it and I think the results we have here say that was the right way to go.

Council Minutes

October 19, 2009

Page 7

Councilman Gruber – I would like to make a motion that we have a 60 day out with this company. It is unknown with the City of Euclid. I've been here before when we've had a lot of problems with waste hauling and I think our citizens deserve the best. I make a motion we have a 60 day out in that contract.

President Holzheimer Gail – There's been a motion made and seconded to amend this to include a 60 day cancellation.

Mayor Cervenik – If there's any discussion allowed, as the Director said, in order to get this price, a lot of the reason is we have the longer term contract so the company does have the ability to amortize their equipment, which is very expensive, well over \$1 million in equipment that they will be providing. I think it would be more reasonable that after a two year period, there would be a 60 day out, if in fact things still did not improve. I don't think we'll be able to reach a contract agreement if 60 days from March 1<sup>st</sup>, we can cancel this contract for dissatisfaction. With the best companies we've ever had in this community, with the least amount of problems, when you first begin, there are going to be situation, there are going to be route problems. We need that time to make sure it is corrected. But I firmly believe if your motion is from March 1<sup>st</sup> on to have a 60 day out clause without giving that first two year period to happen, we won't be able to get a contract here. I think it is very unfair to the vendor.

Councilman Gruber – I was here before and we had a fella that stood up here that gave his kidney to his father-in-law for a waste management contract. They did not perform. I'm not going to put the citizens of the City of Euclid on the hook for that. Sixty days is not, you missed a garbage can here, you didn't this. It is, they didn't do what they were supposed to do. You get what you pay for. They're the lowest bidder. I'm not comfortable with a five year contract for someone we don't even know. I've never heard of them, and I'm pretty well schooled. I never heard of these guys. I'm sure they're the best bid and are going to go out and buy all new equipment and hire new people and I'm just not comfortable with it. I'll give you 90 days. I'll make an amendment for 90 days on an out contract.

President Holzheimer Gail – Second the change. I don't know if we have to officially withdraw the first motion? Okay, officially withdraw the first motion and the second by Councilwoman Minarik. The new motion talks about 90 day out.

I will just add that those of us who were here and I was here with the last contract too, heard from the gentleman that yes, they have had some rough starts in the past but it really wasn't anything more than some missed routes and missed pick ups and they were very quick to fix those issues. Director Smith did check the references, all of whom would say they would hire this company again.

Councilman Langman – Perhaps if we can get from Director Smith what our relatively minor things like missing a garbage can here or missing a route once in awhile, versus what are major service breakdowns. Is it destroying property, running over curbs, destroying curbs, etc. From your experience Director Smith, what would be major issues versus relatively routine matters?

Director Smith – With response to that question, everyone that I had talked to, they were minor issues. They did range from miss pick ups, occasionally missed pick ups and a lot of the people I spoke to actually accepted responsibility for that and put some of that back on the resident that perhaps it wasn't missed by J & J but it didn't make it out to the curbside in time. Another one had to do with a flyer that looked more like a political flyer than it did an informational flyer. That was addressed in the bid specs in that the City would have some input on any materials that were distributed on an annual basis. I certainly have been here probably the shortest period of time of anyone in the room and I do understand the importance of the garbage collection. We called J & J on two different occasions. We had a couple of telephone interviews as well to discuss some of the details and intricacies of the contract. I, too, am nervous with the contract and with the new vendor because I recognize the importance, but they certainly did share their thoughts and their goals. Mr. Johnson is here tonight and I certainly think if J & J gives him what he needs to perform, I believe he can perform.

One other complaint that I would point out had to do with and they shared it with me that it was a poor community with a high eviction rate. The contract called for unlimited tonnage and J & J took exception to that. Even though they had some difficulties and they did say during the infancy stages of the program and I shared that with Council because I think there will be problems, I believe we can overcome those problems and see it through.

Councilman Langman – It sounds like a minor thing, perhaps I wasn't clear in my question. Can we divide minor issues versus major dereliction of their contract, to address Councilman Gruber's

Council Minutes

October 19, 2009

Page 8

concerns? Can that be incorporated into any kind of agreement?

Mayor Cervenik – I would like the Councilman who is proposing this to tell me the difference between major and minor?

Councilman Gruber – I will, thank Mr. Mayor. We have garbage cans on Lake Shore and Euclid Ave. that's their responsibility the current waste hauler. Will they be addressed with this contract?

Director Smith – It is part of the contract. Any additional units that were installed because I know there was some questions at the previous council meeting that we're addressing with the additional bins, that would simply be an additional unit to the contract and we pro-rated to the amount of tonnage that would be pro-rated from each individual unit to modify the contract price.

Councilman Gruber – This is the biggest city that they've ever picked up on and they're going to have to buy a lot of equipment and hire a lot of folks. So do we have any guarantees that on Monday morning my trash will get picked up in my ward? That's what I'm worried about, I've been here before.

Mayor Cervenik – If the Councilman has been here before than he certainly must remember the excellent service we received from BFI. I think BFI was probably the best service we had and he should understand the Mr. Johnson who is now with J & J, and will be overseeing our contract, was with BFI in Euclid at that time as well. He knows Euclid very well and he will continue to do so. I firmly believe.

Councilman Gruber – Mayor, I'll take your word, but I would like a 90 day out.

Mayor Cervenik – I just don't think we're going to get a contract if 60 days from March 1<sup>st</sup> we eliminate.

Councilman Gruber – I gave you 90 days.

Mayor Cervenik – Even 90 days, I don't think you're going to get, you're talking about a million and a half dollars investment in equipment.

Councilman Gruber – Call the next guy, he'll do it. Call the next guy. Garbage contractors are hungry.

President Holzheimer Gail – Law Director Frey, would you share your opinions please on whether this would be positive to this process?

Director Frey – In the event that we had continual performance issues that would be a breach of that agreement and it would require us to give notice to the contractor that we deemed the contractor to be in breach and we were going to seek remedies. That's not a process, I don't think anybody sitting here in member of Council or administration says, gee let's do that. I would agree there are going to be some start up issues that Director Smith is prepared to deal with. But if there were ongoing significant performance issues like we had, I don't recall the name of the contractor, we had several contracts ago; in that situation we would have to seek remedies either in the agreement for a specified breach or out of the agreement through enforcement of the contract in court. We do have the right to enforce the contract as would the vendor have the right to enforce the contract. I think the Mayor makes a valid point. There has got to be a realistic period for the vendor to be able to amortize their capital investment. We have to have reasonable protection and we think we can create that if we give 180 day notice period to correct what we consider would be a major breach in the agreement. If Council is insistent on putting in some time period, that's the time period I would recommend; that we would give them that time period to make those corrections. If they did not make those corrections then we could terminate the agreement with 180 day notice.

Councilman Van Ho – If they were to do a terrible job, do we not have a million dollar performance bond on this contract?

Director Smith – That's \$500,000.

Councilman Van Ho - \$500,000 so we could bring somebody in real quick. To cancel that contract in 60-90 days sounds great when we're sitting here. The reality of it is it will be tied up with lawyers and bonding companies and everything else and it won't work.

Councilwoman Minarik – First of all 90 day, I don't think, who would make that decision, the Council, the administration, I don't think it would be made lightly. But I do recall that time period when residents were screaming week in and week out. I was either in the audience or watching it and it was a horrible time and I believe we were stuck with that company for about two years. Finally the people were just so fed up that we finally let them go. I'm very nervous because I know the current vendor is doing their job, but as Councilman Langman said, it is a big, huge savings. But I'm just nervous. I did visit the website and looked like every city in the County was listed and I don't believe Euclid was even on this list, so I thought they're not listing their clients, they're just listing every city that they could potentially serve because we had not agreed to this yet. I don't think 90 days is unreasonable because I don't think the decision to pull out would be made lightly. Similar to the 30 day pull out with Coral Company and Shore. It is not just okay, we're upset with you. It is when the residents, week in and week out are upset and then whose decision would it be anyway, ours, administration, joint? What was your thought on that as to whose decision it would be?

Councilman Gruber – It would be council's decision. We all know if we get dozens of phone calls we have a problem. If there's no phone calls, then everything is going smoothly, they're home free.

Councilwoman Minarik – If they're doing their job there's nothing to worry about.

Councilman Gruber – We're on the frontline, we get the calls.

Councilwoman Minarik – That was a horrible time.

President Holzheimer Gail – If there are no other questions on that motion, let's have a vote on the motion to add a 90 day out clause.

Roll Call: Yeas: Gruber, Jones, Minarik,

Nays: Scarniench, O'Neill, Wojtila, Langman, Van Ho, Holzheimer Gail.

Amendment failed.

President Holzheimer Gail – Are there additional questions on the ordinance?

Councilwoman Jones – I just have one question. I know in the meeting we talked about the routes would probably stay the same so is that something that would be in the contract that the routes would be the same at least starting off so it would be a smooth transition?

Director Smith – Any change in the routes would have to be approved by the City. J & J is welcomed to make any suggestions to us for improvement, but the final say lies with the city.

Councilwoman Minarik – With that amendment not being passed, what is our safety measure now for an opt-out?

Director Frey- We will negotiate a contract with J & J that has a provision for an opt-out if there's a continual performance deficiency that they fail to correct. As Councilman Van Ho points out, there is a performance bond that is a significant incentive in ensuring that they fulfill the contract. That will be part of the agreement is that performance bond as well as what we can negotiate and I would suggest we will follow the pattern we did with the Republic Waste hauling contract. I would be happy to provide that electronically to Council. I can do that tomorrow, scan it and send it out so that you have it to use as a template.

Councilman O'Neill – To either the Mayor or Director Johnson, being if J & J does get this contract, employees that are going to be picking up refuse in the city, will they be paying income tax to the City of Euclid?

Director Johnson – Yes they would be.

Councilman O'Neill – To Director Smith, do we have any idea how many employees that might be?

Director Smith – I do not recall the specific number of trucks.

President Holzheimer Gail – I thought I remember 5 trucks per day, one driver per truck.

I do want to thank the Mayor and Administration, Director Smith for your hard work and the whole bid

process. I was able to attend one of the meetings with J & J and I know there were several after that fact. I think to be able to receive a cost savings at this time is a very good thing and will be beneficial to the city. I was very pleased with what we heard from J & J and I think anyone enters this decision lightly. We do know it is an important service and the administration certainly did their due diligence in following up. Yes there always is some risk but there was risk when we switched every time and it has not always been a disaster, we just had one bad situation. Hopefully we've learned from that and I know that we've learned from that and the questions that we ask contractors and potential bidders certainly has changed because of that process. I do want to thank you, I think it has been a good process and we did have a productive committee meeting to discuss this in greater detail.

Councilman Van Ho moved to close debate, Councilman Wojtila seconded. Yeas: Unanimous.

Councilman Langman moved to suspend the rules, Councilman O'Neill seconded. Yeas: Unanimous.

Roll Call: Yeas: Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman, Van Ho, Holzheimer Gail  
Nay: Gruber

Passed.

**Ord. 184-2009 (400-09) FirstEnergy Solutions Electric Aggregate**

An ordinance authorizing the Mayor of the City of Euclid, or his designee, through the assistance of Independent Energy Consultants, to negotiate an extension of the power supply agreement between the City of Euclid and FirstEnergy Solutions, 341 White Pond Drive, Akron, Ohio, for the supply of electricity for the City's electric aggregation program for the period from May 2012 through April 2018. (Sponsored by Mayor Cervenik)

Councilman Gruber moved for passage, Councilman O'Neill seconded.

Mayor Cervenik – This is the extension legislation that I spoke about last week during the budget hearings. We would be extending our electric aggregation program from the period of May 2012 through April 2018. We would be guaranteed a minimum of 6% savings of CEI prices through that period. In return for extending our contract, we would be receiving one time payment of \$638,400. A good part of the reason for this is these aggregation companies have to invest in new technology and new equipment, need to provide Wall Street the assurances that they have long term contracts where they will receive revenue to pay back the debt service they'll be asking to borrow. This ends up being a very good opportunity for the City of Euclid. I believe all of you received an attachment that I sent to you listing the technicalities of why this is being done as well as a list of quite a few other cities that are entering into this agreement as well.

Our residents still have the ability to opt-out once every three years at no cost if in fact another supplier was to come into the market with extremely lower charges, which doesn't appear likely at the moment. During the other times, if they want to opt-out, other than those three year periods, it is a minimum \$25 opt-out period. Our residents are covered very strongly with this, just as they are with the gas aggregation. I strongly suggest passage of this legislation and we should receive, Mark Burns our consultant has informed us that within about 30 days after the signing of the extension we should receive the financial contribution to the City. That will go a long, long way towards getting us through a very difficult upcoming 2010. Either I or Director Frey, who I do have to commend Director Frey, as well as our consultant Mark Burns on the extremely hard work they put in, not only to our annual aggregation program, but especially to arrive at this point where it becomes very beneficial to the city operations as well as our residents.

Councilman Langman – Thank you Mayor and to the administration. This sounds very good, just a couple of questions. The payment, that's a non-refundable payment to us?

Director Frey – It is non-refundable. We would receive that in exchange for passing legislation and extending the agreement. Once made there are some reasons in the agreement that it could cancel and that will have no affect on our ability to receive and retain those proceeds. For instance if the PUCO were to change regulations to make that program not feasible, that's the risk FirstEnergy Solutions takes.

Councilman Langman – Law Director Frey, reading through the contract, there are some caveats if there's a BTU tax that was passed or cap in trade. Did I read that correctly, that could affect the savings our residents see?

Council Minutes

October 19, 2009

Page 11

Director Frey – Yes it could. I don't know if you've noticed in the electric bill, I spent a good long time with my mother the other night trying to go through her electric bill with her. The fixed cost, the Public Utilities Commission has increased significantly the allowed fixed cost recovery for CEI. At least on my bill, the fixed cost portion exceeds the actual cost for the electricity that I consume. This will have no effect on that fixed cost. This will only affect the discount with FirstEnergy solution only affects the electricity actually used. But there are some things that could cause that fixed cost portion of the bill to continue to rise.

Councilman Langman – I think Mayor you addressed it, but just to be clear, does passing this agreement, does that change the opt-out provisions that our residents have now?

Director Frey –The opt-out provision right now, you had the opportunity to opt-out when the notices were sent out. If you did not opt-out you were in the program. If now, during the term of this program which ends in 2012 you wanted to opt-out, you would have to pay that \$25 opt-out fee.

Councilman Langman – That is a \$25 fee? It is not \$25 or whatever else they want?

Director Frey – It is a \$25 fee to get out of the electric program. A little advertising at this point. Your choices in 2009 are to receive the 10% discount off of the electricity used from what you would pay if you did not have FirstEnergy Solutions supply. In other words, that portion of your bill is 10% less than what you'll be paying with CEI. Then it declines next year, but it is still a 6% discount off of what you would be paying CEI for that same electricity used. I would think it is in all of our residents best interest unless they have some other deal. For instance there maybe a CEI retiree who gets a bigger discount on electricity. For that person it makes sense to stay with CEI. For most of us, this is the best we're going to get. To my knowledge there is no other vendor offering electricity in this marketplace other than FirstEnergy Solutions of the regulated utility CEI.

Councilman Langman – Thank you.

Councilman Wojtila – The discounted rates that we have from 2009 to 2012 that we had approved previously. Are these the same rates then that we previously approved?

Director Frey – The rates that are in this, not in the extension, that's a minimum of 6% in the extension. There were fixed discounts for 2009 of 10%; 2010 was 6%; 2011 was 5% and the first quarter of 2012 was 4% discount on residential rates. Those are the same. This 6% minimum affects the period of May 2012 to April 2018, it does not change the discount rates in the existing service agreement.

Councilman Wojtila – The first amendment that we received a copy of, how much work have you done on that document?

Director Frey – Other than having gotten this on either Thursday or Friday, I have not reviewed it yet with our consultant.

Councilman Wojtila – It doesn't even talk about when we're going to get the payment and things like that.

Director Frey – We've got some work to do before we send that through.

Councilwoman Minarik – Director Frey, it is a very transient city. How often do we send out a citywide mailing letting people know about these programs that we have?

Director Frey – We talked just today at the Director's meeting. We have a citywide publication that will be going out in November and we will include in that publication a detailed explanation of both the electric and gas program. We have put the information on our website but I understand not everybody is going to access the website but everybody will get this mailing. There will be that information that goes out to all of the households in the city.

Councilwoman Minarik – When it first began didn't the electric company we had, they sent out an actual letter and if you wanted to opt-out, they provided you with an envelope and contact information. We're not going to do that?

Director Frey – No, there won't be new opt-out notices if we pass this legislation.

Councilwoman Jones – Is there a provision that where FirstEnergy would release a customer from the contract? I know it probably doesn't make any difference with our contract with them, but is there a certain number of customers that we have to have during this whole program period?

Director Frey – No actually our percentage, we were in the ninety-some percent of people who went with FirstEnergy, in effect did not opt-out. There were a number of individuals who opted-out. We were a little bit lower than the other communities that participated with FirstEnergy Solutions. Frankly I'm surprised or puzzled by that because I don't know what the alternative was, certainly nothing that I'm aware of was a better choice than what we had, other than generating your own electricity and that wouldn't be a reason to opt-out, if someone was interested in solar panel installation for generating or wind generation, those would be great compliments and maybe you could make up on a household a significant portion of the electricity used, but you would still want to take that which you could not generate yourself, you would want to take at a discount I would think. From time to time we've had people who have been confused about the utility aggregation program that they thought they were with one supplier and found on their bill they were with somebody else. We try to help them when we can. If that means that they are absolutely determined that they do not want to participate in the city's program, we will work with FirstEnergy Solutions and through our consultant to remedy that situation for them.

Councilwoman Jones – So are there reasons where a customer would be dropped?

Director Frey – Yes, if they're delinquent in their payment of their bills, they can be dropped.

Councilwoman Jones – That's FirstEnergy's choice?

Director Frey – That's all of the aggregate programs; if you're not current with your payments, you can't participate in those programs.

President Holzheimer Gail – I will just add that I had the occasion when I've gotten calls from residents to call the Law Dept. and the Law Dept. staff, in particular, Mrs. Allay, are very knowledgeable and are always able to answer any questions that I've had without even having to look it up on either aggregation programs. They really are a wonderful resource that I wanted to acknowledge that.

Councilwoman Jones moved to close debate, Councilwoman Scarniench seconded. Yeas: Unanimous.

Councilman Van Ho moved to suspend the rules, Councilman Langman seconded. Yeas: Unanimous.

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Passed.

**Ord. 185-2009 (402-09) Natural Gas Aggregate**

An ordinance authorizing the Mayor of the City of Euclid, or his designee, to enter into a power supply agreement between the City of Euclid and Interstate Gas Supply Inc., 5020 Bradenton Avenue, Dublin, Ohio 43017, for the supply of natural gas for the City's natural gas aggregation program for the period of May 2010 through April 2012. (Sponsored by Mayor Cervenik)

Councilman Wojtila moved for passage, Councilman O'Neill seconded.

Director Frey – IGS is our current supplier. We have a fixed gas price of \$7.33 per mcf. What's not in this legislation while it would agree to have IGS supply the city for the next two years, there isn't a price, that's because we haven't yet set a price. What we will be with Mr. Burns watching the market. We will probably look in January or February to set that price when the market conditions are most favorable to lower long term price. We'll want to take advantage of what we consider the optimal time period.

Our goal in this program is to afford to our residents a protection on an unexpected upswing in natural gas prices. We are very conscience of much larger government aggregate, NOPEC does. We try to ensure for our residents that they get a better pricing than NOPEC provides for those communities that are part of NOPEC. That's the benchmark that we try to measure our performance. We have to date been successful with Mr. Burn's assistance in achieving that goal.

Our program in this two year contract will have the same provision, there will be no opt-out fee. If you look in the apples to apples comparison, there are many natural gas suppliers in the market place unlike electricity. You'll see for fixed contracts substantial cancellation fees. We do not have a cancellation fee in our agreement. If someone can get a better price, either on a fixed contract than what they can get through the Euclid program, they can make that switch from our program to that program without a penalty, or they can switch to a variable pricing model without a penalty. However, once opting out of our program, there is no guaranty that the customer can return to the Euclid program during that contract period. It depends on the supply and capacity of IGS to handle that volume. I think this program has worked this last contract with IGS for two years has been very successful. We think that we've had good customer service response from them. We think it is the right choice and from a pricing structure, it gives us what we believe in a escalating price market, we will get a better price advantage. Their formula for pricing and why we selected them will give us a hedge against increasing natural gas rates. It may not give us the best price if natural gas rates drop, but they are very low, historically low now if those prices creep up, which likely they will as industrial demand increases. As the economy gets better and industrial demand increases, the natural gas prices will start to creep back up. We think their formula gives us the best advantage to blunt that impact. I'll be glad to answer questions.

Councilman O'Neill – Two questions, where are we at right now, what are we locked in at? The other question is, on a variable, for those people that are considering going to the variable rate, the advantage to that is it would be a lesser upfront cost. As you were talking about the escalating price as the gas goes up, is there a cap or you can just comment on those two items?

Director Frey – Right now the natural gas price, the fixed price is 7.33 per mcf with IGS and the City of Euclid's aggregate program. Every Sunday in the Plain Dealer there is a price comparison chart. IGS City of Euclid aggregate doesn't appear in there. The government aggregate programs don't appear on that chart. Our \$7.33 compares very favorably to the other fixed rate programs. The current variable rate programs are lower, they are in the \$5-\$6 range. They are very attractive if you're willing to take the risk that natural gas supply is going to stay strong, that the natural gas reserves will remain intake through the winter and that industrial demand, which is really going to be the big driver, if that stays depressed through the winter, the variable rate is not as much of a risk. But, the consumer carries all of that risk. So we have the guaranteed price with the fixed program if the consumer is willing to take the risk, they probably would save about \$1.50 per mcf but it is going to change every month. You could look at the price this past Sunday in the paper and say okay I'm going to go there. By the time you actually get enrolled in that program, the price could have gone up .30-.50 cents per mcf. You have some room at \$5.50 to the \$7.33 through the city's aggregate program. You know the city's program is not going to be any higher than that \$7.33 through this winter. You can gamble if you want that you can get a lower price on the variable rate, but again if you opt-out of the city's program and the variable price goes up past \$7.33 there's no assurance you can get back into the city program during that period.

I'm not going to tell you what to do, I can't tell you what to do. We're committed to the city program, but it does protect on that upward volatility but if you make the decision to switch to one of the variable rate plans, there would not be an opt-out fee for making that transfer, but you carry all the risk on those fluctuating prices and they will not, they'll set before each month. At the end of the month, they will set for the next month, you'll know what your supplier is going to charge you for that month.

Councilman O'Neill – That's on a variable rate?

Director Frey – That's on a variable rate. There are fixed rates out there but they make no sense in no mind to switch to one of those because they are no better than ours, in fact ours is better than most all of those.

Councilman O'Neill – Could you elaborate on, you talked about the mcf, but there's also more charges that are attached to that. That's strictly the cost of the gas but then there's delivery charges that's maybe confusing to some of our residents, if you could possibly clear some of that up.

Director Frey – Sure I could, talk to my mother again about her gas bill I suppose.

Councilman O'Neill – You've got some experience then.

Director Frey – I sure do. Dominion East Ohio is the delivery agent for natural gas to this market place. So Dominion is going to send the bill, there are customer service charges, there are transmission

charges that are going to Dominion. That's not going to change regardless of who your supplier is. What's going to change is who your supplier is and the rate that supplier is charging. So just like we talked about with CEI sending out the Illuminating Company sending out those bills and the fixed charge for CEI; while Dominion's fixed charge is now where near that proportion of the electric bill, it is still going to be there. So you will always have Dominion East Ohio charges, in addition you will have whomever the supplier is.

Councilman O'Neill – Dominion will be the people who come out and repairs the lines; it will be the same people coming out? They're just getting out of the selling of the natural gas. Delivery and maintenance will still be Dominion.

Director Frey – Yes. In both electricity and gas, it is the utility company that you dealt with all the time you've lived here that will come service that delivery. CEI will continue to handle transmission issues with a line down or power out. Dominion East Ohio will continue to respond to a gas leak. That won't change. The only difference you will see is in your bill, you'll see there is somebody else as your supplier.

Councilman Wojtila – The rate that you negotiated is seven something?

Director Frey – That's this contract that ends in April, \$7.33. We've not set the price yet, because we haven't made the commitment to buy the gas and probably won't until January or February whenever Mr. Burns says now is the optimal time to strike that price. What we have done in the past is we've typically set a benchmark. We try to find out what NOPEC is doing. We do our homework and try to find out what NOPEC is doing as far as their gas purchases because as I've said, one of our objectives is to offer a better price in our market than NOPEC offers in its market. But then we also want to look where we think the trading and the natural gas is going to allow us to say now is the time to strike that price, lock it in now for the next two year fixed rate. That's what we will do. When we see that price get to that threshold we think is going to beat NOPEC, we're going to go ahead and lock it in.

Councilman Wojtila – The term of two years?

Director Frey – That's what we've been doing in the six years that I have been here, we've been doing the two year agreements, yes.

Councilman Wojtila – Will companies like IGS do longer than two years?

Director Frey – Not that I'm aware of. I'm not sure there maybe public utility issues on how long you can set a contract price for natural gas. The difference is there's a lot of players in the natural gas market, unlike the electricity market.

Councilwoman Minarik – I think it was in the fall, I was an aggregate customer and IGS actually called me as a private citizen and you responded to that. Will there be something in this contract that IGS, it's retail division cannot try to undercut its aggregate division? If it does, we can get our lower price?

Director Frey – We'll fix a price, so our price is going to be, once we strike or fix that price, we're done, we're locked in for that time period at that price. You, as an individual can elect to take a lower price if you want to do that. We can't say to IGS you can't market in this area. I'm frankly chagrined that they would contact an aggregate customer to try to sell IGS as a supplier, but we can't prohibit them from doing that. You can look in the paper every week and IGS is a supplier of natural gas is going to have a fixed and variable price. I don't know if they're offering a fixed price right now, but they're going to have those offerings and you could make that switch whether they contacted you or not, you could switch to them if you wanted.

Councilwoman Minarik – I understand, but I think it was for a fixed.

Director Frey – It may have been at that time, I think it was \$7.50 if I'm not mistaken.

Councilwoman Minarik – They were offering me a lower if I got a fixed rate and that's when I contacted you. Shouldn't we be able to go back to IGS and say if you can offer a fixed rate to individuals, can't we get it on our aggregate? That was my question if we could put it into the contract somehow.

Director Frey – The problem with that is, when we decide in January or February of 2010 to commit to “x” number of cubic feet of gas for the next two years, they’re actually making a purchase commitment, IGS is for the City of Euclid for that much gas for those next two years. So they bought it at that point, we bought it at that point. So if the gas market changes and the price is lower, that’s when you as a resident want to opt-out and go with a different program.

Councilman Gruber moved to close debate, Councilwoman Scarniench seconded. Yeas: Unanimous.

Councilwoman Jones moved to suspend the rules, Councilwoman Minarik seconded. Yeas: Unanimous.

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O’Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Passed.

**Res. (406-09) Plan for Memorial Park – To Parks & Rec. Committee**

A resolution directing the Director of Parks and Recreation and the Recreation Commission of the City of Euclid to develop a master plan for Memorial Park and further, to report the plan to the Council of the City of Euclid for review and approval. (Sponsored by Mayor Cervenik and President Holzheimer Gail)

Councilman Langman moved for passage, Councilman Van Ho seconded.

President Holzheimer Gail – I asked that this Resolution be drafted and it would ask the Director of Parks & Recreation working together with the Recreation Commission to develop a master plan, or we can call it something else, a conceptual plan, was suggested by Councilman Wojtila for Memorial Park. The thought behind that was that there are a lot of improvements that I’ve heard about that are in the works and that ranges from the last couple of years we’ve heard about a pavilion, basketball courts, changes to the tennis courts, soccer field, dog park. Our public parks are our community public parks. They are an asset to our community and I just want to make sure, I’m not saying we shouldn’t make any changes to them, I think we can make improvements, but I want to make sure that we’re doing so in a way that is both thoughtful and includes a lot of public participation by the community that owns our parks.

Much like we do with Planning & Zoning, we have to confirm their recommendations for changes of use in buildings. I would like Council to have to confirm changes made to the public park, unless there is a Master Plan in place. This particular resolution would authorize them to begin, ask them to begin developing a Master Plan both with the Recreation Commission. I would anticipate that there would have to be some professional services, so we will need to look at allocating some funding to allow this to happen. I think it is important for the long term use. The Parks will be there long beyond the decisions that we make, the decisions that the current Recreation Commission and staff make. I just really want to make sure that we’re maintaining the integrity of the public space that we have and really making it the best that we can be.

Mayor I didn’t know if you wanted to add anything.

Mayor Cervenik – Only that I agree with you. I would like to see this go into committee. I think we had a little discussion earlier with our Development Director and he sort of feels that his department, including Planning & Zoning probably should be brought in a little bit as well. We can discuss those details at a Committee Meeting.

President Holzheimer Gail – There was some discussion, should it be a master plan, should it be a conceptual plan, and I don’t know all the right terms of what it should be, so I think it would be beneficial to us, we do have a Parks & Recreation Committee, to send it there so we really can have a discussion for exactly what it is that we want to come out of this and what’s the process that we’re going to undertake to go through it.

Councilman Gruber – I would like to thank you for your vision, that is a large piece of public property that has a lot of potential. I would encourage the Parks & Rec to get involved and anybody else over there. I would second the motion to put it into the Committee for Parks & Rec. It is an excellent idea, it is about time.

President Holzheimer Gail – I saw a couple other comments so I didn’t make an official motion. I’ll hold off on your second.

Council Minutes

October 19, 2009

Page 16

Councilwoman Scarniench – Some years ago I was part of the Recreation Sub Committee of the Master Plan. I believe there is a plan out there. I'll go hunt mine up that we should be looking at. We don't have to reinvent the wheel, maybe it just needs some updating and it would save us some time and money.

President Holzheimer Gail – I think it is always wise as we've done with the downtown planning and many of our other plans to start with what we have and do a full review of what we have done up until now and use that as a starting point, absolutely.

Councilman Van Ho – After we go through Parks & Rec, I would like to see this done with every department in the city because if you don't know where you're going, you're never going to get there.

Director Will – I appreciate you putting this on the agenda tonight and to always get the public opinions and comments. We have had several Recreation Commission Sub Committee Capital meetings, it's got a long title for it. They did start meeting back in 1999, so during this meeting that you would have, I would like to present to you everything that committee has come up with and show you what their plans were at that point and then revamp what needs to be moved forward on what they have done. I appreciate it, I heard you saying something about allocating money and right away I just want to remind everybody the Recreation Capital is about \$260,000 that we get a year, so there's not much that we can do; however, maybe that could change once everybody took a look at it and came up with a game plan. I appreciate it coming forward. If the public has anything to add, feel free to call my office at anytime. Thank you.

President Holzheimer Gail – One place to start too would be, are there formal minutes taken at those meetings? I don't believe we receive the Capital Committee minutes. The last Recreation Commission minutes we received were in April, 2009 from November of 2008. That could be part of why I'm feeling a little bit like I wasn't aware of what was happening.

Director Will – Our last meeting that we had was just recently, we had another meeting, I apologize, I don't know why you don't have the minutes, but I'll make sure to rectify that. Recreation Commission meeting minutes we always have minutes that go out and they've been publicized. As far as Recreation Sub Committee, the notes have always been done in-house, but I do have notes from all that and I will put together a summary of what has happened since 1999 and I'll get all the paperwork to everybody prior to the meeting on November whenever that meeting maybe. Prior to that meeting I'll make sure you have everything so you can review it.

Councilwoman Jones – I would like to tentatively set the date for the Parks & Recreation meeting, November 4<sup>th</sup> at 6:30.

President Holzheimer Gail – We'll confirm that based on availability of the Recreation Commission and Capital Sub Committee. I appreciate everyone's support.

President Holzheimer Gail moved Res. (406-09) to the Parks & Recreation Committee. Councilman Gruber seconded.

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Into Committee.

**Res. 186-2009 (405-09) October Breast Cancer Awareness**

A resolution in support of October as National Breast Cancer Awareness Month. (Sponsored by Mayor Cervenik and Entire Council)

Councilwoman Jones moved for passage, Councilwoman Scarniench seconded.

Mayor Cervenik – As I mentioned at the last meeting, October is National Breast Cancer Awareness Month. This is a disease that takes the lives of approximately 40,000 American Women each and every year, as well as 400 American men. The problem is with early detection it can be treated and the patient can return to a very high quality of life for a very long time. Therefore many different activities take place including the wearing of ribbons or seeing the big football players wearing pink gloves and pink shoes and things like that, just to draw attention to Breast Cancer Awareness Month and to ask that everyone because early detection is very important, to please do your self-exams, have regular doctor visits, have your annual mammograms and anytime you see something irregular on any part of

Council Minutes

October 19, 2009

Page 17

your body, go to a doctor. This disease as well as others, early detection is key. I thought this was important to bring this to the attention of our residents and I appreciate your support.

Councilman Gruber moved to close debate, Councilwoman Scarniench seconded. Yeas: Unanimous.

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Passed.

**Res. 187-2009 (404-09) Tax Rate Ten-Mill Limitation**

A Resolution adopting the rate of each tax necessary to be levied both inside and outside the ten-mill limitation, as certified by the Cuyahoga County Budget Commission. (Sponsored by Mayor Cervenik and Entire Council)

Councilman O'Neill moved for passage, Councilwoman Minarik seconded.

Director Johnson – I'm sure council persons who have been on Council for some time recognize this piece of legislation as a piece that I present to you at this time every year. This Resolution is a follow up to, if you would recall, just at the recess in June, I presented a piece that adopted the alternate tax budget which I submit to the County Budget Commission. Based on that Tax Budget, the County Budget Commission now requires that Council adopts this which sets the property tax levies that would be necessary to accomplish the tax revenues to meet that budget. The only thing that has changed on this piece of legislation or changes from year to year is the estimated tax evaluation which is our estimated tax evaluation for the following year. The levies themselves have been in place at these rates for at least the last 20 years. I would bring to your attention that it shows the estimated tax evaluation at \$755,000,000; last year's estimated tax evaluation was \$829,000,000. That's really the only number that changes from year to year and I just thought I would bring that to your attention. If there are any questions, I'd be glad to answer them.

Councilman Gruber – Just to note Director Johnson, that's not only the City of Euclid, that's throughout Cuyahoga County that the values have fallen, correct?

Director Johnson – That's correct.

Councilman Gruber moved to close debate, Councilwoman Scarniench seconded. Yeas: Unanimous.

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O'Neill, Langman,  
Van Ho, Holzheimer Gail.

Passed.

**Ord. 188-2009 (409-09) Budget Amendment**

An emergency ordinance amending Ord. No. 108-2009 which makes the annual appropriation for all expenditures for the City of Euclid for the period ending December 31, 2009. (Sponsored by Mayor Cervenik by request of Finance Director)

Councilman Langman moved for passage, Councilman O'Neill seconded.

Director Johnson – On Wednesday of last week we discussed in great detail the changes that I'm requesting in this appropriation ordinance. There haven't been any changes. As much as I would hope that we would not have to amend again, I do think that there maybe an opportunity or a possibility that we will have to amend one more time before the end of the year. I doubt very seriously that it would impact the general fund as much as we are with this particular amendment. However, I do believe we may have some minor changes that might be necessary before the end of the year, but they should not have a substantial impact on the general fund. If you have any questions, I'll be glad to answer them.

Councilman Langman – Director Johnson, without the payment from FirstEnergy, what is our estimated shortfall by year's end?

Director Johnson – We know that the income tax and certain other revenue line items are falling a little short. I would say between \$700,000-\$900,000 without the CEI.

Councilwoman Minarik – I know I brought up a couple of questions this afternoon to you all, but I have several concerns with this additional amendment of two hundred and some thousand dollars. The

first one is that I think things are going to get worse in the economy before they get better, so I'm very concerned that we're still drawing down on our cash reserves.

Second, I'm concerned about, deals with back in 2004 the Moody's report, I pulled it out and back then when Moody's dropped our credit rating from an double A three to an A1, part of the reasons they quoted and it could almost be today. The structural balance is what they were talking about. But Moody's at that time said that the city posting operating deficits the last several years. Decreased municipal income tax collection and increase in the current expenditures. They were concerned because of the use of one time revenues to balance the budget. Short term expenditure reduction but primarily they were concern that the structural balance was never addressed. Then they concluded by saying maintenance of a health fund balance is crucial in weathering economic downturns and sustaining satisfactory financial operations.

I know we're depending on this six hundred some thousand dollars but again that is a one time deal. Have we addressed the structural balance that Moody was concerned about or are we still in that position, these several years later? I'm just concerned and I know we're not going out to get Moody's to rate us again. But I'm just, it is a concern of mine, if you could address that one first.

Mayor Cervenik – The structural balance, to address that is we have to generate revenues from operations from other areas, other than being totally dependent upon income. That would be items like charging for garbage collection, charging for street lights. So that we would be picking up revenue from other areas, or raising real estate taxes for operations. That would obtain a structural balance to the point where we're not totally relying upon one, 63% or whatever it is, being our income tax. I don't know if Council is ready to do that yet, nor am I.

As to the cash balance, there are very few communities that are not drawing upon their cash balance now. I think there's three in Cuyahoga County that are not. As to Moody's we did something different this year when we sold our notes, it was very difficult selling short term notes at the time we were out at the market, because of the credit crisis and we actually asked Moody's to come in and rate our notes, which we've never done before, at least not in my time period that I can remember being on Council; and they sustained our rating. So they do understand that we are projected to use some of our cash balance, but they also mentioned that all of the steps that the Administration and the Council have said they were going to take over the years, they are taking.

So we did achieve and maintain our bond rating classification for the year 2009 being as tough as it is. So yes, do I want to continue to draw down on our cash balance? No. As Director Johnson said, we're looking at somewhere around \$800,000 before the six hundred, provided our expenditures and all that stays the same.

At the same time, the detriment to not using some of that cash balance to preserve our safety forces and our recreation programs and our programs to keep our neighborhoods safe and continue to battle the effects of foreclosures and vacancies, can actually do us much more harm than a different rating from Moody's. The rating that we received probably cost us less than one-tenth of 1% on interest rate.

Councilwoman Minarik – That was my second concern. You brought up my third concern which is the safety forces. This afternoon you said you gave the safety forces your word, it is not in the contract, but the summary we got for the firefighters and this was from March, last paragraph that we as council received was regarding layoffs, that upon ratification of the proposed contract by the union and approved by Council, layoff order for 2009 would be rescinded and then it says, no lay offs in 2010 if the December 31, 2009 cash balance in the General Fund exceeds \$2.7, which we're making because of the Illuminating Company or CEI. Then no layoffs in 2011 if the December 31, 2010 balance exceeds \$2.2. I'm just nervous that we're getting to the point, especially if it gets worse next year, because we're not making any real cuts anywhere, we just keep spending money that we will be in a position where layoffs may occur to the safety forces because we'll have dropped those reserves down next year. That's where I'm going with this. I'm just concerned where we'll be at the end of next year.

Mayor Cervenik – It is not true, we have made many cuts this year and back in the year before. We also have been very aggressive in generating new revenue sources, some through grants. The Police Dept. was successful in receiving the CHRP grant for our Police Dept. which allows us to retain three police officers, as well as hire two more for three years. That's a savings in the general fund, just in our existing police officers of about \$250,000.

I did make that commitment not only to the police and fire, but I made that commitment to all the employees that gave money back and had reduced pays last year. Also with the caveat unless all hell breaks lose and then I would obviously not be able to do that. So if something happens during the, if we are above \$2.7 and something happens in 2010 that is drastic, then they understand that I will have to make drastic decisions at that time. I'm not expecting that. We will continue to spend less

Council Minutes

October 19, 2009

Page 19

than we budget. We will continue to look for different funds. I have a responsibility not so much to the employees, but to the confidence of our residents as well. That promise is not just made to the employees. It was made to give the residents confidence that this city is going to remain strong, it is going to remain safe, it is going to be a great place to live. I am confident we will get through 2011 and still have a substantial cash balance that we can build upon as we did in the beginning of 2004 and bring it back up over \$4 million again.

Councilwoman Minarik – I hope so. What happens with the former fire chief law suit if that gets settled; do we have the funds in place for that?

Mayor Cervenik – Those funds are in place, they are allocated and ready to go when that does come to finality.

Councilwoman Minarik – With the amendment, is there any way some of these funds can be taken from something other than the General Fund, like the Endowment Fund? I'm thinking the Animal Shelter, Coral, things like that.

Mayor Cervenik – What you need to understand is we are making some budget amendments irregardless of there are many places and many departments in the budget that are under spent and will come in under budget. But to go in and pull each of those segments out and move them somewhere else is a very time consuming and also not a very productive way to present a budget. A lot of this \$288,000 will be made up from non-expenditures in other departments. As far as the Endowment Fund goes, we're going to be receiving, being presented with a very exciting lakefront plan proposal on the 28<sup>th</sup>. In order to do that, we're going to have to acquire property. I strongly suggest that unless all hell breaks loose and there's an emergency as I've talked to the employees and the residents about, that the Endowment Fund stay where it is in order to assist in the development of our lakefront.

Councilwoman Minarik – More than the three properties that we've already agreed to the purchase of?

Mayor Cervenik – We have not agreed to purchase any at this time. We would like to. We have an appraisal on one which is more so at the moment to be able to do a sewer project so that people's basements don't flood.

Councilwoman Minarik – I thought we just approved the State grant of half a million dollars to purchase those three parcels?

Mayor Cervenik – It will not purchase all three of those properties. I can be used to assist in the purchase, but we will not get those three properties and access to lakefront for that type of money. That's why I firmly believe the Endowment Fund needs to stay there because in the long term and that project certainly won't be completed while I'm sitting on this chair, but I'll be sitting on a park bench looking over the Lake when it is completed. Lakefront development extremely important for the future of our community. I would strongly suggest we do not take money out of Endowment Fund and other funds at this time. I firmly believe what we're presenting to you is logical, is sensible and it is keeping our community strong and it is just a very difficult time for everybody right now but I think we're handling it pretty good. Tonight's legislation will provide us with that funding doesn't hurt a bit.

Director Johnson – I would just add that I'm very sensitive to your comments and it is definitely, constantly in the back of my mind that Moody's report. So none of these requests for amendments are done frivolously, it is done with serious consideration and deliberation. We do everything that we can to make sure that we collect all that's due to the city and we sometimes almost to a fault aggressively collect our income tax which is our major source of revenue. We do all we can to try to ensure that the budget stays in balance.

Councilman O'Neill – To either Law Director Frey or the Mayor, the last couple of years we had a couple of large payments through various things that happened with the city that are kind of one shot deals. Did that somehow impact where we are today with the budget, which in the future we will not see? There was the lawsuit with the city and the council wards and a few other things that was fairly expensive but we're not going to see that in the future. Did that somehow impact our budget, where we're at today?

Mayor Cervenik – Certainly those types of payments reduced what we have in the cash balance. If we had had it in the cash balance we would preserve it rather than spending it on other projects, in other areas. But, in all honestly that ends up in the world as it is today, I could use a fancy word like the

attorneys do, litigious society. It is going to happen and it is part of doing business. Do we hope we get a few years off? Yes, I most certainly do and I think we will, but you can't predict that. Obviously if we had no lawsuits over the past 6-10 years, in theory that money would be sitting in the bank.

Councilman O'Neill – There was a couple of law suits that came into play that were fairly substantial, but we're not going to hopefully see that in the future and we should hope we start building up our cash reserves again. My other point was, as far as the layoffs, or no layoffs, there are options down the road, attrition is one option rather than layoffs that we still need manpower in our police and fire departments. Our goal I would hope would be to bring those departments back up to full strength, unfortunately now because of the economic conditions we can't get to where we were ten years ago. It is certainly a personal goal on my part and a goal for the city as well that we can continue to build the safety forces up, as well as the other services in the city.

My point was, Mayor, that the couple lawsuits that we saw in the past, we should not see that next year or beyond, hopefully and our cash reserves will get built up.

Mayor Cervenik – Please don't jinx us, we certainly hope not. As to the levels of the safety forces there's different definitions of what the administration and those safety forces may call full force. As it stands at this moment, the budget for the Fire Dept. will bring it back up to 75 firefighters, 25 per shift, to make up for retirements. I think we were running two people short this year. It is my intention to bring that back up to 75. Also with the grant from the Police Dept. we will maintain three and addition two more, so we will be back up to 100 or at least 100 again. We've been operating at approximately 99 this year. We will do that and we will watch the other departments as well. Housing is an extremely important project, Streets Service Dept., very important as well. We're watching all of that.

Councilman O'Neill – I appreciate the diligence. Thank you.

Councilman Gruber moved to close debate, Councilman O'Neill seconded. Yeas: Unanimous.

Councilwoman Scarniench moved to suspend the rules, Councilwoman Jones seconded. Yeas: Unanimous.

Roll Call: Yeas: Gruber, Scarniench, Jones, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Nay: Minarik

Passed.

**Ord. 189-2009 (410-09) Inter-transfer of Funds**

An emergency ordinance providing for the schedule of inter-transfer of funds between all funds. (Sponsored by Mayor Cervenik by request of Finance Director)

Councilman Wojtila moved for passage, Councilman Langman seconded.

Director Johnson – This is just the accompanying transfer ordinance that was required by the State Auditor's Office and those transfers are reflected in the appropriation ordinance that was just adopted also.

Councilman Gruber – Director Johnson, this comes from a person who is very interested in the Animal Shelter, the \$10,000 going to the Animal Shelter is for the operations of the building?

Director Johnson – No, this is just for the operation of the Shelter. There are no charges, we pay all of the utilities, the phone, we pay for all that.

Councilman Gruber – That comes out of this?

Director Johnson – No.

Councilman Gruber – What specifically is that for?

Director Johnson – Primarily the salaries of the employees.

Councilman Gruber – That's under the Police Dept.?

Director Johnson – Yes.

Council Minutes

October 19, 2009

Page 21

Councilman Gruber – There was another question brought up and I have no knowledge of this. There's a lawsuit about \$40,000 that was supposed to be theirs that went into the general fund. Do you know anything about that? Could you enlighten me on that?

Director Johnson – If there were any lawsuits, it probably would have come out of self-insurance fund.

President Holzheimer Gail – It was not a lawsuit it was a bequest.

Councilman Gruber – Probate matter.

Director Johnson – If you're talking about the money that was donated several years ago, that money was used for the operations.

Councilman Gruber – That money went directly to the Shelter, as it should.

Director Johnson – When it originally became available.

Councilman Gruber – There was some question about that, so I appreciate that. Thank you.

Councilman Gruber moved to close debate, Councilwoman Minarik seconded. Yeas: Unanimous.

Councilman Van Ho moved to suspend the rules, Councilman O'Neill seconded. Yeas: Unanimous.

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Passed.

President Holzheimer Gail – Do you want to take a quick break or keep going? Keep going, all right.

**Ord. (395-09) Repeal Parallel Fences - Failed**

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. (Sponsored by Councilman Van Ho by request of CS&ED Director) (Recommended for passage by Planning & Zoning Commission)

Councilman Van Ho moved for passage, Councilman Langman seconded.

Asst. Director Beno – Section 1387.06 has several basic problems. First it sets up a preferential treatment for one person's property over another person's based on who builds first. People expect equal treatment under the law, not to have their property rights determined by what their neighbor has done.

The ordinance potentially creates a space between two fences. Tight spaces are never easy to maintain. But increasing the space doesn't necessarily guaranty consciousness about the maintenance and taking care of that space. What the three feet current spacing does is it assumes kind of the use of a lawn mower to take care of that space. Whereas tighter spaces, even down to as low as possible, a matter of inches would assume things more like a string trimmer or weed spray as the maintenance method between the fences.

The final thing this ordinance does is it really makes it almost impossible to process permit applications without a lot of communication. Mailed in or dropped off applications almost always necessitate a chain of phone calls, trips back to the office, plan changes, faxes, those kinds of things. That's basically in essence because we have this section that no one expects when they come in to apply for a permit.

In many ways I think this ordinance really is and the repeal of it is really about people's expectations. When they apply for a permit they expect certain things. They expect equal protection. This means that their property will be judged based on the property alone, not based on what their neighbors have already done. They expect that their rights will be fixed and impersonal. They do not expect that they will be forced to ask their neighbor's permission to build a fence or to remove an existing fence.

Finally they expect to be responsible to decide their own maintenance plan. They don't want to have it set up by the laws. They want to be able to create a space that they maintain themselves, choosing whatever method they choose, whether that's a lawn mower, a string trimmer or a bottle of weed spray.

President Holzheimer Gail – This was referred to us by Planning & Zoning and recommended by them.

Councilman Langman – Mr. Beno we've had conversations about this, but I'll give you a brief scenario and can you tell me how repealing this ordinance how it would be handled.

A neighbor has a fence in their yard on the property line that's very, very old and it's there to contain their pets. The neighbors don't want to see the pets because the dogs tend to bark at them. Under our current ordinance, they would have to build their fence 3 ft. from the current fence, is that correct?

Asst. Director Beno – Whoever is putting up the newest fence has to pull it three ft. off the property line, regardless of the state of maintenance of the current fence.

Councilman Langman – Repealing this ordinance, what would the people who want to put up the new privacy fence, could they put it right up to the property line?

Asst. Director Beno – They can put it right up to the property line, right up to the current fence. We still do have the provision in place that requires the finished side of the fence to be to the outside. So what that means is the people with the old weathered fence, if they remove their own fence, they're going to get the benefits of having the brand new fence with the finished side out to them. That would be up to them to see the benefit of removing their old weathered fence.

Councilman Langman – The only problem I see with repealing is that I think you and I both know that people are not going to maintain that little space between the fences very well. It won't mean a lot right now but eventually you're going to have all kinds of growth and people are going to complain and someday there will be an enforcement issue for that particular matter. That's my only comment.

Councilman Van Ho – I think what we need to keep in mind with this is many of the lots in Euclid are 40 ft. wide, so if you put up a fence on both sides, you in effect have a 34 ft. lot because the other guy beat you to the fence as Director Beno said. I think we should do it and if we have to face enforcement, we have to face enforcement if the three foot wasn't being maintained. I believe we should go ahead and pass this and do away with that.

President Holzheimer Gail – Would it be possible to have an administrative process that would include a conversation with, in the situation where you'd be putting a fence right next to a fence, so they'd be back to back. I guess requiring at least a conversation with the neighbor on the city's part to say would you consider taking down your fence, this is what you'll be getting in its place.

Asst. Director Beno – We can certainly require owners to provide evidence that they did discuss the fencing options with their neighbors. If we make something that has the force of law the way this does, then it is not really a discussion, it is kind of one-sided, the one side has to pull back. We always certainly hope for good cooperation between neighbors; I don't know whereas there's a lot to mandate it.

President Holzheimer Gail – That's why I was saying an administrative process that would encourage that rather than mandate it because I do understand and believe me, as any ward council person will tell you that's been involved in these types of situations as I have in the past, you're sometimes dealing with neighbors who are not always seeing eye to eye at that point and they will not want to work together. But my hope is that a third party might be able to help them understand that you're going to get a fence that looks like this, it is brand new. If they're back to back I think you have similar issues with the three feet. I have received many calls from people that didn't understand why they had to go in three feet because of the other fence and that created maintenance issues as well.

Councilwoman Scarniench – Mr. Beno and I have had conversations and he knows how I feel about it. When the first person gets their fence and they get the privilege of everything, why does that have to be? Why can't we say that it's a foot and a half from the property line, which in essence would give, if somebody wants to put one up next door, another foot and a half, which keeps the three feet, so nobody gets the benefit of that. It is just a thought.

Councilman Van Ho – How would that work if I already have a fence that's been there for 20 years, you're going to make me move my fence in a foot and a half? I think we've got to leave this one alone and let them fight it out amongst themselves.

Councilwoman Jones – Mr. Beno out of the requests that have been made in the past for the variances for the fence to be put back to back, do we know what the conditions of those fences are at this time? Whether there have been problems with the residents, cleaning up in between the two fences?

Asst. Director Beno – Actually no we did not go out and field check each of the cases over the last 10 years. Basically I looked at the pattern of the Board in handling the cases and that is that they grant 90% of the cases that come before them on this section.

This is a situation where I did look at what some other cities are doing. I surveyed four cities. Basically three out of the four allow fences to be built on the property lines. One of them, Richmond Heights requires a 6 inch space off the property line. I'm not sure what that accomplishes. I would advocate for staying with the majority of what other cities do which is allow them to be on the property line.

Councilwoman Jones – My main concern would be if the two fences are back to back and if I have a privacy fence and my neighbor has a chain link fence. Now I need to do maintenance, maybe paint my fence. How do I paint the other side without getting in between there; I won't have any room to paint that fence anymore. Now the outside looking to the neighbor is becoming deteriorated because it needs to be painted. How would you handle that?

Asst. Director Beno – What most people are using now is treated lumber. The basic stainable. You can either, if you are close together you can spray paint through a chain link fence. Or if two neighbors work together, you can take down the fabric of the chain link fence, roll on the stain, and roll the fabric back up. Those are your two options.

Councilman Wojtila – Mr. Beno, what's the driving force behind this repealing 1387.06? Was there a situation that occurred and figured we ought to change it?

Asst. Director Beno – When I first started here in the City of Euclid, we looked at repealing several ordinances which caused a disproportionate number of variance requests. This one was looked at and there was a decision not to go forward at that time. Basically after the last case of this type, one of the Board members pulled me aside, no he didn't pull me aside, he did it in the meeting, he requested that we approach city council about repealing this because he basically felt that it is a code that has significant property rights problems.

Councilman Van Ho moved to close debate, Councilman Gruber seconded. Yeas: Unanimous.

Councilman O'Neill moved to suspend the rules, Councilman Wojtila seconded. Yeas: Unanimous.

Roll Call: Yeas: Minarik, Langman, Van Ho, Holzheimer Gail

Nays: Gruber, Scarniench, Jones, O'Neill, Wojtila,

Failed.

**Ord. 190-2009 (403-09) Chemicals WWTP**

An ordinance authorizing the Director of Public Service of the City of Euclid to enter into contracts, after advertising for bids, for the purchase and delivery of the required chemicals necessary in the operation of the Treatment Plant for the years 2010 and 2011. (Sponsored by Councilman Wojtila by request of Service Director)

Councilman Wojtila moved for passage, Councilman Van Ho seconded.

Director Smith – With this legislation I'm requesting Council's permission to solicit bids and award contracts for the supply and delivery for six types of chemicals necessary for the operation of the Waste Water Treatment Plant. All six chemicals will be bid individually and award will be based on the lowest and best bid. I'll be glad to answer any questions should you have any.

Councilman Gruber – Director what is the equivalent for the mixed oxidant odor control chemical VX-456? Just kidding.

Councilman Gruber moved to close debate, Councilwoman Jones seconded. Yeas: Unanimous.

Councilwoman Minarik moved to suspend the rules, Councilman O'Neill seconded. Yeas: Unanimous.

Council Minutes

October 19, 2009

Page 24

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Passed.

**Ord. (401-09) Charter Amendment Recall-To Exec/Fin Com.**

An ordinance providing for the submission to the electorate of the City of Euclid, the question of whether Article III, Section 2, Recall, of the Charter of the City of Euclid shall be amended to require a declaration of intent to petition for the removal of any elected officer of the City; to impose a 45 day time limit on the filing of petitions; and to increase the number of signatures needed to file such petitions to 25% of the electors voting in the most recent general election. (Sponsored by Charter Review Commission)

Councilman Gruber moved for passage, Councilwoman Scarniench seconded.

Director Frey – As counsel to the Charter Review Commission this actually was debated several times in the Charter review period, initially withdrawn and then brought back at the end and it was my error in not getting this drafted and to City Council with the other proposed charter changes that came out of that last batch from the Charter Review Commission. One of the members had asked about it and I checked the notes and minutes of the meeting and saw that in fact that this had been approved by Charter Review Commission and I had failed to send this onto City Council. I apologize for the delay in doing so.

As our speakers at the offset discussed tonight, there are two significant changes in this proposal. One would be to require a timeframe for which recall petitions could be circulated. If it failed to obtain sufficient signatures during that period of time, then the recall could not be sent to the Board of Elections. The second significant change would change the percentage of required signatures from the previous general election from 15-25%.

Those are the two changes that were recommended by the Charter Commission. I know that Council President has indicated at the outset tonight that this will be sent to Committee. I would remind Council on this piece of legislation if in fact it goes to committee and all other items that are in committee that those pieces of legislation will cease to have validity once the term of Council ends on November 30<sup>th</sup>. So they have to be acted on, if they're going to be acted on, they have to be acted on prior to the finish of the council term, or they can be reintroduced at Council's discretion in the new term.

President Holzheimer Gail – As we have done with all of the recommended Charter changes, I think this is deserving of having a full discussion at the committee level. Hopefully we can do that prior to our second meeting in November so that this Council can decide one way or the other.

Councilwoman Scarniench moved Ord. (401-09) to Executive & Finance Committee. Councilwoman Jones seconded.

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Into Executive & Finance Committee.

**CEREMONIAL RESOLUTION**

**Res. 181-2009 (407-09) Retirement Sgt. Stenger**

A resolution of congratulations to *Sergeant Craig Stenger* on his retirement from the City of Euclid Police Department after more than thirty-two years of dedicated service. (Sponsored by Mayor Cervenik and Entire Council)

**Res. 182-2009 (411-09) Mary Mavec Opportunity School**

A resolution of congratulations to *Mary Mavec Opportunity School* as they celebrate over sixty years of providing education, empowerment and caring for special needs children and adults throughout the area. (Sponsored by Mayor Cervenik and Entire Council)

Councilwoman Minarik moved for passage, Councilman O'Neill seconded.

Roll Call: Yeas: Gruber, Scarniench, Jones, Minarik, O'Neill, Wojtila, Langman,  
Van Ho, Holzheimer Gail.

Passed.

COMMITTEE OF THE WHOLE

Rose M. Allen – 26241 Lake Shore Blvd. As a member of the Wind Energy Task Force, which is now renamed the Great Lakes Energy Development Task Force, I brought some of the magazines from the last place our meeting was held which was in Elyria in Lorain County. I brought one for each council member and Director Pietravoia.

I brought these because it focuses on where Lorain County is going with wind energy development, particularly wind turbines. The Task Force itself is definitely moving forward with becoming the first fresh water wind farm, particularly on great Lake Erie. There are other efforts elsewhere but Cuyahoga County is a, Great Lakes Wind Task Force is moving forward very quickly to make sure that it happens. It is not a matter of if, it is a matter of when. When the first turbines are ready to go up, there's still going to be a great demand for additional parts, all the parts for the wind turbines. I brought these along so you can see that wind energy is the future. It is turning around communities all around us. Down State wind farms have gone up and there is still a demand for wind turbine parts to construct the turbines which means that most of them are still being supplied from overseas.

I'm saying this to say that I still think we ought to consider what possibilities Euclid might have in moving forward with wind energy development. This is a community that was built on manufacturing and this is still a community that can be built on manufacturing but manufacturing products of the 21<sup>st</sup> Century. The products of the 40's, 50's and 60's are probably not going to sustain Euclid, although they did a very good job of building Euclid.

Also you'll look through the thing and on the 4<sup>th</sup> page of this magazine there is reference to the Lorain Sailing and Yacht Club on being the oldest continuously operating marina and yacht club in Ohio and possibly all of Great Lakes.

I would also like Council and Development Director to take a look at what's there and perhaps contact some of the people at that yacht club to determine exactly what has kept them going in hard economic times. Lorain and Elyria are certainly, don't have all the advantages that we have here in Euclid and I would hope that we could learn something from them as we go forward with lakefront development.

The other things I brought along are, these are brochures from Prime Outlets in Grove City. I know I've mentioned before the concept of developing an outlet mall at Euclid Square Mall. I know years ago there was an attempt made but pretty much had flea market type businesses in Euclid Square Mall. Prime Outlet is not something that deals with knock-offs or anything. Some of the major upscale products are part of Prime Outlets; things such as Sony, Coach, Ann Taylor, things that people would buy. If we're going to talk about upscale people moving into Euclid, it would be a good idea to have these available, but this is a place that attracts 5-10 million visitors per year and they're not spending a dollar each, a lot more. It is not dependent upon the community to support it, it draws people from several states, at least in Grove City. I know some Euclid residents who have been there. I will also leave this for Council so you think about the things that we can do to bring Euclid back into a state of glory. Thanks.

Mr. George Riggan - Renwood Ave., President of the Renwood, Naumann, Monterey Association. We had our meeting, our candidates meeting a few days ago and President Gail was there, Council person Minarik and Madeline showed up for ten minutes. We had the candidates from the school board. They discussed the issue 105. One thing that really surprised a lot of people was that when they made the statement that 60% of the kids going to Euclid Schools are in the poverty level. That really surprised a lot of people. They said it, I didn't. It was just part of what they said. I don't know whether it is true or not. But if there is 60% of these kids going to this school, that probably means 40% of the parents who are in the low poverty area, who is going to pay for all these things. I don't know.

I have a question for Kathy. Does the city pick up broken branches from trees, when you have your chipper, whether it is Parks Dept., when we have a storm? We have a lady on our street that had a limb come down and we told her to call you or the Rec Dept. or the Service Dept. I told her, President Gail told her, but I don't know whether she called you or not. I don't remember the address. She's an older lady, if you could send somebody down there, it is on her tree lawn for about two weeks now.

Director Will – Typically the Parks Dept. on your normal pick up day or a tree branch that is out there, typically the Parks Dept. does not come and pick them up. After a big storm we will come out and take a look at them. I will talk to you afterwards and find out exactly where it is at. But the Service Dept. if you put them in certain bundles on the tree lawn will pick those up and I apologize, off the top of my head I don't know the dimensions, so I will ask Director Smith.

Director Smith – 4 ft. and it must be bundled if there are several branches.

Mr. Marcus Epps - 25580 Tungsten. I would like to first say to Council, the Mayor's administration, how proud I am to be a Euclid graduate and resident. Always am and always will be.

I actually come before you on behalf of the people of the City of Euclid today to inform you of the growing frustration with an inability to be able to reach out to contact council members concerning various issues in this city that our residents may have. I guess I'd urge you to return the phone calls of your constituents. Maybe all of you aren't having issues, I see the faces. I'm saying this, I attended the Pontiac Park Association which is in Councilman O'Neill's ward a couple of weeks ago. There is a bit of frustration from people with not being able to access onto the city's website, not being able to actually e-mail even their council person. After this meeting it is proof that phone calls are important to you. A few of you have gotten up and taken quite a few phone calls during the course of legislation. I just ask that you give the courtesy to your constituents and when they're concerned about high grass on rental property, concerned about high grass on empty properties, concerned about having their trees trimmed, these things are important to homeowners as well as renters. But these things are important to residents and we know you're busy but you take an extra second out of your time to return some of these phone calls that are being made.

Also this School Board issue with tearing down the six schools and building four. I think I'm right when I say tearing down six and building four. Residents are educated here in Euclid. Quite a few of us are Euclid bred and we're not going to vote on an issue that we don't have substantive knowledge about and people are concerned about not having enough information concerning that. I know this is an issue that is probably better suited for the School Board, but I'd ask if you could as a Council to do take an extra second to reach out to these people and get more information out. I say that because I think it is something that should be passed. I think it would be good. I have some issues myself, but I think it would be good for the city. I think that if we put more information out instead of a generalization, tear down six schools, build four, it is going to cost you \$7 a month for 28 years or how many ever years it is. More information needs to be given. People aren't going to vote just based on that.

I have a concern that tearing down six schools and building four, that means overcrowded classrooms maybe. Dr. Jones was a no call, no show that night so we didn't get the information that we should have gotten. Councilman O'Neill was kind enough to give us as much information that he could and I really just feel that the residents don't have enough information. You know how people are about spending their money so I think it is something that needs to be done, maybe it can be worked out between the administration, the Council and the School Board to do a final push here, a special meeting or something where residents can come out and really understand what this is about otherwise they're not going to vote on it. I would hate to see us lose 41% of that \$25 million.

Also, Mayor Cervenik, about a year ago I was here at a Council Meeting and we had quite a few residents that were concerned about the response time for police and some of the issues with a lot of the break-ins and issues we're having with our city being integrated right now. You promised me to sit at the table and that we discuss these issues, we'd get a committee together so we can work on this. I urge you again to please when you get free time, I'll call your office tomorrow and leave my information, but if you could give me a call, I'd like to still be a part of that and I know quite a few people who are experiencing issues on that front who definitely would like to have a seat at that table as well. I know everyone can't have a seat but I'm passionate about the issue and I can speak on behalf of the people from growing up in the city and seeing the change. Thank you.

Ms. Patti Burlingham – 25211 Lake Shore Blvd. This Friday is the 7<sup>th</sup> Annual Four Paws Clam Jam and Boo Bash to be held at the Manor Party Center. This is our second big fundraising dinner for the Euclid Petpals. We have cocktails, dinner, raffles, prizes, a fun time. We have a costume contest. The winner last year was the organ grinder and the runner up was the lady who came as the fugitive from the hospital still with her IV. It is a fun time. I do have tickets with me tonight if anyone needs a ticket. Tomorrow is our last sale day at the Shelter for tickets. We urge people to attend. We are, of course, like any other agency that's pressing for money, down on our funds this year, but please consider coming and joining the Clam Jam and Boo Bash and a chance to possibly win back in raffles more than you paid for the chance of the ticket. Thank you.

#### COUNCILMEN'S COMMENTS

Councilwoman Jones – I first want to say hello to the Euclid Hill Villa residents and thank you for their hospitality last week at their meeting. I want to invite all of those who are interested in Holiday Caroling, we're having our first get together on October 24<sup>th</sup> at 3 PM at Sidewalk Café on Euclid Ave. If anyone is interested, please attend and I want to extend an invitation to Councilman Langman, he did mention last year that he would share some Hanukkah songs with us, so if you'd like to do that, you're more than welcome.

I want to talk a couple minutes about the gentleman who spoke about communication to residents. I can only speak for myself right now, not my colleagues. I do try to return all the calls. I may not get your call the first time when you call depending if I'm at work or whatever, but if you leave me a message I will call you back. Whatever the issue or concern is, it may not be able to be resolved right away because there could be other circumstances. But I will call you back or respond to your e-mails when I do receive them. Sometimes things don't happen as quickly as I'd like them too, so the resolution to whatever the call may be, may take a little longer than I would like for it to take.

Mr. Bock can you give me a status on the barrels on 276 & Mills?

Mr. Bock – Over the water leak at 276 and Mills?

Councilwoman Jones – Right. The orange barrels are still there and seems like there still needs to be some smoothing out.

Mr. Bock – I will check with our Street Dept. first thing in the morning and get back to you on those. They're probably doing the waterline repair there. It is scheduled to be done. I already talked to them about getting it done before the snow flies.

Councilwoman Jones – It looks like there was some work that was done and some of the holes were filled in, but it still needs to be smoothed out a little more than it is now. The orange barrels are still there. That's a tight corner coming around from Mills to 276 where you come around the corner on Mills, you don't really see the barrels until you are right there. I don't have much of anything else, so with that I'll say goodnight and someone can have my minutes.

Councilwoman Minarik – Two things I want to talk about. Last week's issue of Crain's Cleveland Business, with Shore and what we've done with Coral Company, Cleveland Public Theater is the latest on the Detroit Shoreway to get an upgrade. They're looking at \$9 million renovation. On the next page, it talked about the Lasalle Theater that Northeast Shores just bought that whole block and they're looking at doing \$2 million in renovations. Both articles in last week's Crain's talks about how these cultural institutions drive people to the neighborhood. I'm looking forward to our council getting together and deciding the benchmarks and determining if we should go ahead with the five year plan. It is pretty hard for Coral to hire a development director or developer to go after grants on a year. We're really no better off than we were last year at this time when we were just going month-to-month, year to year.

The second thing I want to talk about is Issue 28. I know since this Council voted on Issue 105 a Resolution, I figure I can talk about this. I would encourage people to think carefully when they vote whether or not to extend Council terms to four years. You only have one vote every four years to vote for your council person. Right now you can vote once every two years. Think in this day in age when government is getting bigger and bigger and we keep complaining that oh my little voice doesn't make a difference, it is all the more important to keep your local government close to your home, close to you, close to your voice. For an argument to be made that continuity is more important than representation of the people or having the people have a voice, I think is a weak argument to extend terms to four years. It is something you all need to think about. It is your city government. Euclid changes drastically, it is a very transient community. To think that it will stay the same for four years, is not realistic. It is a good thing to have elections in place very two years so you can elect people that will change with the times. That's all I have to say, goodnight.

Councilman O'Neill – For our senior residents in Euclid, through the Service Director's office there's a list of approved bidders for snow plowing. They've given discounted rates for senior citizens and it kind of breaks down per plow per season, it is pretty self-explanatory. Contact Lynette O'Donnell in the Service Director's office, she'd be happy to give you a copy either e-mail or hard copy of those bids.

To the resident regarding being reactive to the phone calls and the e-mails. I encourage the residents that contact me to try to use the city's website. We spend a lot of time and fair amount of money to upgrade the city's website. I'm more than happy to help anybody whether in my ward or outside the ward. I try to encourage them to tap into their council, if they're out of Ward 5, tap into the Council representative of their ward. But the reaction I've gotten from the people I've steered towards the city's websites on their complaints has been nothing but positive. I believe most people want to help themselves through their problems and the city's website does allow them to help themselves. Once they've gone through it once, they seem to get the knack of it. The administration and the workers within the city have been really good with responding to them in a very timely fashion. Of course there's always a phone call to your council person if that doesn't work. We're trying to use the city's website because of the fact that it does generate a tracking number. There's a printed response,

your question, a response, so we have something to go off of.

On the other thing to Director Smith, I had a complaint from last week on the corner of 214 and South Lake Shore, there was a water main break and there was some complaints about some water standing in the street. It maybe part of the construction that is going on over there. If we could just follow up on that, you don't have to answer that, just send me an e-mail, whatever. One of the residents called me last week on that. I'm going to turn the little bit a time I have left over to Director Pietravoia and kind of explain what is coming up towards the end of the month with JJR that is coming out of Wisconsin to talk about our shoreline renovations.

Director Pietravoia – We do have a meeting scheduled for our lakefront consultant JJR to present their very exciting concept plan for the lakefront. It addresses some of the comments that Rose Allen made this evening in terms of the yacht clubs that are successful. One of the things incorporated is a potential marina, break water, paths along the lakefront, essentially connecting Sims Park all the way to Harbor Town. It is a very exciting concept, they've refined it over the past few months and they'll be presenting it for the first time to the general public and City Hall next Wednesday evening, at the Executive & Finance Committee Meeting which is scheduled for 6:30 PM in Council Chambers. I encourage everyone to try to attend. If you are not able to attend, there already is some information and they'll be more coming on the website. If you go to [www.cityofeuclid.com](http://www.cityofeuclid.com) right now it is listed under the announcements column and it is also in the Department of Development section of the website. The actual illustration of proposed concept for the lakefront is there and some general information about the upcoming meeting.

Councilman O'Neill – Thank you Director Pietravoia and with that I'll say goodnight.

Councilman Wojtila – I'd like to announce for all Ward 6 residents, in particular the Fullerwood Neighbors Assoc. that they're having a meeting this Thursday, October 22 at 7:30 at St. Stephens on Lloyd Rd. The guest speaker will be Dr. Jones speaking about the school issue on the November 3<sup>rd</sup> ballot. Ward Six residents you're all invited to St. Stephen's October 22 at 7:30 PM.

Mayor or Director Frey, if we could maybe talk at the next meeting, you could give us your ideas on some of the things that we're looking at doing to capitalize on the Great Lakes Expo Center. I know I talked to Director Pietravoia about maybe a kiosk in the lobby, things like that. I think that kind of information would be helpful for us and all the residents in what the administration is thinking to capitalize on the Great Lakes Expo Center. If you could do that for us, I'd appreciate it.

My other request, the contract with Coral, if I could get a copy, I'm not sure everybody would like to see a copy of that agreement. It appears that it is executed fully now and it would be nice to see a copy of that especially as we works towards an upcoming Executive & Finance Committee meeting on that topic.

My last comment is with the J & J contract and the other piece of legislative right after that, there was the status of the contracts are in various stages when the legislation is presented to us. Sometimes it has been fully negotiated, sometimes it has been we just received the first draft on Thursday. Is it possibly to delay the legislation as long as possible so that a final form of the contract is available to us when we're enacting the legislation? I know with the J & J contract I'm sure there's a timeline that we're working for, obviously the contract goes into effect March 2010, so we would want. Can we and I know you need direction from us at certain points; I would just request and maybe we can talk about this at other meetings, but have the legislation, not so we're in crisis mode and it is always the last possible moment. But when the agreement or actual documents is further along so that we have the opportunity to review it and discuss things, look at things like the opt-out clause or our self-help clause or whatever the issue is. I don't know that you need to respond but that would be my request.

Councilman Langman – Law Director I've asked you this before but since it came up again tonight, Charter Review passes along recommendations to the City Council, under our Charter what is the responsibility of the City Council?

Director Frey – City Council has the final authority as to whether or not that matter is going to go to the ballot.

Councilman Langman – So we're not simply a pass-through that can make no changes or have any real substantive input into it.

Director Frey – Not the way the Charter is written today, correct.

Councilman Langman – I think that's a very important check and balance to the work of any committee that's simply appointed and not elected in any way. We're going to discuss the issue of the recall matter and it is actually a good thing that it is going to come after the election. The Charter Review Committee favors obviously lengthening the terms of the city council. One of their checks on that was indicated that we can always recall a council member. Yet, what they want to propose makes it harder to do that. I think you have to consider very carefully that in essence what you're doing is reducing the opportunity of the citizens to have input into their government. Review all the facts before you vote and I will simply wish everybody a very safe and Happy Halloween and we will see you on November 2<sup>nd</sup>.

Councilman Van Ho – First of all to inform the rest of Council and kind of answer the gentleman's question who asked about the schools. The rooms will be larger, which should avoid overcrowding. There will be better security. There will be more natural light. It will be a much more learning friendly building for our students to go to. I have consistently backed this because I think our kids deserve it.

I would urge everyone to extend the terms for Council. We very rarely had a recall; in the 25 years I've lived here we've had one. I think that not extending them because you might make it harder for recall is not a valid reasoning. I think the longer terms will give the council people better term to get projects going, started and maybe even completed.

Other thing that I would like for the administration to look at would be somehow lowering the rental rates on the Senior Center for people who want to rent it on off-times. I sat calculating and for someone to have a party, birthday party for Director Frey's mother is almost \$600 bucks before the food. Or also for small groups such as a club or that, they can't afford that kind of rates, and I think yes we should have the center there for the seniors, but we should also be able to maximize getting it out for smaller groups to use.

I'd like to second what Councilman Wojtila said about the contract. I would like to see them either completed, except for final signature, or as close to completed as humanly possible. I trust you guys but I'd still like to read it. That's kind of all I have, I'll say goodnight.

President Holzheimer Gail – I have a couple of announcements and a couple of thank yous. I would like to thank the Renwood, Naumann, Monterey Association for their Candidates Night. We had some very interesting discussions about school uniforms and new buildings and it as really, as Candidate Nights goes, it was very enjoyable and there was a conversation going on. I thank you Mr. Riggan for your leadership in inviting us to participate in that.

Also thank you, Director Will had mentioned it to Sherrie Zagorc and her whole committee. She had many of the other preschools and day cares, people from the preschools and daycares there to help build. Really a huge kudos to the Recreation Dept. there were many of your staff there. I know we could not have done it without their direction and assistance. Thanks to the residents and members of Council who were there. That was Phase 1 so we will continue to work for Phase 2 and I really do want to thank Sherrie, she really puts in so much effort for the benefit of the entire community.

Halloween is coming up, Saturday October 31<sup>st</sup> and Trick or Treat hours will be the same as they usually are, 6:00-8:00 PM. I know that typically we do have extra police and fire out to ensure the safety of our residents and the streets and remind those folks who are participating to keep your lights on and keep an eye out for everyone so we can have a safe Halloween for all.

As Director Smith said, leaf collection will start Monday, October 26. That was a question at the meeting that we couldn't answer and we apologize. Now we know October 26.

I will let Councilwoman Scarniench talk about the Assets Committee, but following the Assets Committee on October 26<sup>th</sup>, which is Monday, we will have a presentation by Director Pietravoia and Director Frey on our solar panel project and a recommendation to move forward with that.

I was going to announce the lakefront meeting with JJR, and that's been done but I will repeat, Wednesday, October 28<sup>th</sup>, 6:30 here. For those who cannot attend that, we do have a plan in place, we're working on dates where we will have more public hearings throughout the community so that we can get as much public input as we can into this very exciting project.

Lastly I will just, wanted to let Council know and the public who are here, happen to be at City Hall, there are two boards outside of the Rotunda that show the architect's renderings for the two model homes using our NSP dollars, Neighborhood Stabilization Program. Dollars, to rehab abandoned and vacant homes and put them back into productive use. As you know it's been a long process. There's been some hurdles that we've had to jump through, but you will see the architect's renderings. We are moving forward and hopefully these will be two successful projects to get us going on a good foot with the Neighborhood Stabilization project. As always, thank you to Marty Castelletti for the good work he's doing with that.

Councilman Gruber – I'll start off easy and then I'll get rough. I'd like to congratulate a prominent Euclid resident that was featured in the Scene Magazine as one of Cleveland's best this year. I won't tell you, you'll have to get the magazine to find out.

Walgreen's is progressing nicely and it appears to be open early November from what it looks like over there, so I appreciate that.

Just a quick note on the two year versus four year thing. This is no reflection on my current council colleagues, but very few folks have anybody running against them this time. If you only go two years, you've got a chance. If you go four years, you might have six years you're stuck with somebody. Think about that carefully. It is good to keep them on their toes, believe me, it wasn't easy getting here and you should make it difficult for them every time you can.

There was a mention about how many folks go to the Grove City outlet mall. The Shrine on Chardon Road gets over 35,000 visitors a year. We should keep that in mind as well. We have an international destination. People from all over the country come here to go to the Shrine and I think it is a little known asset that we should keep in the back of our minds and be thankful that it is here.

Ms. Will, I'd like to thank you for the garbage can that you're going to put on Euclid Ave. by the mini-station; she called me, she got back to me. Can I pick the color? I just want the dog-gone can, so I appreciate that.

Schools. It is important that 105 passes for a couple of reasons. Folks say that we're going to go down from this many schools to this many schools. When I was growing up, when Madeline was growing up, there's 70,000 people in the City of Euclid and we needed all those schools. We have a large school age population now, but it is not 70,000 residents living in the city. Smaller, new facilities, it is a proven fact that new facilities enhance education and it is something seriously to think about. Nobody likes to pay more in taxes, but it is something that is an investment in the future and in the long run will save you money on energy costs and other variables. It is something to keep in mind.

Also there's a couple of new restaurants in Euclid. Bootleggers, it was going to be Grizzlies and they thought it was too rough. I suggested Rumrunners, they said Bootleggers. That's going to be at the Charter House, the old Charter House, Lake Erie Lodge on Euclid Ave., it is currently open. Earl from the Eagles is working there if anybody is familiar with him, I guess that's the draw. Also Pacers on 260<sup>th</sup> has recently re-opened. They have the same chef and the same recipes and I think I ran into Councilman Langman's father there and also a former Councilman Delaney. They have a great crowd, the food is good. I can vouch for the rib tips, they were very good.

I also have a question about Fields Investment. There's a local Euclid company that has received a bad check from them. I don't know where they're at. Director Pietravoia, how are things coming over at the Lake Shore Plaza?

Director Pietravoia – This week they're taking out demo permits for the canopy. They still do not have 100% approval from their financier to proceed with the project so we've insisted as we've discussed in the past that they at least go ahead with the canopy removal. The demo permits should be issued and work should start on that within the next 7-10 days.

I'll check into the, maybe offline you could provide me with some more details on what you've heard. We did investigate once before with the landscaper and were told there were some issues and they were resolving them. I don't know about a bad check.

Councilman Gruber – Well they resolved them with a bad check.

Director Pietravoia – Sounds like it still needs to be resolved.

Councilman Gruber – It was a small amount and that's what makes me really nervous.

In closing, I would like to make a couple of comments about Bill Tomko. Bill Tomko was Mr. Euclid. Bill Tomko grew up with my father. Bill Tomko has been a family friend for all of my life, fifty-some plus years. He was a great advisor, he knew the city back and forth. He knew how things ran in the city. He was a city official for many years. I remember when I first got elected he told me and anybody who had a sign on Bill Tomko's lawn usually won. He wouldn't let you put it out there unless he thought you were going to win. I remember vividly he told me that you can go to the council meeting and you can disagree with your colleagues. But if you really disagree with them, you do that behind stage and when you come on stage you have a common front. That is something I will always remember Mr. Tomko for. Mrs. Tomko, God Bless you and I hope that everything is well. He will be missed. He was a wonderful individual and truly he was Mr. Euclid. God Bless You Mr. Tomko and Godspeed to your family.

Councilwoman Scarniench – Director Smith could you make sure that we all get a copy of the list for the snow plowers? It doesn't seem like we've received that yet.

Council Minutes

October 19, 2009

Page 31

Director Smith – Sure. We will do that and I know it wasn't mentioned but that will be printed in the newsletter as well, that information.

Councilwoman Scarniench – Councilman Gruber talked about restaurants, but its not a new restaurant but it was to me. I want to thank the Mayor for lunch today. We went to Mama Catena's my first time there and it was very good and I will be back there. I wanted to say thank you for that. He bought.

Mayor Cervenik – I usually do breakfast and you know that I always buy or try to anyhow.

Councilwoman Scarniench – The Assets meeting as was stated is next Monday. We have revised the agenda. Besides the Museum Annex we also need to talk about the Senior Center and the Golf Course. The Mayor has a presentation for us and then we'll do the solar panels right after that. Hopefully it won't take to long but it is necessary that gets taken care of. That meeting is at 6:00.

I would like to send condolences out to Marie Strah's family, her friends and neighbors up there on Glenbrook Blvd., past away last week and also to Bill Tomko, I've known Bill for many, many years.

Congratulations also goes out to the Rotary Club. Sixty years coming up. It is a very hard working group in the City of Euclid so I congratulate them and look forward to spending some time with them in a couple of weeks.

The last thing I wanted to do is Issue 28, I didn't even pay attention to what the number is. Right out here in the lobby is the very big boards and there's some information right there that talks about the School Levy. I'm very surprised to hear that Dr. Jones wasn't at this meeting. He may not have been invited because I don't care where it is at, where he's been invited to, he's there. If he can't somebody will show up to talk about the issue. There are meetings that have been going on for the last two years that I have been going to about these issues. It is very important to the city. I know there's more going on over the next week or so. If you call him, he can tell you where they are. But they're out there. It is very important and as I've said, I've been going to these meetings for the last two years and I truly believe this is what is right for the City right now. Our property values will go up, that's a fact. There are a lot of things. As far as the four schools are concerned, those schools are not going to be smaller, they're going to be bigger, 650 students in each building. By consolidating those buildings, your saving on administrative costs, building costs, lots of different things. So you must be informed. I did send an e-mail to all of my constituents that I have e-mails for. I didn't tell them how to vote but I said if you have any questions on any of the issues, call me up, some have. Anybody who calls me, I answer those phone calls even when I was sick. On that note, goodnight and thank you.

President Holzheimer Gail - I just want to say, there is a website that talks about, and it is Issue 105 that's the School issues. I believe it is [citizensforeuclidschools.com](http://citizensforeuclidschools.com). Can anyone confirm that? We can certainly get you that information. It is probably on the board that it out in the lobby here, but I'm pretty sure it is [citizensforeuclidschools.com](http://citizensforeuclidschools.com).

Councilman O'Neill – With regards to Dr. Jones, the meeting that he didn't attend was last Monday, that was the Pontiac Homeowners Association meeting. Councilwoman Minarik was at a candidates forum and I filled in. I believe that was the same day that some news media broke in the city about one of the schools and the flu outbreak, so he may have been tied up with, kind of putting out some of those fires and lost track that he was to attend the meeting. It seems to be, I don't want to speak for him, but it is kind of out of character for him not to be there. I can only attribute his absence to that situation.

ADJOURNMENT

Councilwoman Scarniench moved to adjourn. Councilman Gruber seconded. Yeas: Unanimous.

Attest:

---

Clerk of Council

---

President of Council