COUNCIL MINUTES
October 4, 2010

The regular Council Meeting was held on Monday, October 4, 2010 at 7:00 PM in the Euclid Municipal Center Council Chamber. Council President Holzheimer Gail presided.

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

Councilwoman Jones moved to excuse Councilman O'Neill. Councilman Wojtila seconded. Yeas: Unanimous.

Others Present: Mayor Cervenik, Law Director Frey, Deputy Director Gliha, Finance Director Brett, Service Director Smith, Recreation Director Will, Police Chief Repicky, Fire Chief Cosgriff, Asst. Director Bock, Asst. Director Sweeney, Commissioner Beno, Mr. Iorio, Clerk of Council Cahill.

COMMUNICATIONS

Councilwoman Scarniench moved to object to a transfer of a D5, liquor permit from Shazam, Inc., Dba Midway Bar & Grille, 206710 Lakeland Blvd. to J Dawson Enterprises, Inc. Dba Midway Bar & Grille, 20670 Lakeland Blvd. Councilman Langman seconded.
Roll Call: Yeas: Scarniench, Jones, Minarik, Langman, Wojtila, Van Ho, Holzheimer Gail.
Liquor permit denied.

Council received the following communications:
The Monthly Finance Report on General Fund Activity through August 31, 2010.
A memo from Senator Turner urging support of S. B. 273 which would advance co-operation between municipalities by allocating and sharing resources.

COUNCIL MINUTES

Councilwoman Scarniench moved to receive and approve the Council Minutes of September 20, 2010. Councilwoman Minarik seconded. Yeas: Unanimous.

ADMINISTRATION REPORTS & COMMUNICATIONS

Mayor Cervenik stated he will present Res. 130-2010 to Ross' Meat Market for over forty years of business in Euclid.
Mayor Cervenik and Chief Repicky presented Res. 128-2010 to Officer John Buling on his retirement from the City of Euclid Police Department.
Mayor Cervenik and Chief Repicky presented Res. 129-2010 to Officer Larry Germovsek on retiring from the City of Euclid Police Department.
Director Will - I would like to take this opportunity to remind everybody about two special events that we have coming up. Wednesday, October 27, from 10 AM until 11:30 AM, Howl at the Hall, where children 5 and under can come trick or treating at City Hall. We will do that in increments of 15 minutes; we have 90 kids registered. Call 289-8114, it is free but you do need to register no later than October 22.

On Saturday, November 6th will be the Annual 5K Run and Walk. Registration will start at 7:30 AM and first run will be 8:30 AM. If you would like to register, call our office at 289-8114.

We'll be offering a basketball clinic for boys and girls ages 10-13 during the month of October. We do plan on starting this up on Wednesday evening at the Euclid Sports Plant from 7:00-8:15. If you are interested, call Mac Stephens 289-8230.

We'll also be taking registration for our Winter Panther Hoops. This is for boys and girls ages 5-14. You will practice once a week at various locations and then games will be held at the Euclid Sports Plant either on Friday evening or Saturday morning. We start practicing in November and we will run through the first week of February. 289-8114.

I'd also like to take the opportunity to thank two of our tackle football teams. This past weekend they came out and volunteered their time to give back to our community and gave up quite a few hours at the High School, assisting PAL with a basketball charity event that they have. I appreciate the kids coming out and doing that and I know PAL appreciates the dedication they gave on the time.

Last but not least, I would like to personally apologize for an issue at the C.E. Orr Ice arena. We started the season off last Saturday with what you will call blue ice. Not realizing that it was going to cause a problem like it did for our hockey players. We realized once we got into the ice arena on Friday evening and noticed that we did need to make a change. We shut the arena down on Sunday evening at 7 and started to change the ice. It is currently closed right now. We do have white ice and all the lines are back up and we are on the process of resurfacing that and be ready to open. We will be ready for all the groups on Thursday. We do have learn-to-skate tomorrow evening. We will continue with our learn to skate program. We will be allowed to come on the ice, from 6:00-7:00, you can register at the ice arena. You can arrive 10-15 minutes earlier and then there will be a public session from 7:00-8:30. On Wednesday we will re-flood the ice with a few layers of water and we will be open to the public for our regular season and our regular sessions on Thursday. Again I apologize and I appreciate everyone's patience and support during that time.

If you have any questions about any of the Parks & Rec Department program, you can visit the website or call our office.

Fire Chief Cosgriff – Yesterday began the 2010 Fire Prevention Week. The theme of Fire Prevention Week this year is Smoke Alarms A Sound We Can Live With. I know I've said this many times in the past, but I cannot stress enough the importance of smoke alarms. Smoke alarms should be installed on every level of the home including the basement and especially outside each sleeping area. Never remove or disable smoke alarms. There are two types of smoke alarm technology; ionization and photoelectric. Ionization smoke alarm is generally more response to flame fires such as pan fires or the smoke from cooking. A photoelectric alarms is generally more responsive to smoldering fires, like a cigarette, overheated wiring or something hot like a space heater. Install both types of alarms in your home, or a combination ionization and photoelectric alarm to take advantage of both technologies.

The Euclid Fire Dept. now has those dual sensor smoke alarms and will provide them along with batteries, free of charge to our citizens that cannot afford them. Call our Fire Prevention Bureau at 289-8425 or stop by our Fire Station #1 at 775 E. 222 St. Smoke alarms should be tested at least monthly by pushing the test button. A smoke alarm will chirp as a warning when the battery is low and when that happens you will need to replace the battery right away. All smoke alarms should be replaced when they are 10 years old or if they do not respond properly when tested. Information for smoke alarm for the hearing impaired may be found at the NFPA website, www.nfpa.org. Thank you.

Mayor Cervenik – A couple of announcements, you should have received your tax report through August 31, 2010. I believe we were about $141,000 ahead, which in a $37 million budget is not earth shattering, but it is certainly better than being on the other side of the coin. I believe the unofficial numbers for the month of September were up about $28,000 so that's very good news as well and hopefully that will continue.

We received by email the approval of our audit report, it was finally officially released. We received a very clean audit with an unqualified opinion which is what you always hope for. There were no citations. There was one management letter comment or recommendation. It had to do with how we appropriate versus what are actually resources are in various funds and most of those funds involve grants which are virtually impossible to predict because most of them are reimbursable. It is still an audit that we are very proud of. We will sit down with our outside auditors and try to work out ways that we can minimize the way we exceed what we send to the County on our Certificate of Estimated Resources versus what we actually spend. Those violations were in nuisance abatement fund, street maintenance and construction fund, the Block Grant Fund, the Neighborhood Stabilization Fund, other grants funds, the Shore Corporation Fund and the Waste Water Treatment Fund.

For instance in the Neighborhood Stabilization Program we appropriated $2,580,000 but actually only received $171,000. That's because we are just now after submitting our plan being allowed to spend that. We are going to have to in the future if we want to not receive this management recommendation is to have some procedure to amend on a timely basis our Certificate of Estimated Resources. On the other hand, if this is the only management report recommendation or comment we ever get, as long as I'm Mayor, I'm a happy guy. I want to thank former Director Johnson and his staff for all their work and we look forward to the same quality of reports from our new Finance Director Philip Brett.

I would like to welcome Professor Stephen Talbot and his students from Cleveland State University, my alma mater. They're here tonight to listen to us. I emailed him that he always seems to pick one of our longest agenda meetings but it is good because the students get a lot out of it. We welcome you all here tonight and I hope you understand what we're doing here and what local government is all about.

October is also Breast Cancer Awareness Month. As you know I usually wear my ribbon throughout the year. I just want to always let people that it is very important on Breast Cancer Awareness that you do self-examinations, both men and women, men are not exempt from the disease. It is more prevalent in women but it is still something you should be aware of. There are many websites from the Cleveland Clinic to the Susan B. Koman and other organizations that explain to you what you should do. I just heard a program yesterday before the Browns game that women should have a baseline mammogram at age 35 and then once they're 40 they should have a mammogram each year. I don't think there's a person in this room, that hasn't suffered a loss in their family or friends from the disease, but I think what's becoming more prevalent as we promote breast cancer awareness is that we're all starting to see much more success in the treatment of the disease of our loved ones and our friends. I can't tell you enough how important it is to follow the guidelines of breast cancer awareness.

A final thank you to the Euclid Girls Volleyball program. Last Tuesday they had a fundraiser, Volley for the Cure, for the Susan B. Koman institute. I had a lot of fun talking to the girls and they won their games too. It was very heartwarming to see young children like that who sometimes get a bad rap for whatever reason, just for being children. They took the time to raise funds and to create awareness for a disease that we hope can eradicate over the years. Remember that not only through the month of October, but let's remember that year round. With that, that's the end of our reports and communications.

REPORTS & COMMITTEE MINUTES

Councilwoman Scarnienchmoved to receive the Police Report of August, 2010; Sustainability Committee Minutes of September 22, 2010; Board of Control Min. of 9/13/10 and 9/20/10. Councilman Wojtila seconded. Yeas: Unanimous.

President Holzheimer Gail – That brings us to the Committee of the Whole for Legislative Matters Only. This is where you can speak to anything that is on the agenda. Please state your name and address for the record. #1 Res. (137-10), the Use District Exception for Alter House has been withdrawn from the Agenda. It is the intent of the sponsor of #3 Res. (166-10), use district exception for 824 E. 222 to waive the readings.

COMMITTEE OF THE WHOLE FOR LEGISLATIVE MATTERS ONLY

Ms. Regina Hauck – 116 E. 192 St. - I'm here tonight to talk about the recycling legislation. Obviously I'm in favor of recycling but I question if this is the right time to add city services. Many people in the city have continued to recycled throughout the years even though the city was not offering the services and one way to guide this is the paper bins at the Hunger Center are always full anytime I go there. One thing I would like you to discuss when you are discussing this legislation, if any of the council members which I hope you have done this, contacted the non-profits in the city that get money from the paper bins. Please discuss how much money they get on an annual basis and if they think the city adding recycling will affect their budget. I know they have to rely on these paper bins because monetary donations are down for all non-profits because of the economy. I think the city needs to encourage the continued use of these bins and not include any of this tonnage into the calculations for the profitability of this legislation.

Why I don't like the legislation, even though I am in favor of recycling, is the timing of this legislation. Just a few months ago we weren't able to balance the general fund so we had to add fees for our garbage and street lighting. Otherwise we were told safety forces or the rec department were going to be cut. I understand this is a five year contract and we're going to be adding city services. The plan is for it to be profitable. But, can you guaranty and the word there is guaranty that in the next five years by adding this city service you will not be adding any expense to the general fund? Because if it comes down to it, the people in this city would rather have safety forces than recycling picked up curbside. I think you really need to look into that. This was just a few months ago we couldn't balance the general fund, now we're trying to hire employees. When we do the budget in January, we don't want to hear we can't balance the general fund and be threatened with safety force layoffs again. I think we all know how important the safety forces are. You honored two people here tonight that were retiring. You don't want two more people to retire and not be able to replace them because you hired three people to pick up curbside recycling.

I do understand the bulk of this money is coming from a grant and we don't want to lose that money, but there are other ideas that you can use. Two that I have just thinking, street lighting. If we could come up with more energy efficient ways to light our streets, we could use the grant for that and actually return the money to the residents that are charging for street lighting.

Another idea is the timing of the traffic signals. This is supposed to be for energy, if we have less red lights, we have less car emissions. That might be something to look into, I know we've talked about that for ten years, but I know if I go the speed limit, I get stuck for red lights all the time.

Finally at the committee meeting, people were talking about Mother Earth and how we have to save Mother Earth. You even brought up the topic of charging fees in the future for people not recycling. Someone said that in order to break even we needed 9.6 pounds of recycling per person. I don't have 9.6 pounds of garbage in an average week, let alone recycling materials. I think we really need to look at this in a different way. I think in stead of just separating the trash, instead of having, this is how much trash we have and separating it into two piles, we need to find a way to take this pile of trash and reduce it to this pile of trash. A way to do that is you have to come up with a way to show the residents how to have less trash and how to consume less. Actually that's the way to use this grant to do something like that. I know we've talked in the past as pay as you throw and everyone dismisses it but I think the thing is if you're really interested in Mother Earth, it is not just about separating your trash it is about reducing your trash. That might be a good use of the grant money. Thank you.

Ms. Sandra Weber 2070 Miami Rd.- I am the owner and administrator of A Mother's Touch, family home and childcare preschool and I'm here to speak on #20, the regulation of in home businesses particularly being childcare homes and regulating the amount of non-city employees to one. My curiosity with this is, what do you believe the outcome would be with this? The outcome probably would be homes that wouldn't be operating. You shouldn't be telling us who we can hire inside the city or outside the city because we have to pick those people based on the state regulations that govern us as state regulated type A family childcare homes.

We are regulated by the State and if you're planning on doing that, to keep a closer eye on us, are you planning on moving in with us too? I mean, really the only way that you could regulate somebody even better is moving in with them or spying on them. Lots of neighbors in the area that know that people like me watch children. I've been doing this in my home in the City of Euclid for 15 years now. Recently 6 years ago this coming January was licensed type A. To go through that, had to do approximately 7-12 pages of paperwork and have inspections through the city fire department as well as the housing department. Had to make

renovations to my home to accommodate these children. Not anybody can be an administrator of one of these centers, we have to have degrees. If we don't have a degree we have to have many classes in administration for these homes and to be able to operate. I personally have a two year degree. Currently our city has nine type A homes, if you want to look a little closer at those homes, they are State regulated which means we get inspected twice a year. A lot of us are affiliated with the USDA food program which means we get inspected every other month also because of the amount of children in our care. With them coming to inspect us, they are checking the capacity of our home, making sure employees have background checks. That is another thing we are required to do, all of our employees that come in have to have BCI and FBI background checks. Personally my employees have to have experience as well as a degree if they want to be a lead teacher in my classroom. Some of the providers do not require that but I do.

I think what you're trying to do is because of a few complaints about traffic at one child care facility in particular that is a type A home, now you're basically saying that because of that we're going to re-look at the situation. My question is, how many complaints have you gotten annually on traffic at these type A homes that you have? I think you need to look at that. I also think you need to understand that you're never going to satisfy anybody. Just like some people want curbside recycling, other people don't. You're never going to satisfy the whole group of people in your community. Because you have a few upset people, unfortunately saying that only one or two people can be outside the City of Euclid, what does that really accomplish? Can you keep a better eye on the facility? No, you can't. All it does is it is just hogwash.

I think you're going after the wrong types of homes. I think you need to go after the type B private homes who are not regulated by the State or any kind of entity. You also need to go after the type B professional homes that are not registered with the city. There is registration in the city and I supplied that information to Paul Beno several months ago about 44 professional type B homes that needed to be registered and curious to know how many of those have been registered. I personally employee two teachers out of the City of Euclid and are you prepared to lose that tax revenue that those teachers pay to work in the City that they don't live in? Also I've never had a complaint at my prior address on Meredith Ave. or my current address on Miami. Most of us really do care about what we do, we offer great care to many families and parents look for this type of care because of the substandard center based care in a lot of the City of Euclid and the surrounding communities. Please look at this again.

President Holzheimer Gail – Just to clarify, I think you may have misunderstood one portion of it, we're not looking at limiting or requiring employees to be residents of the city. Currently our code does not allow employees outside of the person who lives there. We're looking at allowing one additional person, there's no residency requirement to the employee.

Mr. Willie Brown – 20875 Miller Ave. I want to speak to agenda #20 as well. I'm a member of the Planning & Zoning Commission but this evening I'm speaking for myself, I'm not speaking as representing the Planning and Zoning Commission.

This ordinance which is in regard to home based daycares, I think is important. You have to understand that home based businesses are becoming more prevalent as people search for alternative means to earn income in tough economic times. Home based daycares are just one of the ways in which some of the residents do that. The types of home based businesses cover a wide range of services and products and I agree there is a need to regulate home based businesses and preserve the integrity of our residential areas. But I feel it is imperative that these regulations are not overly restrictive and are actually enforceable. For example, talking about the number of employees perhaps a daycare could have, saying that they could only have one person who lives outside of the home. This would eliminate if they would have adult children that might want to help the family business, they couldn't have two of their adult children come into the home to help, if we limit it to having only one person.

It would also, we're looking at whether or not you want to limit the number of cars that can be at a home based business at one time would be extremely difficult for daycares to say that we can't have more than two cars here at once, realizing that they have people who have to drop off children and pick children up and many of them are on similar work schedules. Also, in terms of whether or not the business has to be conducted entirely inside the home. If it is entirely inside the home it means that if you have a home based business, you can't discuss your business on your deck or backyard with somebody who maybe coming by your home or that if you have a home based daycare you can't take the children out in the backyard to play. I think we do need to regulate businesses, home based daycares present a unique set of circumstances and they should be regulated separately and in accordance with those circumstances because I think that none of us want to throw out the babies with the bath water. Thank you.

Mr. Jeffrey Beck – 25540 Chatworth. A couple of items I wanted to speak to. First one is item #3. I would have attended the P&Z Commission and the last Council meeting, but I was out of town the last several weeks. But I'm against putting a towing business into this area for a couple of reasons. One is to be a successful towing operation you have to work 24/7, because that's when the calls come in. To have that so close to a residential area I don't think it is going to be a good thing for the people that live around there.

Also, I've been by the place, I don't think there's enough parking there to do that anyway. There's plenty of places on the other side of the freeway away from the residential areas that offer more space that you can run a successful towing operation.

Second thing is #6. I agree a lot with what the previous speaker said. I loved curbside recycling. I still recycle and take the stuff down to St. Joe's. But the financial situation the city is in right now, to bring more people on board only to possibly have to lay those same people off after budget hearings next year, or if they happen to be Union people, they'll lay three other people off, I think is not good for the city and I think we should hold off on that and on spending this money to buy this truck that may not be in use a year for now. I would be against that also. Thank you.

Mr. Victor Goodman – 20201 Glen Russ Lane. Four things I would like to talk about, I'll start with $17 & #18. The only thing that scares me in both of these is the fact that this money is being pledged against income tax money, which is down and real estate and property tax which is down. My question is, if we're borrowing all this kind of money or running bonds, how if the money does not appear at the end result at the end of the year, how are we going to pay for what we've borrowed? Isn't this just putting the city back in further debt? These are not monies that we can say definitely guaranteed this is how much we're going to get. That just scares me and I just want to bring that out.

The next is on #5 & #6, which is the recycling. As I was the only person to attend the last meeting with my wife, as I stated there, is we are 100% for recycling and have continued to recycle whether the city did or not. But there are so many questions that have no answers that I cannot see how this Council can proceed to do anything except put this in committee and further discuss it. There have been no public meetings on this. So the residents in fact have no idea what you're even talking about or doing. We need public meetings, we need public input and more importantly you need public education. You cannot go and start to spend taxpayer money without the education of the taxpayer to taking advantage of the benefit they're going to get or not get.

Now attended Nina Turner's meeting last week as the Mayor did. At the end of the meeting I had a chance to speak with the two council people that were from Richmond Hts., which is a city that recycles. I asked them how is that working out? They told me they're losing money everyday on it. They're not making money. It is a losing proposition. It is something they want to give their residents but there's a likelihood that its not going to be able to stay if it doesn't work and make money.

We are talking about an energy grant to try to pay for some of these things. Statement is, the energy grant is a one time shot. So starting in the second year, we pay for three employees, we pay for their benefits and if something goes wrong with the truck, we pay for that. Taxpayer money which at this point in time, we don't have because if you have the money I want my garbage fee and lighting fee re-given to me. If you have all this money to start to spend today, I want to know why you didn't have it just a few months ago.

I want to tell you a story quickly in my last couple of minutes here. When I was a very young man, a group called the IFO, International Order of Foresters, got my name and came and knocked on my door and presented me with a saving and life benefit program that was unbelievable. They told me that this plan would make my life for the rest of it and I would have money at the end of my retirement, I was 24 when they came. Then they told me, I had that night to sign the piece of paper or my financial opportunities would be gone forever. I at that time had what I call a test wife, who insisted on saving money, and so I was then forced basically by her saying we've got to do it, we've got to do it, and I signed the document and gave them a check. I did not sleep that night and the next morning I called the bank and cancelled and put a stop on the check, got a call from no less than Smokey the Bear himself, to find out why I had not taken this offer and I told him. If it is good enough for tomorrow, if I have to do it today and I can't even think about it for tomorrow, then it is not a good deal at all. If it is good, why can't you let me think about it for 24 hours? Council, you need to think about this for more than 24 hours and do your work. Put this in Committee, do no create a taxpayer burden that you will all live to regret. Thank you.

President Holzheimer Gail – Seeing no further comments we'll move onto legislation and Item #2.

LEGISLATION

Res. (137-10) UDE Alter House - Withdrawn

A resolution granting a Use District Exception, pursuant to Chapter 1375.01(a)(3) of the Codified Ordinances of the City of Euclid, to Robert B. Watkins, Executive Director of Alter House, Inc. to allow an assembly use for up to 120 people in a U-6 (Industrial Manufacturing) Use District at 19571 Roseland Avenue, Permanent Parcel No 646-23-013. (Sponsored by Planning & Zoning Commission)

Commissioner Beno received correspondence from Robert B. Watkins requesting a withdrawal of this UDE application.

Ord. (155-10) Rezoning 26650-26670 Lakeland Blvd. Third Reading

An ordinance rezoning parcels at 26650-26670 Lakeland Blvd., P.P. #s 648-12-002; 648-12-005; 648-12-006 and 648-12-008, from U-5 to U-6) (Sponsored by Planning & Zoning Commission)

Third Reading. Public Hearing October 18, 2010

Res. (166-10) UDE Early's Auto on E. 222 St. Failed

A resolution granting a Use District Exception, pursuant to Chapter 1359.03(c)(12) of the Codified Ordinances of the City of Euclid to Rick Early d/b/a Early's Automotive to allow an automobile towing use in a U-4 (Local Retail) Use District at 824 East 222nd Street, Permanent Parcel #641-26-003. (Sponsored by Planning & Zoning Commission)

Councilwoman Scarniench moved for passage, Councilman Gilliham seconded.

Councilwoman Scarniench moved to waive the three reading requirement. Councilman Langman seconded.
Roll Call: Yeas: Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail.
Nay: Gilliham.
Three reading requirement waived.

President Holzheimer Gail – Just for the record, Councilwoman Scarniench did state that intention at the last council meeting so there has been notice that decision was going to be made or suggested.

Councilwoman Scarniench – At the Planning & Zoning meeting, Mr. Early was there and talked about his business that had moved into a building on E. 222 Street without the proper permitting. When all was said and done, four members of Council decided that he couldn't have mechanical business in there but three members of the Zoning Commission decided that he could have the towing business there.

I am wholeheartedly against this and the reason is simple. We have spent a lot of time and a lot of money updating our codes in this city, they are archaic in some instances. Where this building sits is a U4 retail district. What he wants to put there is U6. It does not belong there. As was stated earlier, we have many places along Lakeland and St. Clair where this business could go. I do not want to see it in a residential area which is where it is. It abuts homes and it just does not belong there. If we allow this, then what was the purpose of spending the money and upgrading our codes if we're not even going to follow them. I hope all of my council members will agree with me and vote against this.

Commissioner Beno – On September 14 at its regularly scheduled public meeting, the Planning & Zoning Commission heard appeals from Mr. Early for both the auto service business and the towing operation. The Commission was somewhat inconsistent with its votes and recommendations, turning down the auto service use, but recommended approval of the required UDE for a tow truck business. This position is not consistent with codified ordinance. Euclid Codified Ordinances classify towing and wrecking services as being a U6 use. The auto repair facility is a conditional use in the U4 district. In many ways the 24 hour nature of the towing business would have a greater negative impact than the auto service use which was turned down. Staff of the Planning & Zoning Commission is consistent in recommending denial of both the service garage and the towing business proposed for this location.

Councilwoman Jones – I do have one comment. If this is not passed tonight, will someone work with Mr. Early as far as finding another location that he may be able to do his business with in?

Commissioner Beno – Yes, we would certainly be glad to point to different buildings with vacancies in the U6 industrial districts.

Councilman Gilliham – In addition to what Commissioner Beno has stated, let me be forthright in stating this that I have also approached Mr. Early about property in Ward 1. At this point in time I look at this particular business and understand the need for the new businesses, but I feel this particular location is not the appropriate one. I'm not poaching for my ward but I do have the ability to do so and if he decides to go to any other particular location within the City of Euclid, I would definitely be able to assist him. Based on my interaction with the previous location on Roseland which is retail and industrial, there's a possibility for that to be an option. That has already had a conversation with Mr. Early as we speak.

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

Roll Call: Yeas:
Nays: Gilliham, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail.
Failed.

Res. (167a-10) UDE 26110 Euclid Ave.

A resolution granting a Use District Exception, pursuant to Chapter 1359.03(c)(6) of the Codified Ordinances of the City of Euclid to Phillip Lane, a tenant at 26110 Euclid Avenue, Permanent Parcel #648-51-002, to allow a major repair facility in a U-4 (Local Retail) Use District. (Sponsored by Planning & Zoning Commission)

Second Reading. Third Reading on October 18.

Res. 131-2010 (178-10) Curbside Recycling Program

A resolution authorizing the commencement of curbside recycling within the City of Euclid as soon as equipment, supplies and personnel are available. (Sponsored by Mayor Cervenik and Council President Holzheimer Gail)

Councilwoman Scarnienchmoved for passage, Councilwoman Jones seconded.

Mayor Cervenik – Back on September 14th I sent an email to Council asking for their opinions on beginning a long term sustainable curbside recycling program which I felt and I think many of you felt for years that the residents needed. Since that email a number of things have changed and they have basically changed for the positive. At the onset of this email we were looking at working only with the City of Cleveland and Director Smith and I sat down with Diane Bickett from the Cuyahoga County Solid Waste District and she informed us of the consortium that we mentioned that will be formed with at least 9-10 other cities through the parent company of J&J, Kimbel Company, is the parent company. Not only the email stated that if we recycled 4,000 tons basically remove 4,000 tons from our solid waste revenue stream, we would save approximately $40 a ton or $160,000. That's about what it is going to cost to do this recycling in-house.

With the Consortium there is actually the ability to receive revenue. That revenue will be based upon certain market indexes every month or every quarter for the various products. Right now if the consortium was totally put together and the indexes are used that are in shape now, it would be somewhere around $15-$16 a ton. In addition to saving the $39 a ton that we are charged now for solid waste, we would also receive revenue of that amount. That would fluctuate every time the adjustment period arrives. However, when we did curbside recycling, even when we dropped down to every other week, we averaged 3,800-4,000 tons. With the worst case scenario what I presented to you, it will cost us nothing.

In addition to that, we have $123,000 energy grant which would give us safeguard our general fund and the cost of the new employees until we are able to get, it is going to take a little bit of time to get to that 3,800-4,000 tons a year. So that's a pretty good payback when you think about it and that's why we looked at other items and I think Brian had mentioned some other items, as well as, Director Pietravoia. Using this grant money has a great payback period for the City of Euclid and it protects our general fund. The notion that it is going to cost the city really is not the case. It may for the first couple of months, maybe it is going to take a year, but that's why we put this into the Energy Grant so it will protect the general fund.

There was some questions said, why didn't we have the money when we charged the fee. Again, this program shouldn't cost us any money. Number two, for the first time in I believe Euclid's history, we entered into a contract that was based and it was with much help from Diane Bickett and the Cuyahoga County Solid Waste District. We entered into a contract that rather than be weighed almost completely on the number of households, I think it was $15.53 or $15 per household, our new contract is $16.15 per household and the rest of it is based on tonnage. Our old contracts did not include tonnage other than the fact that we had a surcharge for the number of tons we took. There was no incentive to really try to reduce the amount of solid waste that went to the landfill other than the fifty-cents on the dollar additional tipping charge that we would have to pay that EPA puts on there.

It seemed to us when we proposed it to City Council that this made a lot of sense, it gave the residents the program that they wanted to do. It requires us not to use general fund money to expend general fund money and take it away from safety forces, EMS, recreation and other items like that. We're not doing something in 24 hours. Like I said, we talked about this on September 14th and I thought we had very good reception. We're still working on a number of things. Randy Smith attended a trash talk meeting and the recyclers there have recommended that the best way to recycle and the most productive way is to use bins rather than bags and we're still looking into that. The bins could be taken out of the grant money and we would have a little less to protect the general fund, but at the same time, over the five year period that we would be in this contract, we would not have to be buying the bags for our residents. In the long run it is a pretty much break even deal if not even more profitable to have the bins. These organizations say the main reasons the bins save money is that the smaller households rather than messing with the blue bag, they have the bin in a certain area of the house, they put their cans, bottles and other items into it and take it out to the tree lawn and bring it back. To say that this is going to cost us money, to say this is risky, it really is not.

At the last meeting and it was a comment that disturbed me and we looked into it about, if paper gets wet, can't be recycled, that's the furthest thing from the truth. A truck driver said that but we talked to the experts and they said obviously they don't want the paper to be soaked, not so much because of recycling, because you know as well as I do, wet paper weighs more and therefore we're going to get paid more per stack

of paper than we would be if it was dry. Normally when you have paper outside, it doesn't drench all the way through, just the outside layers do. Those are some of the comments that really are clouding the idea.

The bottom line is, if things go, the worst case scenario is we will break even or make a few dollars. The best case scenario is as we started getting some revenue for being a member of this consortium that we will actually make money on this deal. We will provide our residents the ability to recycle.

Villa Angela St. Joseph's drop off area from our understanding in conversations will not exist for much longer. The damage to their parking lots, is a great concern and it does not appear the City of Cleveland is going to maintain their parking lot. That's all the more reason, I don't know how much farther our residents are going to go to drop off recycling. The bottom line is, we can make money on this, I think it is the proper thing to do, I think it is a service that our residents want. I'm willing to answer any questions that you may have this evening.

Councilman Langman – I support the concept, I just think there are some questions that are outstanding that I would like answered before we move forward. I think Mayor you had touched on it that we are still working on some things. I would prefer since we are going to bring on new staff and we will have to make a capital outlay that more of the entire program be in place before we move forward.

For example, I called a Council person in one of the supposed member communities; they weren't aware of any consortium. Does that mean it doesn't exist or won't exist? Of course not. But it raises some questions, at least at that time and I know I gave them to Director Smith, will we a part of this consortium or will we go with Cleveland. I didn't get a response back but Mayor you seem to indicate that Cleveland will be a part of whatever this group is going to be also. Did I hear you correctly?

Mayor Cervenik – I do not believe that I said Cleveland would be part of this group at all.

Councilman Langman – So it is still either the consortium or Cleveland?

Mayor Cervenik – It appears from the recommendations of Diane Bickett from the Solid Waste Cuyahoga County that the Consortium is the better way to go because of the revenue sharing. Also I believe you talked to someone in Cleveland Heights. When we heard that comment, that you were saying that they weren't aware of anything, I don't know who you talked to. Just as one of the speakers at the meeting said they talked to a truck driver and they don't recycle wet paper which wasn't true. We talked with Laurie Wagner who is the Assistant Law Director in Cleveland Heights and they're full steam ahead on the consortium.

Councilman Langman – This council person was not aware of it as of last Monday. I think it is a little bit more than just the truck driver.

Mayor Cervenik – All I can tell you is they are working on this as the other cities are. I believe we furnished each and every council member a draft of the legislation. Even if for some reason that consortium fails, we need to just recycle 4,000 tons and there's not cost to us. I personally believe that with a little education, we did almost 500 tires and 18 pallets of hazardous waste we collected at our Service Garage which is record breaking for us. With just a notification going out and putting things on our website. I really think our residents are really looking for ways to recycle and I have no fear at all as to hitting 4,000 tons. I believe we can get 5,000-6,000 tons and without the revenue from the consortium, we will save money and actually make money or save expenses on our trash contract.

Councilman Langman – I actually believe we will hit the 4,000 number and beyond. But I also have concerns about how we're spending the grant. We've gone over this and Brian you've gotten by emails, etc. We went through various projects that could be done and a lot of those were part of the original Dovetail study that is producing the solar panels on top of this building. So guess I'm concerned, if this was the only thing out there, I would say spend the entire amount that is being recommended. But we do have options. Options such as the ice arena, a solar array there; the Service garage was also recommended by Dovetail and at the golf course. That too would save operational expenses and leverage a long term investment in this city that would have a payback for us that we could then use for recycling. Also Shore was brought up and it turns out that we could have used some of that grant for items at Shore including the boiler and the windows. Not saying that we should do it but we do have options out there. Again, I am a little concerned that we're going to spend all the money on salaries so the bulk of the grant will be spent that way. I wish we would have had a little more discussion about how we would spend those particular funds.

Finally, my last concern is, education is going to be a very important piece of this being successful. If we stay at our current levels, we will lose money. So I don't see any proposal before me of how we're going to educate the residents besides sending out a flyer. I'm not against recycling. I recycle and will continue to do so. I compost and will continue to do so. I'm willing to look at this but I think we're going a little quick without all the answers. I will emphasize without a good educational program, we will not be as successful as we could be. Thank you.

Councilwoman Scarnienchh – Just a couple of comments. I've been to three homeowners groups so far since we've had this announcement and not one person at any of those groups was negative, they thought it was wonderful. I send out an email to approximately 285 people and until tonight I hadn't heard anything from anybody that said they were against it. Mr. Beck will be my loan person. I've had many emails back that have said, great, when do we get started. Today I took a lady who lives in an apartment and I filled up my car with her newspapers to take to the Animal Shelter. She's ecstatic because she's already made a deal with the man who lives in the house next door that she'll be able to bring her stuff over there so she can continue to recycle.

I think it is a great idea. My question is, we have this truck available to us, do we have any idea how long that truck will be available or is it going to be if somebody comes up with the money first kind of a thing?

Mayor Cervenik – It is on the lot and could be sold tomorrow. That's not why we're trying to get this done. We would really like to get this established by the end of the month. The weather is still somewhat palatable outside. The truck really there's other trucks available if similar stature. This is the largest truck we can purchase where it doesn't require the driver to have a CDL which would require substantially higher wages. The truck, with a little bit of training, you and I could drive which I'm not volunteering to do.

I've heard the same comments you've heard from the residents that they really would like to recycle. Again, it is Council's decision. A little comment on Shore. So far this year, we spent $86,000 on Shore from money unspent from the 2009 budget. We voted on, the Council voted at the last meeting or the meeting before and you have a transfer here tonight for $138,000 for operations. We have $80,000 we just spent for a boiler, or we will be spending for boiler and thermostats and on top of that, we have unofficially, but I believe Council will vote for it, I would like to have the budget done in December. I'm probably dreaming, but another $150,000 in capital at that time. So we're talking about in a year's time committing $454,000 to Shore Cultural Centre and I'm hearing tonight that maybe we want to spend more of this grant on that versus recycling. I'm really having a tough time registering that. I think recycling is a very proper thing to do. It was very difficult that up and down ride that we started up and had to cancel again. What we've proposed to city council not only makes financial sense but it is a stable program. We should have if not five years, but forever to be able to recycle.

Councilwoman Scarnienchh – I look at this as the fact that this is going to impact everybody in the city. I understand, I'm part of the Dovetail, I know all that and it is all great, but right now, I think we really need to give our residents something that's really good. I think this is one of those things that's really. I have all the confidence in the world. My last question, is any of the other cities, have they committed to this consortium yet do we know?

Mayor Cervenik – The Consortium is not officially formed yet and everything is signed but Director Smith can correct me if I'm wrong, but I believe they are already taking their recycling out to that recycling facility of Kimbel. I don't know why it is so tough to remember Kimbel, but they are doing that. Everybody's intention is to join this consortium. We talk about regionalization all the time, here's a perfect example. We talk about Euclid having to show themselves as a forward thinking city. I think being able to bring back curbside recycling without it costing anything in the general fund is a very forward thinking idea as well, Mother Earth besides.

Councilwoman Jones – Just have a few questions. The consortium is not, signing an agreement with that group is not contingent on this legislation or vice versa, we can do it either way. If we don't join the group we can still have the legislation for recycling?

Mayor Cervenik – That's correct. That's with the belief and the insurance that we have the grant money to help us ramp up and get back to the 4,000 ton, actually hopefully in excess of that 4,000 ton curbside recycling. It is not contingent upon it. That would make it even better. We would keep you informed of our conversations on that. I firmly believe that the recycling we presented in my email will be a break even or a slightly profitable endeavor, just because of the way we did the contract. I can only wish we would have done a contract such as this many, many years ago. But when you're paying $15 a household regardless of what your tonnage is and then in order to recycle it would cost you $200,000-$300,000 it made no sense.

We have this contract and J&J also offered to recycle for $314,000, what we can do for $160,000 now. With that, we would have received the reduction in tonnage from the landfill but still much more costly for them to do the recycling rather than us. Therefore, we're not contingent upon the consortium. Everything that Ms. Bickett from the Cuyahoga County Solid Waste District. Like I said, she was the leader of getting us to put this type of contract together and she's doing this with other communities as well. As is quite sure that consortium will be put together and we will share in the revenue based upon the market price of the various recyclable items. We all know they fluctuate.

There was a comment made about ABITIBI and the charitable organizations. Always, when we had curbside recycling, we always convinced people and tried to get people to do that. The bottom line is, I may be wrong with this number, but I think it is only $6-$8 a ton that they make in newspaper. For every ton of newspaper we were to take out of our revenue stream, the city would save $39 and we go up through the years.

Maybe there are some other things that we can do for those organizations to make up the difference. Today at Board of Control, Petpals was in dire need of a washer and dryer. For $2100 we bought them a washer and dryer, industrial type washer and dryer. There are things like that which we can do if we find out that curbside recycling is going to somewhat negatively affect their budget. But there not getting near $39 a ton which is our savings versus another $15 for selling the recycled goods.

Those are things we can talk about. I don't think those kinds of situations is something that should hold up this legislation.

Councilwoman Jones – I do believe the education is going to be a major part of this because we haven't done curbside recycling for a little while now. So some residents who were recycling got out of the mode of curbside recycling and are either bundling their things with other non-profit organizations that are doing recycling. So it is going to be a whole education piece of it. If we do go with the consortium group, either or, whichever way we decide to do that, if we do decide to go with the group, could that be based on the education that we do first? Could we do the education part first and then based on the feedback that we're doing to the residents, go to the next stage as far as signing the contract with the consortium?

Mayor Cervenik – I think signing the contract with the consortium is just the icing on the cake. If that all pans out, that just makes this proposal even better. The first educational piece will go out with either the blue bags or the bin as we have done in the past. We explain why you should recycle, what you should recycle, how it should be packaged. We will explain how it can save the city money. I'm not going to say how it can reduce our trash charge. I can say that it will guaranty that we're not going to raise it. As you all know with the fees we charge to our residents for the services we provide, outside of some overhead, we can't charge more than it costs us. If we all help in reduce the cost of our trash pick up by recycling, that can guaranty that you'll be paying no more than $9 a month.

The education will come out probably before we have an absolute feel for whether the consortium is going to take off. Solid Waste District they firmly believes that consortium is going to take off and so does Kimbel because it is beneficial to everyone. The education and it won't only be one piece of paper and that's it. We'll have items on our website. It will be 9 of you going to meetings and telling your residents about it, explain to them it will be giving you a report on a semi or bi-monthly on what we're recycling because that recycling is all weighed when it is taken to the recycling center so we will have a very good knowledge of exactly what we're taking out of our revenue stream. That part of the education, the reality of the savings as we get through this program is as much, if not more important education than just sending out a flyer one time. We need to talk it up and let people know how important it is. We need to let people know for the first time that we have a contract in the city of Euclid that makes recycling beneficial to us. Whereas recycling was nothing but a cost center.

Councilwoman Jones – Did I understand you to say that once we start making money from the recycling, that's going to eventually reduce the $9 a month garbage fee that we are currently paying?

Mayor Cervenik – I want to be perfectly clear about that. I did not say that. I said I will not say that it will reduce that $9 fee, but it certainly can go a long way to ensuring that fee does not increase. I mention that we're charged about $61.5 per household just for the household being there whether it is vacant or not. If you take our estimated cost and divide it by the number of households we have, it is still about $15 a home, which technically I could have asked City Council to charge during budget hearings. Most city charge exactly what it costs plus some overhead, we haven't done that. We're only charging $9 and $7 for seniors and $4.50 for vacant homes which I'll talk to you at another time because we're losing money. I'm not saying we will do this to reduce it. If it is so spectacular that we're making so much money, then council has that opportunity to do that. I don't want to mislead you into thinking that we're going to make so much money that we can reduce that fee. I guaranty you that if we at least break even or make a few dollars that fee will not have to be raised. Other cities have done, many cities that have been charging garbage fees for years, last year raised their fees. I think there's probably half a dozen or more cities when we did for the first time charge for trash collection and there's a few more from the Mayor's that I've talked to that are coming very soon.

Councilwoman Jones – What is some of the other cities that are making something from the changing over to the recycling such as you're speaking of?

Mayor Cervenik – What you have is in the Consortium or even if we have to deal with Cleveland where you make the money, at the moment is, if you're contract is based on tonnage, for every ton I don't take to J&J's landfill, we save $39 on our contract. I think most communities are like that. The recycling market for the moment is back on the upswing and there are certain recycled products that are making money and that's partly because of this push throughout the United States to become more green so companies and industries are finding different ways to use recyclable material. Therefore, when there's a market, supply and demand, when there's a demand to take those materials and make something new and they make a profit out of the new products, then communities like us can actually get some of that revenue. Whereas before there was awhile

there where that was very true when we first started recycling years ago, there was a market for recycled materials. Then it hit rock bottom. Maybe in the 4th or 5th year it is going to be rock bottom again, but again, at that point, we're still at $4,000-$5,000 a ton so it is not costing us. We're still doing the right thing without it having a cost to the community.

Councilwoman Jones – I want to make one more comment. I know you said that our goal is to get the 4,000 tons, but it is just a little scary that if we don't make that 4,000 tons, then what do we do?

Mayor Cervenik – That is the whole reason why this whole conversation started with the grant because we have the $123,000 that until we reach the tonnage needed to break even or to make money, that is there to protect our general fund so that our recycling efforts are not costing us manpower and police and fire or recreation or other items like that. That is where everything gets tied together.

Councilman Wojtila – Mayor you brought up a couple of times that it is beneficial to us at this time because we are contract with J&J is based on the tonnage and the we can realize savings by recycling and not having to pay the $39 or $40 which will happen in March of this coming year it will be $40 a ton. So that to me is an easy decision. We get the savings because when we collect recyclables we take them to a place and either have no charge for tipping or we get money for that tonnage. The concept of rushing this through, in my mind, if we have an agreement with either the City of Cleveland or the consortium, then this is the right time. We can do everything we need to do. Can you give us an update on either both of the agreements, if we intend to do both or just the consortium if we intend to do the consortium?

Mayor Cervenik – Very good question. Unless the City of Cleveland determines that they are willing to do the revenue sharing with us and give us concrete numbers, it appears that we would go with the consortium. The nice thing about the consortium is, at worst case scenario if the market for recyclable goods drops out again, there is still zero cost to us for that five year period. If it goes down to recycling actually costs you money, we have a contract that says we will charge you zero. Now because it is our plan at least at the moment unless they make a proposal that makes more sense, that we are actually transporting the recycling goods out there, there's no additional fuel surcharges because we're in control of all that. That is the ideal thing with the consortium as well, we will share in a measurable, document able price for each of the recyclable products that we give them based upon; you read it, there's Chicago this and mercantile that, okay. But at worst it is zero. So the worst case scenario goes back again to my email, as long as we exceed 4,000 tons we'll be okay. You've got to remember Cleveland's deal was only a two year deal with a possible one year extension. This really gives us security and it puts us in a point where we don't have to do with the residents what we did before, on again, off again. That was not a real great thing to do but we had no choice. We've got stability, we've got predictability and we have no cost.

Councilman Wojtila – In the timing of that agreement, what's your anticipation, what do you expect that will happen with a written agreement?

Mayor Cervenik – It would be my hope that the consortium agreement will be signed before the end of the year. That's out of my control, but in the meantime we would immediately begin taking our items to there and reducing the amount of tonnage that's going into our solid waste stream.

Councilman Wojtila – Absent an agreement they'll still take our recyclables?

Mayor Cervenik – They are taking it now from the other cities as they're working to finalize this. Each city council is going to have to approve it and they're going to tweak it. It is not much different than the Cleveland Waterline agreement. We had a few things we had to put in there because of our 2.85 income tax and we had CRA zones where other communities didn't. We had to work some things out before we could finally sign that and I expect this process to be the same. At the end of the day, we should see some revenue possibly substantial at least for awhile in recycling.

Councilman Wojtila – I'm eager to vote yes on this for all the reasons that you stated. I think the number I gave of 9.6 pounds per unit is an average obviously. I know my own household we could do a lot better than 9.6. The 4,000 tons a year would be about 19% of our overall refuse. Cuyahoga County as a whole is at 28%.. Even at 4,000 tons we would be lower than the average. I'm in favor for all those reasons. It would be nice if the written agreement be inked before we would commit to the capital dollars which is the next piece of legislation. Can you make us get comfortable with that? While we don't have a written agreement, we're still committing to that capital expense, should we wait?

Mayor Cervenik – Again, even without the consortium, we would still have the agreement with the City of Cleveland for at least two years with the one year extension. Again that benchmark of 4,000 tons really shouldn't be that difficult to reach. It still makes I believe financial and environmental sense to do that.

Councilman Gilliham – Mayor I don't have any questions. Your staff and you were able to answer most of them but I do have a few comments that I have concerns about. First and foremost recycling would be a great thing for this city. We are 10.2 square miles and we have a lot of space to cover in a decent number of residents, 16th largest city in this State. The concerns that I have is as a councilman I'm still getting phone calls about the garbage fee. I'm still getting phone calls about all the changes and unfortunately some of my neighborhood associations are losing membership and the message is not getting out as well as it should have much by mail or word of mouth.

In addition to that, in 2009, the end of year report we had about 600 homes that were foreclosed. You multiply that by 2.5, that's about 1,500 people so our population is declining. In addition I still get current calls about people not following the current rules that we have when it comes to garbage. They're putting it out on a Wednesday for a Monday pick up. They are putting it out way before 6:00 pm. It is not a situation where we're not able to achieve those goals, but I think education is very important. I think we're losing some of our residents, we may have some challenges.

I had sent an email while I was out of town regarding mandating recycling. Maybe I wasn't clear by what I meant by that but I just wanted to give you an example of what I'm talking about. I grew up in a city called Marstown, New Jersey, 3.2 square miles. They passed an ordinance mandating recycling. Basically it stipulates what needs to be recycled. It gives the residents two options: to take it to city owned bins to be recycled or for it to have street-side recycling. The only thing that they did was if individuals were to mix solid waste and recyclables and the sanitation crew found out, they potentially could receive a fine. So the only person that got hit with a fine was a violator of this. Therefore, it wasn't a tax, it was just a way of imploring individuals to recycle because the city needs the money and they have a goal to reduce their solid waste and recyclables by 50% in 2015.

Now I look at our city and 2000 census said we had about 32% rental. 2008 the census estimates about 43%. We didn't build new apartment buildings, where are the rental people going? Single family housing. In many situations you have one in done tenants. Therefore we're going to run into situations where a new tenant comes in and has no clue, we're going to get new phone calls about people not recycling. My reasoning for mandating was that those that are in compliance needs to understand that the city has a remedy for those that are not incompliance.

Other issues that come into play and I hear your enthusiasm Mayor and I'm not afraid to walk out on faith, but with our situation right now with the economy being the way it is, the issues we have with the budget hearings, I feel it is more prudent to get through this year, ratify the budget for next year and try to allocate these monies for a program like this before, I believe it was June 2011 that we have to have these monies allocated, is that correct Mr. Iorio?

Mr. Iorio – We have to commit the money by the end of March of 2010. But there are other benchmarks, 60% by June 2011 and further.

Councilman Gilliham – My concern is that we're moving fast and we don't have all the factors, we don't have the communication from the residents that we need to make this work. Based on my experience I would vote no on this and I intend to vote no, but I am not adverse to recycling, I would just like to see it implemented at a later time when I think all parties, the administration, council and residents are on one accord, because education is very important.

Councilwoman Minarik – I think the discussion the last 15-20 minutes has shown that there's still a lot of questions about this. My particular questions have to deal with the grant. The Mayor keeps saying we don't have to spend anything but we also have an amendment tonight where we are pulling $22,000 out of our cash reserves for these three employees. I have questions about why we need three employees. We still have a compensation ordinance regarding non-union employees in committee that is still stuck there. We have not had a financial update since a meeting since June. I think we need to throw this back into committee so we can talk more about the consortium, the grant and things like that. I would ask my council members to consider doing that again and we can have a committee meeting within the next week or two.

The discussion tonight has shown that there are still a lot of gray areas out there. I hate to try your patience, Mayor, about this, but no one has signed onto the consortium yet. We were told about this at the committee meeting, it was thrown at us. There's still no guaranty of the 4,000 tons. The residents have expressed an interest in that. Another resident asked for public meetings prior to this. There's a lot that needs to be done. This is $159,000, it is going to go up next year. I don't know why we need three people on the truck, I understand it is a back loader and that's what a back loader requires, two guys work in the back on the side streets but on the main streets, someone is just going to be sitting in the truck collecting $10 an hour. I also don't understand why a three man crew needs a supervisor earning $12 an hour. I would think that's like a no-brainer that three people can work together. Just a lot of questions about some of the details. I would like it to go back into the Sustainability Committee so we can get some more information on the communities that are recycling, but apparently not getting paid and that's why they want to join the consortium. I also want to know why this particular waste hauler is able to pay for recycling when none of the other waste haulers are making any money on recycling. So with that, I'll let the rest of the comments be made and then I'll make a motion.

Director Smith – With regards to the last comment about no other waste hauler making such an offer. Ironically after the meeting I was contacted by another waste hauler that had expressed interest but at this point in time, nothing has been solidified. When we looked at the various options whether it be Cleveland, Kimbel, this other company, at the present time, the Kimbel J&J contract is the most viable and that's why we were leaning towards the consortium agreement.

Councilwoman Minarik – All the more reason to slow down because maybe something better will come along. We do not have to commit this money until June 2011. Whatever, March. March 2011, we still don't know about this consortium, it is still up in the air. Obviously the council people has questions and maybe this other company will come forward. I would just like us to slow down because we are going to be hiring three new people and we did face a $3 million deficit last spring. We do not know if we'll have any money and we don't have a guaranty that we will have 4,000 tons a year. I did speak with Ms. Bickett and some of the statements that you said she said, she said she didn't make so I would like to have her present at a committee meeting. I'd like to have J&J here to explain how they can make the money. That's it, thanks.

Councilman Langman – Mayor, no matter how long we serve together, it is always entertaining how you want to twist what I have to say around. I did not say to use the grant for Shore. I didn't say that at all. I simply pointed out, that's what the grant could have been used for, for the cost of the boiler, which was about $43,000. Now I do find it interesting back on August 9th we were in an Assets Committee meeting, I asked Director Pietravoia straight out if there were any grants out there over the past year that could be applicable to Shore. The answer was basically no, when in fact we had this grant sitting out here since last September. We probably could have shaved 3-4 hours off of Shore conversation if we were to have that bit of information. So I don't want to get deep into the Shore discussion, but in fact that is a legitimate use of this Energy Efficiency Community Block Grant. Is it the right thing to do? That's a conversation we didn't have the opportunity to have.

I still don't think we should spend the entire amount of the remaining balance for salaries. There are other projects out there and since we have had this grant since last September, I'm a little perplexed that in fact over the year we've only come up with two. I've suggested to members of the administration other alternative energy projects and they've been rejected out of hand. We have rejected doing other solar projects which would have a payback for this city also. Even with all that, I'm not prepared to just say it is a bad idea, in fact it is a good initiative but as I said before, I think we're going to quickly. It doesn't hurt to air this out more thoroughly, just like we do with Shore, just like we're doing with lakefront and everything else we're talking about. I don't understand why we're moving forward when in fact the critical component, the education component, we have nothing here. In fact I have an email from Director Smith who looked on websites of other communities and even mentioned hey there are some good ideas here. That is not a plan. If you want to synthesize all those ideas into a real educational plan, that's fine, I'll be willing to look at it. Until I see that and some sort of signed consortium item before us, I will not support this. Thank you.

Councilman Van Ho – I just have a couple of thoughts. First of all, there's probably 100 good reasons not to do this, but there is one very overlying reason. Every time I've had a ward meeting, or neighborhood meeting, people from 8 to 80 keep asking about recycling. I think we need to do it. Shore keeps raising its head. Yes, you're right, if it were Shore we would have passed it 20 minutes ago and pump more money in. We've already pumped almost half a million in. I appreciate that Shore is an intrical part of this community, but I don't think it is the only part, okay. So, I would call that we vote this thing up or down and then if it is voted down, then the administration can come back with some type of modified requirement after everyone's reasons for voting against this are satisfied.

President Holzheimer Gail – I am prepared to move forward tonight. We have talked about this, we have discussed this since earlier in September, we have had a committee meeting. I, too, have had the chance to talk with many residents and neighborhoods about the possibility of bringing back curbside recycling and have had all positive feedback. Do we have all the answers? No. But there's many times we pass things without every single detail because we are the legislative body, we are passing, we're saying yes we want to do this program; we're authorizing the expenditure and then we need to work on the details. We can all be part of working on those details, but we also have to trust the administration and the professionals that know how to do it, to do it.

In terms of the grant. This is a grant to provide energy efficiency and to bring improvements to our environment. We can look at many different projects, but I think of all the projects, if we were to look at a solar array, if we were to look at one streetlight, I think the impact of recycling outweighs all of those tremendously because every resident can be a part of that, it impacts the entire community. I don't have any of the statistics whether this project saves this much and in energy this project saves this much, but I have to think that 4,000 tons of recycling probably has a better cost benefit impact to the city and to the environment perhaps than one solar panel on which we know we can't pay for with this amount of money.

I know there's been discussion about how to spend the grant. The proposal we have before us is do we want to do recycling. There was a very strong reaction and a very strong support from Council when we first

started this discussion. I'm certainly happy to work on all the details with the administration, I certainly would invite Council, but I for one am prepared to move forward. I think the numbers, we've always looked to bring back curbside recycling even when we had to pay for it. This could potentially, if it goes as planned, will cost us nothing. If we end up in the consortium and it is an if still, looks like it is going to happen, but if it doesn't, it still is a break even. With the consortium we could potentially save even more.

Yes they're some risks. It is potential but I for one believe that it is important to do recycling. I looked at the solid waste district website, almost every community that I looked at provided weekly curbside recycling. There was one bi-weekly and it was 5 pages of cities. I think it is an important move. I think it is the right use of the grant at this particular time. No, we don't have all the answers but that's the administration's job to work on the details and we have, it is not unique that this is how we've done things before. That's my reaction.

Councilwoman Minarik – I would like to have a committee meeting, a Sustainability Committee meeting to discuss possible alternative uses for the grant. To get a little more feedback why we have to get a back loader that requires three employees, to go through that. As I said again, the compensation ordinance has been sitting in committee and we have not even addressed that. The long term benefits that we are paying out for employees is killing our city. Now we are proposing creating three new positions and hiring three more people and we haven't even made a decision yet as to the long term benefits. It has been sitting in committee.

There obviously are questions about this. I would like to have someone from the possible joining communities, I would like to have some time to contact them as well. This is a rush. There is absolutely no reason to rush this through. I would make a motion, I am making a motion that this be sent to the Sustainability Committee for some details to be worked out, within the next week so we can get some questions to the administration, they can give us answers and we can have a meeting within the next week and a half; that's my motion.

Councilwoman Minarik moved Res. (178-10) to the Sustainability Committee. Councilman Langman seconded.
Roll Call: Yeas: Jones, Minarik, Langman
Nays: Gilliham, Scarnienchi, Wojtila, Van Ho, Holzheimer Gail
Failed.

President Holzheimer Gail – Any further comments? I will take a motion to close debate.

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

Roll Call: Yeas: Scarnienchi, Jones, Wojtila, Van Ho, Holzheimer Gail
Nays: Gilliham, Minarik, Langman
Passed.

Ord. 132-2010 (179-10) Purchase Recycling Truck

An ordinance authorizing the Director of Public Service to enter into an agreement for the purchase of a recycling truck in an amount not to exceed ninety-two thousand dollars ($92,000). (Sponsored by Mayor Cervenik and Council President Holzheimer Gail)

Councilman Van Ho moved for passage, Councilman Wojtila seconded.

Director Smith – With the program there is obviously a need for a recycling-type vehicle. We obtained quotes for both new trucks and used trucks. The used trucks varied from $59,900 upwards to $75,500. New vehicles ranged from $90,680 upwards to for a 2011 model $98,766. After conferring with Motor Maintenance Supt. Spisak, the most favorable truck was the 2010 it is a F, Ford 750 Chassis with a 12 yard pack more body. Thomas Truck sales out of Manassas Virginia had two trucks on the lot. One was fully assembled and ready to go and the other one was undergoing final assembly and will be ready for delivery in two weeks. Once again it was the most economical one, it was the most favorable vehicle from an emissions standpoint. It is a 2010, new vehicle, 12 yard pack more body coming out of Manassas Virginia. Thank you for your consideration in this matter.

Mayor Cervenik – I think Director Smith covered the truck very well. It has a pretty long useful life and I'm positive the recycling program will last much longer than the truck and we'll need to buy a new truck. I'm certain I won't be Mayor at that time. Going back to the last piece of legislation, I want to thank you very much for passing it. We will be very diligent in keeping you updated as soon as the information comes in concerning the consortium. Again the consortium is the icing on the cake that only makes everything that you voted for tonight even more positive. Again, thank you and I'm glad to see curbside recycling coming back to the City of Euclid for the long term.

Councilman Langman – Director Smith, what's the warranty on a vehicle like that?

Director Smith – I don't have the actual flyer with the information from Tom's Truck sales and I hate to provide that information off the top of my head. I know it is standard manufacturer's warranty on the truck and on the body. I don't know if Asst. Director Bock recalls, but I believe there's a one year warranty on that as well from the body standpoint.

Councilman Langman – Thank you and I will repeat again for my colleague, Councilman Van Ho, I did not say to use the grant for Shore. If we did, that would have replaced the capital that we are applying to Shore, just so you're clear on that. I can't support this measure either, I just think we're going to quick on all of this. As far as the grant goes, I really think and I think it was in Director Pietravoia's memo, we have no guaranty of getting other energy efficiency grants so I hope the alternative energy solar improvement district could provide funds so we could do the solar arrays. By the way, it is not just one panel, it is whole array that can generate, I think the one up here is going to generate 65 kilowatts of electricity. The potential at the service garage was around 43 kilowatts, etc. I do think those alternative energy programs are very critical. It just bothers me that the grant is going toward those everyday costs instead of leveraging long term investments. Thirty years from now we're going to see the solar array on City Hall. I don't want to belabor it since we talked about it plenty last time. Thank you.

President Holzheimer Gail – The solar array on City Hall is happening. We are making progress on a number of alternative energy fronts which you are well aware because you have been part of all of those discussions. There's no doubt, they are important, all of them are important. I will repeat, I think the biggest impact that we can provide with this grant is the curbside recycling. We don't need to re-debate that one. Any questions about the truck?

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

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

Roll Call: Yeas: Jones, Wojtila, Van Ho, Holzheimer Gail
Nays: Gilliham, Minarik, Langman
Passed.

Ord. (177-10) Amend Code Permit Scavenging to Housing Committee

An ordinance amending Section 941.15 of the Streets, Utilities, and Public Services Code of the Codified Ordinances of the City of Euclid to permit scavenging on a limited basis. (Sponsored by Mayor Cervenik and Councilperson Langman)

Councilman Langman moved for passage, Councilwoman Jones seconded.

Mayor Cervenik – This one I would love to see moved into the Sustainability Committee so we can work out some of the details. It is happening now anyhow. There's quite a bit of scavenging on but I think we can have discussion on this in Committee.

President Holzheimer Gail – There was a couple of suggestions from Council members who had some questions about permitting or making sure that we're holding them accountable to keeping the sidewalks clear and not disturbing the other garbage that is there. I would also suggest that maybe we do have a discussion in Committee. We are meeting with Housing this Wednesday if that, I don't know if there's a real rush to this one or Councilwoman Minarik if we do it in Sustainability we could also continue with some of the discussions that you had wanted to have with Ms. Bickett or the consortium at the same time?

Councilwoman Minarik – Well since that ordinance passed for recycling, there's no need to have Ms. Bickett, J&J or discussion on the grant. All that's a done deal now. It seems like this would be better to go into Housing. I would like to have my name added because I love curbside shopping. Thank you.

Councilman Langman – Mayor, you're serious, he really wants this in committee? Really?

President Holzheimer Gail – There were a couple of council persons ……

Mayor Cervenik – I'm not quite sure what that comment means, but yes, I don't make things up when I say them I mean them.

Councilman Langman – I don't see the reason to put this in Committee. Whatever tweaks need to be made, it is really self-explanatory.

Mayor Cervenik – The only problem that I got, as you just said, a number of questions from some of your counterparts, if you want to sit here and discuss it this evening, that's fine with us. It is basically if you want to put fees and registration, that's okay.

Councilman Langman - I thought the Law Director had answered those questions. I didn't check my emails after a certain time but I know Councilwoman Scarnienchh had questions on permitting and I believe the Council President may have talked about that with her, or the Law Director did. So if those were the main questions…..

Councilman Gilliham – I'm the one who asked the late questions in the afternoon. There are some questions that I have as far as how individuals can scavenge in a city. I asked it to be put in committee to be totally honest, so I support that. That's just my opinion. I said that I like the actual legislation but I had some concerns about implementing it and also enforcing it and what we were allowing to happen by letting this legislation possibly pass. I wasn't adverse to it, just a little more clarity in some other areas.

Councilman Langman – Okay, that's fine. I did not see your email, so I apologize. But from my standpoint, I got interested in doing this, actually from a resident 4-5 years ago asked why it wasn't legal because he was into computer repair, television repair and that was some of the stuff that they did. I kept it in the back of my mind that hey, that might be a good idea, there really is no reason to prohibit that because you are recycling. It is a particular individual that is recycling, taking this stuff away. So in the spring I talked to the Service Director and I believe Law Director Frey and they were hesitant at that time, but sometimes it takes awhile for an idea to ripen and get ready for passage, so I'm glad to see now the administration is behind it. I think it is very hard to enforce, I like the term scrapper better, a non-scrapping initiative within this city, people do it all the time and it reduces our tonnage. Some of those items are heavy. If somebody wants it and they see value in it, I see no reason why they shouldn't be allowed to, within the parameters as outlined in the ordinance. We'll go one for three tonight and we'll be nice to the Mayor and I think this is a great initiative.

Mayor Cervenik – One of the reasons the administration can now support this where we couldn't before, is there's a benefit because of the contract we negotiated based more on tonnage than per household fee. Now it makes perfect sense to do this.

Councilwoman Scarnienchh – I was one of the people who asked why we weren't going to do permitting. As I said at the Sustainability meeting, the guys who come down the street in our city, have the big permits on the back that says they are permitted through the City of Cleveland. To me that means that we can regulate it. When you have somebody who comes and tears up somebody's yard , I want that resident to be able to call and say this is the number that was on there so we can fine them, make sure they're doing what is right. That was my concern was that we were just going to allow anything. I'll go with whatever Council wants to do.

Councilman Langman – I know in the springtime I asked Director Smith about maybe licensing certain individuals to do that kind of thing. Again, that conversation started right around the time J&J came on board because, again tonnage is key now. I'm satisfied with what the Law Director put together. I have no problem putting it into Committee but I think it is pretty good the way it is.

Councilman Van Ho – I guess just a couple of questions. First of all, most cities I know discourage scavenging or scrapping or whatever you want to call it. From a public perception point of view, why would we want to encourage it? That's number one. Number two, someone brought up a number of these items are heavy, is that going to take out of our 4,000 tons that we need to make this thing work? If it is, I'd rather we'd discourage it and get $34 or $39 whatever it is a ton and back out of it. But I'm willing to listen to it in committee.

President Holzheimer Gail – It is different tonnage. The recycling is what we're looking for the 4,000 tons and this specifically states, such waste shall not include material placed in recycling containers. It would prohibit them from taking it from there. So it wouldn't impact that.

Councilman Van Ho – Just from a public perception point of view, do we really want to say, y'all come in and start picking our garbage. I would like to have that thought through a little bit.

Councilman Langman – This was a few years ago I was riding my bike down 211th and somebody had stopped and were taking a table and chairs. Since I didn't have a cell phone at that time and still don't, I couldn't call anybody. It happens now. I wouldn't say that we're just giving up on the situation. As the Mayor said, this has real impact on our tonnage levels. As the Council President said, it doesn't conflict or shouldn't with the recycling. If anybody sees anybody taking recyclables, they can still call the police under this ordinance, that's still a violation.

Councilman Van Ho – Like I said I'm willing to listen to anything in committee, I just at first glance it doesn't make a whole bunch of sense to me.

Councilwoman Jones – I'm not opposing the scavenging process. But what I do have a concern with and it happens now for those that go out and scavenge and take things out and leave things scattered on the tree lawn or sidewalk. My question is, how do we enforce this? A resident whose household it is happening to may not actually see the scavenger doing it. If it was a permit, they wouldn't get that permit number. If it were a certain truck or anything, they wouldn't know who was actually doing it until they come and find out it is all over the sidewalk and tree lawn. I have a question of how this is going to be enforced because there's hours that said not before 6:00 AM, and not after 9:00 PM. That leaves a wide range of time. By the time somebody puts their trash out, they may put it out the day before for pick up the next day, if they're gone all day at work or whatever, somebody comes through scavenging their things and leave things all in a disarray. The trash collectors may not collect all of the stuff that is scattered, so then the homeowner or the person that lives there is left with the duty of cleaning it up all the time. I think it is going to be more of a nuisance with that issue than actually the scavenging. I don't know if anyone has any suggestions on enforcement other than initiated by complaints?

Councilman Gilliham – Unless they are not any other comments, I would move to put this into committee and what would be the appropriate one, Housing?

President Holzheimer Gail – Housing is fine.

Councilman Gilliham moved Ord. (177-10) to Housing & Building Standards Committee. Councilman Van Ho seconded.
Roll Call: Yeas: Gilliham, Scarnienchh, Jones, Van Ho, Holzheimer Gail
Nays: Minarik, Wojtila, Langman
Sent to Housing & Building Standards Com.

Ord. 133-2010 (185-10) Amend Code Local Manager Agent

An ordinance to amend 1761.02 "Application; Issuance" of the Building and Housing Code of the Codified Ordinances of the City of Euclid to require an Owner/Corporation who owns rental property in the City of Euclid to provide a local manager/agent if the Owner/Corporation does not reside in or have a principal place of business in Ohio. (Sponsored by Councilperson Langman by request of Law Director)

Councilman Langman moved for passage, Councilwoman Scarnienchh seconded.

Asst. Director Sweeney – As Council is probably already aware, we have a number of rental property owners that live out of State and we have a difficult time getting them to comply with our Housing Code violations. Ohio warrants are basically useless. Unless Council amends my travel budget, I'd be happy to go to Australia and California, but I don't think that's going to happen. A better tool would be to have a local management company or a person that is available for us to be able to contact when there is an emergency situation and nuisance issue, code violation. When we have nuisance issues, I'd much rather call that rental property owner, hey you got garbage on the tree lawn can you please take care of it so we don't have to spend our time, money, resources on that matter. It is much easier to have a local management company to take care of these types of matters.

In one of the Whereas as you've read, out of 80 houses that we've cited just this past assessment year for nuisance abatement, about one-third were out of state. I just would be a heck of a lot easier and I think it would save us time and money if we had a local management company to be able to contact for these types of matters.

Councilman Van Ho – Maybe I'm missing it, but could somebody tell me what happens if Joe Smith from Columbus who owns rental property ignores the ordinance and doesn't get a local manager, rep whatever you want to call it?

Asst. Director Sweeney – You said somebody from Columbus.

Councilman Van Ho – I just mean out of town, I just used that as an example.

Asst. Director Sweeney – Out of town is not so much the problem; out of Ohio is the problem.

Councilman Van Ho – Then he's from Indianapolis. I guess what I'm asking is how we'll enforce this?

Asst. Director Sweeney – There is a big difference between Ohio and out of state. In Ohio if we issue a warrant against somebody they're not going to be able to get their driver's license renewed or get their plates. Very

easy to get an Ohio person in. We're going to have a problem if we don't have a local management company, it is going to keep continuing. I don't know if Council got this attachment, I'm not sure if Council did or not. Basically just tweaking our rental application a bit. I'm asking for the local manager so as Council knows, rental is renewed every year so they will and they do a good job with filling out this form when they send it back to us and they do include tenant information too which is important to us as well and that's passed onto the Tax Department, little side note. But they're good about filling out this form and we are asking for a local manager and hopefully they'll comply, if not we'll see what we can do.

Councilman Wojtila – Of those third that you talked about that were out of state, were those mostly multi-unit apartments?

Asst. Director Sweeney – No they were not, they were mostly one-two family are the problems, the nuisance properties. Some were banks, some were loaners.

Councilman Wojtila – Some banks do operate as landlords?

Asst. Director Sweeney – Some of them do, yes.

Councilman Langman – Asst. Law Director Sweeney, can we withhold a Certificate of Occupancy to compel them to find a local manager or in-state manager?

Asst. Law Director Sweeney – We certainly can but there's already a tenant in that place. Even if they don't have a Certificate of Occupancy, generally there's already a tenant in that place and we would not file an eviction action against that tenant, it is not their fault. Try our best to get those folks in here.

Councilwoman Scarnienchh – Let's take it one step further, could we not impose a penalty on them and have it added to the taxes if they don't comply?

Asst. Director Sweeney – Any fine that would be issued would be by the Court, we would have to bring some type of legal action. I know Judge Pianka, but he's a special housing court, it is a different beast, than our regular court here, he does some trials in abstentia but he just got in trouble for that so I don't think that's a practice we want to start.

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

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

Roll Call: Yeas: Gilliham, Scarnienchh, Jones, Minarik, Langman, Van Ho, Holzheimer Gail.
Passed.

Ord. 134-2010 (186a-10) Amend Code Nuisance Abatement

An ordinance amending Section 529.07 "Criminal Activity as a Nuisance" of Chapter 529, "Nuisance Abatement," of the General Offenses Code of the Codified Ordinances of the City of Euclid to amend the list of criminal activity that can be considered a nuisance and to increase the costs to abate a nuisance. (Sponsored by Councilperson Langman by request of Law Director)

Councilman Langman moved for passage, Councilman Gilliham seconded.

Asst. Director Sweeney – I think you might have an amended version in front of you. The animal section, the first highlighted section where we are suggesting some changes, those should all be 505, not 503. Those are just some typos there.

A couple of things we want to accomplish with this piece. We want to add some additional code sections that were missing from our Nuisance that I feel are nuisances in this city and there's a few animal sections like care requirement. If you're cruel to your animal, I feel that's a nuisance to the neighborhood. 505.11 is excessive barking. Surprisingly that was not in our code section and that definitely would think Council would consider a nuisance. 505.17, removal of animal feces. You're walking your dog and you don't pick up animal feces, I would think that would be a nuisance as well.

Section 14, I'm suggesting parking violations. This is specifically limited to parking on lawns, parking on grass. I feel that's a nuisance, I know Councilman Langman would agree. Also surprisingly missing from our nuisance section were littering violations and a lot of the cities that I looked at did have littering sections as a nuisance. You don't maintain your garbage, that's a problem sometimes when people let their garbage fly around the yard. That should be a nuisance. Also on commercial properties, if they're not maintaining their waste receptacles, I know Councilwoman Jones has some issues in her ward with waste receptacles at some commercial properties that should be considered a nuisance as well. We're adding a few animal codes, some parking on lawns and some littering violations as additional codes that should be considered a nuisance.

The other aspect we would like to accomplish with this is to increase the fees for, a property is declared a nuisance at least after two nuisance activities or one felony drug activity, they are then given the nuisance declaration letter. After that, if the Police have to respond or housing has to respond to that property for a nuisance complaint our fine was $100. I think we can make that $200, I think we can completely justify the $200 fee. My time, my inspector's time, Mary Lou Jost's time, the police officer's time, in responding to those nuisances. A lot of cities have a crazy formula for the number of officers and their hourly rate times 75% multiplied by the number of hours required to abate the nuisance at 20% administration costs. Quite frankly, I do not want to take that time to call Mary Lou Jost, which officers were called to the scene, how much do each of those guys make and figure that out. I think flat rate is a heck of a lot easier and the $200 we can justify.

Councilman Langman – The Council President will remember that we passed initial nuisance ordinances in 2006 and we patterned those after Cleveland Heights. So it is good to review after so many years to add things, maybe in the future we'll take away a few things. So this is definitely something that's good. My only question is and I know I've emailed both you, Asst. Law Director Sweeney and Law Director Frey, can we charge parents under nuisance ordinance for behavior of children? Not criminally but as a nuisance activity.

Director Frey – Parents are responsible for the activities of their children so if we can establish or an aggrieved party can establish that there is behavior that in fact is a nuisance created by this juvenile and the parent has failed to take proper care, there could be a civil action against that parent. We cannot pursue the criminal action based on the case decisions that have come out of the Ohio courts.

Councilman Langman – So could some day we see juvenile walking in the street, that kind of thing, under some sort of nuisance code?

Director Frey – We've tried to address the walking in the street issue by taking custody of the juveniles and creating a situation where the parents have to come retrieve the individual as a way to get the parent's attention. At some point that behavior if it is a repetitive behavior by a juvenile could be adequate for the Juvenile Court to determine that the person is unruly and impose some quasi-civil criminal sanctions. Recognize that it is not a high priority in the Juvenile Court system. One of our ongoing frustrations is the ability to deal with that. I'm not sure practically speaking the City of Euclid filing civil actions against those parents, but it is something we'll continue to look at as a way to address it. I think all of those kinds of ideas are worth looking to see what's changed in the landscape that would allow us to hold the parent responsible.

Councilman Gilliham – Asst. Law Director Sweeney, this might not be necessarily major to many, but it is major to some. Regarding the barking of dogs, I have received certain complaints about that situation and for the most part residents have been able to abate it. I just caution putting that in there because we all have different types of animals and from the smallest to the largest they have certain nature behavior to chase squirrels, to chase chipmunks, to bark when they're communicating to other animals in the neighborhood. So I guess what I'm trying to say is, is that something we need to have in there? It could be a discouraging situation for some people. I have a neighbor who has two dogs and they're very quiet. But I have another neighbor that has a very rambunctious dog but he's tiny, so the residents kind of let that situation go. So I question the one about barking, how is that going to read as far as, owners being able to control their animals. We already have on there that they have to have the leash, they have to have the license if their dog gets loose, the person in the household could potentially be charged, whatever the case may be for negligence. I don't know if that's a little stringent to make a nuisance.

The other question is, you talked about the formula another city used to determine how to assess a fine, not that I want you to get into that equation, but I think $200, I'll just be blunt, might be a little bit to low for the time people have put in to make the situation happening. I see that there's an increase of $100 but I don't have a problem moving up.

Asst. Director Sweeney – There will be about 1,000 people that will email me tomorrow happy about the excessive dog barking we need to put this in there in my opinion and the code is excessive animal noise, it is not just regular old barking. It is if it is disturbing the quiet and peace of the neighborhood and we have a heck of a lot of those types of situations in this city, not every barking dog is going to be considered a nuisance under this ordinance.

As all of our nuisance activities, police have to witness this. If police do not witness excessive barking, they're not going to get cited, the dog owner is not going to get cited under the code. I've had situations where we've mediated dog barking cases and things like that. Only when it becomes excessive is it going to be considered excessive under the ordinance and it is one of my biggest complaints that I get.

As far as the $200, again we can't really fine somebody, it has to relate to the services that we provide. I think we can justify $200, I don't know how much higher we could justify. I don't make $200 an hour, so, one of my hours isn't going to cover this.

Councilman Gilliham – I wasn't implying that. But with the number of people that are involved in this, those numbers can add up and I thank you for clarifying on the dog barking. I just had a concern of a situation where two neighbors was just adamant that the dog was barking and the police could never witness that the dog was barking, even the Warden Ann Mills was brought in to address the situation and was kind of squashed at that moment. I appreciate your clarification, thank you.

Asst. Director Sweeney – Thank you and those types of cases won't be considered nuisances if we can't prove it.

Councilwoman Minarik – I have a question, I'm sorry, I did not realize #2 was additional because it wasn't underlined in mine, so I didn't bother to look all that up. Animal violations. But don't we already have a penalty if you let your dog poop on the street and don't pick it up, isn't there $150 fine?

Asst. Director Sweeney – That is a separate criminal citation that the police would issue, but it has not been considered a nuisance against you and your property.

Councilwoman Minarik – If the same person keeps doing it, they're still going to get criminally charged $150 and now they'll get a nuisance charge on top of that. That'll clean up the streets.

Asst. Director Sweeney – I would hope so.

Councilwoman Minarik – On #15, the littering, I walk my dogs and clean up their poop. When I walk them, we always take a couple extra bags because the litter is everywhere. To penalize the private property owners again, I think is wrong especially where the school buses pick up kids on residential corners, the bus leaves and there's a pile of trash on the resident's lawn. Now if we can somehow penalize the school system for having their bus routes go through there, that might work. But I don't think that's going to be fair to the private property owner whose yard gets trashed every morning by the kids. The same happens to the merchants and our sidewalks. It is not the merchants fault that the kids are trashing the sidewalk everyday and I guaranty you it is everyday. It is getting better as we clean up the beds, it is less and less and less. I understand the incentive but I would hate to put that as a nuisance, do you understand my concern?

Asst. Director Sweeney – Those are the types of situations, Councilwoman Jones has had dumpsters repeatedly, the folks are not cleaning up the area around the dumpster. We know the source of that garbage. I don't intend to penalize the folks that happen to get littered upon by the children, that's not our intention. But we have folks that repeatedly, multiple warnings, Councilman Langman's folks on Shoreview, repeatedly they are told put lids on your cans. They just won't do it. We know the garbage is coming from that lot and this is a tool we'll use to along with Lee Bock and his folks, issuing those types of tickets. Hopefully we get some behavior modification, that's what we're looking for.

President Holzheimer Gail – We do have an amended version which includes in Section #2 the correct numbers as highlighted, everyone has (186a-10).

Councilwoman Scarnienchmoved to amend to the (186a-10) version which includes in #2, 505.08; 505.11 and 505.17 . Councilman Wojtila seconded.
Roll Call: Yeas: Gilliham, Scarniench, Jones, Wojtila, Langman, Van Ho, Holzheimer Gail
Nays: Minarik
Amendment passed.

Councilman Langman moved to close debate, Councilwoman Scarnienchseconded. Yeas: Unanimous.

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

Roll Call: Yeas: Gilliham, Scarniench, Jones, Wojtila, Langman, Van Ho, Holzheimer Gail
Nays: Minarik.
Passed as amended.

Ord. 135-2010 (187-10) Streetscape SE Corner Lake Shore & E. 222

An emergency ordinance authorizing the negotiation and execution of a temporary construction easement and a permanent easement with 22300 Lake Shore Boulevard LLC (Miles Carter, Manager) for streetscape improvements on the southeast corner of Lake Shore Boulevard and East 222nd Street as part of the overall Downtown Intersection Improvement/Transit Waiting Environment Project. (Sponsored by Mayor Cervenik)

Councilman Langman moved for passage, Councilman Wojtila seconded.

Director Frey – There are two easements and they follow each other, they are necessary parts of the Downtown Transportation Improvement Project. This particular one, (187-10), is on the southeast corner, essentially the corner occupied by the Dunkin Donuts. We've attached a graphic representation. We now have a legal description but we'll have to get that easement if approved tonight by City Council, executed by both the property owner, Carter Properties, and I think their lease agreement requires the Dunkin Donut franchisee to also approve the easement. This is at no cost to the city. It will allow us to make the construction of the improvement areas, the landscape and brick work areas that will be inside of the right of way, so on the private property but tying that corner in with the other three corners as part of the project.

This is a request that I made when approached on how we would handle this that an easement was necessary to protect our investment in that project.

Councilman Langman – Mr. Gliha can you remind us in the audience how much this project is going to cost from city funds?

Deputy Director Gliha – I believe that the total budget or the money set aside was approximately $600,000. I believe the bids came in slightly under $400,000. We are using $41,140 from the CDBG-R funds, the $281,140 that we received with the of course the $240,000 going towards the Lake Shore Plaza. Approximately $340,000-$350,000.

President Holzheimer Gail – Other questions have been answered ahead of time.

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

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

Roll Call: Yeas: Gilliham, Scarniench Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail
Passed.

Ord. 136-2010 (172-10) Watermain NE Corner Lake Shore & E. 222

An emergency ordinance authorizing the negotiation of a permanent easement with the City of Cleveland for the installation and maintenance of a water main near the northeast corner of Lake Shore Boulevard and the East 222nd Street Intersection, Permanent Parcel #642-10-044, for the purpose of supplying water service. (Sponsored by Councilperson Wojtila by request of Service Director)

Councilman Wojtila moved for passage, Councilman Gilliham seconded.

Director Frey – Director Smith is going to have to fill in the specific purpose behind this. I know it is work on the northeast corner as depicted on the drawing that he sent to City Council this afternoon. It is in connection with a water vault of some sort and he'll have to explain that to you. The 10 ft. by 10 ft. area is larger than the vault itself, put will allow the Cleveland Dept. of Water to have both access from the right of way to the area and then as is necessary when you're working on that, the area under construction is always larger than the object that is underground.

Director Smith – As Director Frey said, there is an existing vault that is currently under the walkway and /or the brick pavers, approximately five foot off the easterly property line. The sole intention is to remove the vault, at least the top outside of the right of way and move it behind the proposed wall that is going to be constructed.

Councilman Wojtila – So the pit is for the water service for an irrigation system?

Director Smith – That's correct.

Councilman Wojtila – I didn't realize we had an irrigation system. Are we putting in a new irrigation system or we already had an irrigation system?

Director Smith – It will be new.

Councilman Wojtila – Okay, I thought it was existing. My only comment on the easement itself is that we identify where the 10 x 10 ft. area is.

Director Frey – In this case we actually had the information and you're right, we did not have it depicted, we had the easement document itself, but that is certainly difficult to follow where the easement area is. Again, to your point, that was the reason for Director Smith getting that drawing together to show it. It is essentially on the eastern edge of the project if I read your drawing correctly.

Councilman Wojtila – My point was the final easement document should have the location.

Director Frey – It will. The Final easement document will have a legal description.

Councilwoman Minarik – I was looking at the commercial data sheet, I'm confused. Are we supplying a drinking fountain, bathroom sink, is that part of this? It came with my, the commercial data sheet from the City of Cleveland Division of Water. Are we having a fountain and service sink and outdoor bathroom, I guess?

Director Smith – No we're not. This is solely for the purpose of drip irrigation and the surrounding landscape area.

Councilwoman Minarik – I'm confused as to why I got this in the packet then. It talks about connections and coolers and things like that. That's why I asked.

President Holzheimer Gail – It was going to be one heck of a bus shelter. Any further questions?

Councilwoman Minarik moved to close debate, Councilwoman Scarnienchseconded. Yeas: Unanimous.

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

Roll Call: Yeas: Gilliham, Scarniench, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail.
Passed.

Res. 137-2010 (184-10) SAFER Grant Fire Dept.

A resolution authorizing the Mayor as Ex-Officio Director of Public Safety of the City of Euclid, or his designee, to apply for a Staffing for Adequate Fire and Emergency Response (SAFER) grant through the Department of Homeland Security. (Sponsored by Mayor Cervenik)

Councilman Wojtila moved for passage, Councilman Langman seconded.

Chief Cosgriff – This legislation would allow us to apply for the 2010 Department of Homeland Security SAFER grant which stands for Staffing for Adequate Fire and Emergency Response. This year's grant is significantly different than the prior year's grant. Most notably that this is a three year period of performance as opposed to prior years that were a five year period of performance. With this grant, the City would receive full reimbursement for the first and second years of the grant. In the past, it was a five year grant with a sliding scale of reimbursement over the first four years, but the fifth year the City being responsible for the total. These are significant improvements in allowing cities to apply and afford new firefighters. All of you have heard me speak about the need for more firefighters and this would help us get to a level where I feel we would do need to be, that would be a level of 85 firefighters. That is only if we are fortunate enough to be successful in this application and that is a big if, I think the competition is going to be very stiff for this grant among all the cities.

I did some rough calculations and the average cost per firefighter over the three year period, would be about $30,000 per year, which is a savings of about $55,000 per firefighter per year over what it would normally cost us. A good figure is about $85,000 per year when you figure medical and pension. I don't believe that we can afford to pass up this opportunity. As I stated before this is going to be your decision.

Lastly it is important to remember that this is simply legislation to apply for the grant. If we are fortunate enough to be successful, I will be back with legislation in order to accept the grant. At that time we'll certainly have a better understanding of what the budget look likes in future years, but I'd really like you to pass this tonight. If I can answer any questions, I'd be happy to do so.

Councilman Wojtila – Chief, you've already submitted, when do you expect to hear back on the success?

Chief Cosgriff – It could be anytime over the next 12 months.

Councilman Langman – Chief Cosgriff we've talked via email on past grants, will we have the flexibility to amend the number of firefighters we can ask for?

Chief Cosgriff – No we would not. What we could do is they do have a provision in this grant, if you the city was to have a documented economic hardship you could apply to amend the grant in the third year of the grant and then it would be up to the federal government whether they were going to accept the evidence that we would support as to our economic hardship.

Councilman Langman – And if those circumstances arose, is there any penalty if we had to lay off all nine after bringing on all nine?

Chief Cosgriff – We'd have to pay back what they have given us. It would be foolish to lay people off, it would cost us more to lay them off than it would be to keep them.

Councilman Langman – In year three?

Chief Cosgriff – In year three.

Councilman Langman – We'd have to lay off firefighters to keep those.

Chief Cosgriff – You can't lay off other, these would be at the bottom of the list. But over the three year period with retirements and stuff we'd be liable to hire firefighters after these firefighters.

Councilman Langman – This is the conundrum we face every time we apply for this, how do you afford the firefighters going forward. Hopefully we'll have some budget updates that we'll project out as to affordability. Thank you.

Mayor Cervenik – You have before you tonight, dated September 22, a budget update. I don't know if anybody has had a chance to take a look at it but you've got, what you just said you didn't have, we do provide that every month. I did make an error earlier in the evening, I said we were only up about $25,000 or so for the month of September. We were actually ahead of budget by $48,719. So we're actually up for the year $189,747. The beauty of this grant is that even if we would have to pay the $810,000 out, in the last year that really means that we were able to have nine firefighters on staff at a cost of less than $300,000 a year in total. If this grant is and it is a tough one to get but I'm a little more optimistic than you are based upon our condition and the parameters of the grant being an inner-ring suburb and with some of the other problems we have. What we would most likely do if Council would accept this grant is to put at least some type of allowance or contingency fund away in our general fund balance to cover most of that $810,000 in the last year. I think that would solve that problem of what if we can't predict a hardship. We may have a hardship. If we're in the condition we are in now, we may be able to prove that hardship already. But it is not like the other grants where it was just a declining scale. This is just in the last year we would have to pay for it. If this does come to pass, a companion piece of legislation would be to budget each year for that last year if it comes to pass that we have to pay the whole amount.

Councilman Gilliham – First I'm in support of it, first and foremost. Anytime we have the opportunity to add and using it through a grant to help balance our budget I'm for it. The question I have is that in this particular grant are there any particular competencies or benchmark or reporting that you would have to do to maintain that funding for at least the first two years?

Chief Cosgriff – Yes, for all the Department of Homeland Security funding you're required to submit six month report. We would be submitting six month reports, reporting on our performance as well as for reimbursement.

Councilman Gilliham – When I initially looked at it you clearly spelled out what the cost would be in the email. I didn't know if this was just something that was just given or we have to maintain certain requirements and you explained that to me and I'm still comfortable with that, thank you.

Councilwoman Minarik – Chief I know these nine are going to be totally new. As we have firefighters retire, do we hire these, say we get it, we would hire these nine as new positions and then as the positions as firefighters retire we can replace them with new people as well, correct?

Chief Cosgriff – That's correct.

Councilwoman Minarik – These have to be completely new positions.

Chief Cosgriff – Correct.

Councilwoman Minarik – Mayor, I understand that you want to set money aside for year three, what happens in year four? We're looking at $800,000 and if this is just for nine people, we have another bunch of firefighters coming up. The budget keeps going up and up and up. We just had a $3 million shortfall in the spring. Do you think the economy is going to be that much improved in 3-4 years?

Mayor Cervenik – As I said during budget hearings, our budget is actually very close, I think we're just slightly over now, with this budget amendment that is coming before you, to what we spent in 2007. Also after year three, if things are not that much better, then we do not need to maintain our manning at the 26 per shift. We're not at 26 per shift now. What this can do and putting away "x" number of dollars to hopefully get us to year

three. If things are terrible in year and we apply for a variance and we won't have to, we can get out of that without paying them back. I think this is a no-brainer.

Councilwoman Minarik – I think it is a long term commitment for a huge, huge dollars. I don't think in the economy that we are facing now globally, nationally, locally. I actually think it's actually irresponsible for us to commit ourselves in year three to have to come up with $800,000 for nine new firefighters. We don't even know what we're going to be facing with the current fire department. It doesn't look like they're going to give in on demanding their 29% pension pay ins. So if they would give a little bit, it would lower the total cost of this, that would be a really wonderful thing. I just think it is financially dangerous to commit to this.

Mayor Cervenik – Chief, correct me if I'm wrong, I believe this includes the salary plus the in service training, bonus, plus education bonus, plus clothing allowance, plus 29% pension for the first three years.

Councilwoman Minarik – I'm talking about year's three moving forward.

Mayor Cervenik – What we're really talking about in year four or five and I'm just doing the math real quick here, is for three years we can have our staffing at 26 per shift at a cost of somewhere around $40,000 per firefighter. If we have to pay full amount in the third year, I don't think that's irresponsible, I think that's a steal.

Councilwoman Minarik – You're averaging it out over three years. Mayor we have to come up with, we have to know in the third year the economy has improved. Based on the current policies that we have in Euclid where we seem to only have aggressive policies for low income, we are lowering the tax base. The property values are going down, the income taxes are going down. You just said a hundred and some thousand dollars over projections, okay. Yet we're going to have a budget amendment where we grab another $164,000 out of the cash reserves. What is our cash reserves?

I am concerned because I think this is irresponsible to commit to nine new firefighters. That's all I'm saying. I know you don't agree.

Mayor Cervenik – If I can answer. Number one, I don't think it is irresponsible to use federal grant to at least for three years to have our staffing level up to where it should be. I also don't believe that our, at least I am, I'm going to use the word insulted that you're telling me that this administration's main goal is to bring lower income.

Councilwoman Minarik – I didn't say that was your main goal. I said you have an aggressive policy. Mayor my question is, do you think it is irresponsible to hire firefighters who will probably relocate from another location and then possibly have to be laid off in three years because we don't have the money? That's rather cold.

Mayor Cervenik – I firmly believe that if we're getting the grant to pay for these firefighters over the three year period where it is only costing us about $40,000 a firefighter and if we do what I suggested and budget "x" number of dollars so we are on hook for the $810,000 then because of retirements we can let the numbers drop that down to 24, maybe 23 which isn't the best number in the world. All I'm telling you is that we can manage this and I don't know how you turn down the possibility of a $1,435,000.

Councilwoman Minarik – Because in year three we may not have the means to pay these and then we have to lay them off. That is fiscally irresponsible. Mayor, I'm not going to debate, I just don't think this is wise and I'm going to vote no on it. Thank you.

Mayor Cervenik – I assumed you would.

President Holzheimer Gail – It is important to remember that we are not committing it tonight, this is only a resolution to apply for it.

Chief Cosgriff – This is only to apply for the grant. It doesn't tie us into this money. It doesn't force us to accept this grant. If we are successful with the grant, we can have this discussion at a later date when we have a better idea of what the budget looks like, that's number one. Number two, we have made an agreement, the city administration with the firefighters that they're working now for comp time. The comp time bank continues to grow. That's money that is owed to them and right now they can't take it. They can't use the comp time that they have on the books because we don't have enough firefighters to let them have that time off. That's a future liability. When you figure the future liability that could be burned off if we had sufficient number of firefighters, you have to add those figures into this amount. I think it would be fiscally irresponsible to not apply for this grant.

President Holzheimer Gail – The question is whether we apply.

Councilwoman Scarnienchh – I wholeheartedly agree that we should be applying, that is what we're intending to do. We can say no once it comes. At one time you did say no when we were awarded and I think it was decided not to take it.

Chief Cosgriff – That is correct.

Councilwoman Scarnienchh – We made a commitment to the residents some months ago that we were going to look for every way possible to come up with a plan and I think this is going to give us that opportunity. We need to, whether it is in Finance committee or we set up something like I had with the medical insurance, but we really need to look at the contracts and decide what council is going to say that we won't pay for anymore. I know that's all we can do is say that this is something that we won't do anymore, so everybody knows up front. If we are paying out money that we can't afford to at some point. I hope this is going to give us that opportunity, but I would wholeheartedly say that we have to move forward and go ahead and apply for this and we've got up to 12 months to figure out what we want to do. Thank you.

Councilman Langman – Chief, go get the money and then we'll decide, okay.

Chief Cosgriff – Thank you.

Councilman Langman – All these points are valid. We have our cost structures that quite frankly aren't terribly sustainable unless we have a really good up tick in our growth and hopefully that happens. But, I don't want to sound like I'm punting, but let's have that, I won't say happy problem, but I'd rather have that dilemma to wrestle over and if we don't get the grant then we still have plenty of work to do. Thank you.

Councilman Van Ho – I don't think that we can do our budgets on what may or may not happen in three years. I think if the grant make sense we take it now and three years from now; if you want to look back, three years ago would we have guessed that we would have had the number of foreclosures that we have in this city. You've got to go forth with what makes the most financial sense today. I'll be voting for this resolution.

Councilwoman Minarik – Chief, when will we know about the grant?

Chief Cosgriff – We can hear about it in the next two months, we can hear about it in 10 months or 12 months. They will be awarding it on a monthly basis over the next 12 months.

Councilwoman Minarik – Mayor, when are the firefighter's contracts up? Are we discussing them in 2011?

Mayor Cervenik – They're up at the end of 2011.

Councilwoman Minarik – The end of 2011?

Mayor Cervenik – Yes.

Councilwoman Minarik – So then when did negotiations begin in 2011?

Mayor Cervenik – We have already started conversations with them. There has been no agreement to re-open the contracts at this point. But we are at least having conversations about what we're looking for as to certain items in the contract that possibly could be removed for new hires. I've talked to all of you about that before. It is not going to be a process that happens overnight, but we are having positive conversations and I think that's a step in the right direction.

Councilwoman Minarik – So by the time, say it takes 6-8 months, we apply and we are awarded this, by that time we should have a better handle on where we're going with the firemen's contract?

Mayor Cervenik – We should have a much better handle. At the same time the point the Chief makes is very appropriate that we are building up because we're not spending cash right now for overtime, but building up that bank of usable time that this is the way to get us out of that jam of paying that time off. They can take that time, the grant is supplanting that. Although we can't force firefighters to take time off, if there happens to be 20 on a shift, that maybe part of our conversations that we're willing to take this grant and go for the three years with it and maybe in January and February and it is cold and normally people wouldn't take some comp time, maybe they'll agree to. I agree with Councilman Langman, let's apply for this grant and let's see what happens.

Councilwoman Minarik – In the hope that there are some concessions down the road.

Mayor Cervenik – We always hope there's concessions down the road. As Councilwoman Scarniench mentioned that we're going to tell you what we're going to pay for and what we won't. But the bottom line is, it doesn't quite work that way. We end up going into arbitration, binding arbitration, SERB, whatever you want to call it and we may win some and we may lose some. Direction from you is fine, but we've got that direction once already, and that's probably part of the reason they're not willing to open the contracts yet. But, we are in conversation with various unions about various things and that's a positive step. Until we solve those head on should not stop us from applying for this grant.

Councilwoman Minarik – I understand, thank you.

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

Roll Call: Yeas: Gilliham, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail
Passed.

Ord. 138-2010 (171-10) Insuring City owned property

An emergency ordinance authorizing the Director of Finance of the City of Euclid to enter into contracts with Affiliated FM Insurance Company written through the firm of Love Insurance Agency, 34920 Ridge Road, Willoughby, Ohio 44054, insuring City-owned property, contents, boiler and machinery, inland marine, and against crime for the period October 1, 2010 through September 30, 2011. (Sponsored by Mayor Cervenik)

Councilman Gilliham moved for passage, Councilwoman Scarniench seconded.

Director Frey – Every year we either go out and get new property insurance and machinery, heavy equipment insurance or we renew an existing policy. Unfortunately this year is one of those situations where we have to go out and get new. In part the premiums came in, we're very close to our premium level within 3% of the 2010 premium, so that's I think positive news and I'll give credit, not to me certainly because I didn't do anything other than write the legislation, but to our broker at Love Insurance who solicited the bids. Affiliated FM Insurance Company submitted a bid that was for just under $60,000 to insure our property as well as provide crime loss coverage for us, similar coverage, in fact the same coverages we had last year. Why I'm pleased with this quote is because we suffered a significant casualty loss with the fire in Memorial Park this year and in fact in part that caused our incumbent carrier to give us a price quote in excess of $90,000 for this year. We're right around where we were last year. Councilperson Gilliham asked how much gets charged to each of the fund accounts and I don't have that information but will get that from our Finance Dept. tomorrow. They ought to be able to pull the 2010 expenditures for our insurance and tell me what that breakdown is by accounts. We had a representative from Affiliated today starting to look at our buildings and she started at the Waste Water facility with Superintendent Hall looking at the facilities, the age of construction, the materials for construction, storage of chemicals, what goes on in each of the buildings, so it is a pretty comprehensive review that will go on. While that won't affect this year's quote, it will impact whether they're willing to guaranty their rate for several successive years. I'll be glad to answer questions if I can, more likely I'll take notes and get you answers at a later time.

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

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

Roll Call: Yeas: Gilliham, Scarniench, Jones, Minarik, Wojtila, Van Ho, Holzheimer Gail
Passed.

Ord. 139-2010 (146-10) Third Rdg. Flood Damage

Special Purpose Ordinance: Flood Damage Reduction. (Sponsored by Councilperson Van Ho by request of Service Director)

Councilman Van Ho moved for passage, Councilman Wojtila seconded.

Director Frey – My colleague Mr. Bock is actually going to go through this. We provided Council with a summary of the legislation and a map that Mr. Bock put together showing the areas that were covered by the legislation. As you can see on the map, they are fairly small, but he needs to give you the history of this regulation and the changes from the current version that is in effect now.

Asst. Director Bock – This ordinance is an update to the ordinance from 1981, that's presently in effect. It involves national flood insurance program, which is administered by FEMA. The ODNR in the State of Ohio is appointed to administer it here by FEMA.

The major changes as far as our local ordinance is the appeal board, will be changed to the Zoning Commission rather than where it is now as the Law Director, Service Director and Public Works Director which is no longer a filled position here. The other change is designating change the Building Commissioner to the Asst. Service Director as the Flood Plain manager.

The other change is going from one foot of freeboard to two foot of freeboard in new construction within a flood zone. What that will do is reduce insurance rates for our residents by up to 40-60%. So those are the minor changes to our local ordinance. This adopts also the changes made to our Flood Plain maps which here in our city is very minimal. We actually lost one flood zone. A few years ago we made a trade with the City of Cleveland for some land around the water plant over on Chardon Rd. and we took a piece of property that was Cleveland's here by our Service Garage. In doing that we lost that one flood zone that's now Cleveland's problem and not ours. I'm open to any questions that you might have.

President Holzheimer Gail – Questions from Council? Seeing none, this is a special purpose ordinance that does not need a motion to suspend the rules because there were three readings.

Councilwoman Scarnienchmoved to close debate, Councilwoman Jones seconded. Yeas: Unanimous.

Roll Call: Yeas: Gilliham, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail. Passed.

Ord. 140-2010 (175-10) Budget Amendment

An emergency ordinance amending Ordinance No. 91-2010 which makes the annual appropriation for all expenditures for the City of Euclid for the period ending December 31, 2010. (Sponsored by mayor Cervenik by request of Finance Director)

Councilman Gilliham moved for passage, Councilwoman Jones seconded.

Director Brett – Most of the changes in the proposed ordinance have to do with the unanticipated retirements of a number of people in the Finance Dept. and the Law Dept. Then I believe the transfers are reflected on there as well. It also reflects the prospect of the three new hires in recycling for the remainder of the year, along with benefits. Retaining a receptionist in the Mayor's office; overtime at Council meetings and then several transfers.

Mayor Cervenik – The receptionist is actually under my Department, but is not; she's not working in my office, she's out in the Lobby and we all felt it was really important to have a human being out here. We were lucky enough to receive a Senior grant worker that works 20 hours a week that fills the morning slot and she's doing a very good job as well. We've had a number of unanticipated retirements, the latest being we had already mentioned Director Johnson, the latest being Audrey Molnar who has 37 years with the city. With some of the new changes that are proposed for PERS retirement and the fact that her daughter is going to have triplets, she felt it was time to take on a new career of being a semi-nanny and we wish her well. She is staying with us until the 29th of October. Roseanne Evangelista was another one that was unexpected.

Under administration the final pay out for Court Computerization Fund that was, Ursuline Leoni. She passed away in the Court and that was her final pay out which was totally unexpected and again we wish her family our sympathies.

We have transfers in there such as the lease management agreement with Shore for $138,000. We have a number of note rollovers and the issuance costs. Back of the first page we have the $749,000 transfer to Waste Water Fund that we talked about, I think it was the last meeting or the meeting before that.

The bottom line is for the general fund, it is approximately $165,000. If you were to take a look on your general fund income statement that you received as of August 31st, our expenditures for the general fund are $23,872,000 through August 31st. Last year they were $24,837,000. Although we have some increases in expenditures, we are still considerably below what we expended last year as of this time and hope to continue to do so. Any other questions, please feel free to ask.

Councilwoman Minarik – Director Brett, is this coming out of the cash reserves or the $189,747 that we are up this year in income tax? It is coming out of the cash reserves?

Director Brett – I'm sorry?

Mayor Cervenik – If I may, it would only come out of the cash reserves if we end up spending more than we brought in. This is coming out of our general fund. It is coming out of the balance of our general fund, just as other expenditures are. I fully expect the $1,600,000 cash reserves that we started with will remain at least at $1.6 if not slightly increase.

Councilwoman Minarik – So we're at $1.6 in the cash reserves?

Mayor Cervenik – That's what we started the year at about $1.6, if I'm not mistaken.

Councilwoman Minarik – The $381,000 that we've amended the budget so far this year, that is all from income taxes and things like that, we didn't have to touch the reserves then?

Mayor Cervenik – Even with the $381,000 in budget amendments, we still are, if you look at the bottom of page 3 of 3, were it says General Fund Income Statement for the month ending 8/31, we have actually increased our cash reserves up to this point by $147,781. Last year at this time, our General Fund, our cash reserves were decreased by $266,810 almost. Right now we're almost $400,000 ahead. Some of it is timing, but as it stands right now with these budget amendments and with the fact that we're spending less than we budgeted, we'll be in good shape. When we amend line items, it doesn't mean that, it is impossible to take line item that the year isn't over yet that we're under spending it. What we do when we know these things come up such as these unanticipated retirements, such as the $22,000 for the new hires for recycling, that will get us through December 31st, we just increase the appropriations. That doesn't mean all the other expenditures are going to be what we budgeted. As I said we're about a million below. Right now our cash reserves are higher at this moment than they were January 1st.

Councilwoman Minarik – So when we tell people in the spring that we were facing a $3 million deficit?

Mayor Cervenik – Yes, we were.

Councilwoman Minarik – And now we're, how much to the good?

Mayor Cervenik – We're facing a $3 million deficit, we had $1.6 million of cash, which we didn't want to use. That was made very clear to everyone. Now the $3 million deficit was made up for the most part of about $1.4 million in cuts and the fees and less than $800,000 of street lighting fees. The million dollars or so that we cut out of the general fund. We're holding very true to that as these numbers state.

Councilwoman Minarik – This $164,000, we have this money. We don't have to draw down on the reserves?

Mayor Cervenik – At this moment, no.

Councilwoman Minarik – My concern was we were drawing down on the cash reserves, that was my concern.

Mayor Cervenik – No our cash reserves, this will not bring us below the $1.6 million at this point in time. October, November and December have always been the last three years since the recession started have been very unpredictable months for income tax, so we're hoping for the best. That's why we give you this report monthly so that you can see that, how the general fund is performing.

Director Brett – In some instances where there's a retirement, obviously there will be an amount to be paid out, but there will also be a corresponding savings that is not reflected because that person won't be here being paid. Also there's a number of more general expenditure lines that are not being expended as quickly as was thought originally. So those kind of make up a buffer that allows for this to occur without affecting the cash balance. The question is, will that remain all the way through the end of the year as the Mayor pointed out.

Councilwoman Minarik – Rather than ask more questions, are we planning on having an Executive & Finance meeting soon?

President Holzheimer Gail – Yes, I was going to propose either Wednesday, October 20th or Monday, October 25th, depending on the schedule of Director Brett and Mayor Cervenik and Council members. We could go over the whole budget where we are through the end of September which would be three-quarters of the year. We could also continue the discussion on the compensation ordinance and we do need to revisit any of the long term budget stabilization items that we had begun talking about.

Councilman Gilliham – I would just say in fairness to the new Finance Director, maybe we should have it on Monday, the 25th?

Mayor Cervenik – I think that would probably be the better date.

President Holzheimer Gail – We'll plan on that then.

Mayor Cervenik – He's new here, but here's got a long and very, I don't know what word I would use, checkered, no I'm not using checkered. He's got a very good reputation in the municipal finance community.

President Holzheimer Gail – Any other questions about budget amendments?

Councilman Wojtila – On page 2 the Endowment Transfer, Euclid Endowment Fund, why is there a negative $138,000 listed as engineering services?

Mayor Cervenik – We're transferring out so that line item becomes a zero and then it gets transferred. We're reducing Euclid Endowment and for some reason that account number does come up, Euclid Endowment as Engineering Services, there's a number of categories there. Then we're transferring it into the Shore Fund so that makes the Endowment zero and then it shows the Shore Fund going to $138,000. It is an accounting thing and I meant to get a written response from Carol Keller today and I did not have time to do it. But what actually we have is a transfer from there into the Shore Fund, 290-451-5141-33-05 for the lease management agreement and that should last us through December 31, 2011 with Shore unless Council has any changes there. I will get you the specific as to why that is even listed.

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

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

Roll Call: Yeas: Gilliham, Scarniench, Jones, Wojtila, Langman, Van Ho, Holzheimer Gail
Nays: Minarik
Passed.

Ord. 141-2010 (176-10) 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 Gilliham moved for passage, Councilwoman Scarniench seconded.

President Holzheimer Gail – Director Brett or Mayor Cervenik, this is just the transfer of the items that were in the budget amendment?

Mayor Cervenik – Yes, as the Auditor says, we can no longer just do the budget amendment, we must have a separate piece of legislation for each of the transfers and that's what this is.

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

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

Roll Call: Yeas: Gilliham, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail.
Passed.

Ord. 142-2010 (181-10) Special Assessment Street Lighting

An emergency ordinance amending Ordinance No. 50-2010 which provides for the issuance and sale of notes of the City of Euclid, Ohio, in anticipation of the collection of Special Assessments for Street Lighting purposes, pledging municipal income tax revenues for the payment thereof, in a principal amount now estimated not to exceed $885,000, and to provide for the City to purchase the notes in its Bond Retirement Fund. (Sponsored by Mayor Cervenik)

Councilman Wojtila moved for passage, Councilman Langman seconded.

Director Brett – This was a council ordinance that was originally passed that had the underwriter for the city purchasing the notes. In discussions with the underwriter, it was felt best that the city itself purchase the notes and hold them which makes the process less complicated, involving less forms and less money from an underwriting standpoint. My understanding was this amount was set up prior to me coming here and anticipation of these funds which we technically won't get until the first month of January, well the first month of 2011. But this will give us some money to cover any expenses that we need to in the street lighting this year. Then we would work next year to draw it down over time.

President Holzheimer Gail – So the change is not what we're doing but rather than using an underwriter to write the bonds, the city itself will be writing the bonds and paying for it through the bond retirement fund.

Mayor Cervenik – It is actually a note not a bond.

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

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

Roll Call: Yeas: Gilliham, Scarnienchi, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail Passed.

Res. 143-2010 (183-10) Advances on Property Taxes

A resolution authorizing the Director of Finance of the City of Euclid to take advances on the collection of Real Estate Taxes, personal Property Taxes, and Special Assessments. (Sponsored by Entire Council by request of Finance Director)

Councilwoman Jones moved for passage, Councilwoman Minarik seconded.

Director Brett – This is a housekeeping measure that is normally used to request the County Treasurer whoever he is at that point, to advance the real estate taxes to the City so that we're not waiting until next year to get them, so we'll actually start to receive them ahead of time, otherwise they might wait until they actually receive them to advance them. The other thing we've done on this is to try and see if we can get special assessments advanced to us as well so that it doesn't follow a more delayed scheduled. That would be done normally in the circumstances of special assessments.

President Holzheimer Gail – There was a question from a resident asking whether because these revenue streams are not definitely set, whether we are in any jeopardy? Because it is property tax and real estate tax, I think if I understood the question correctly, that because we're asking for advances, are we putting ourselves in any jeopardy in case those funding streams decline? That's how I understood the question.

Director Brett – Yes I understand the question. What the County will do is at sometimes there will be the case where they will advance a city to much. At that point on the next, what's the first settlement, you'll have the first advance and first settlement. When they settle they'll make sure that they deduct from your account the amount of money that they over advanced you. It is not usually more than $1,000. In the end you'll get what you're entitled to with respect to your collections and your millage. But there is sometimes, they're optimistic, more optimistic and you have the benefit of the time on that money for however long you have it.

President Holzheimer Gail – Just want to make sure we're answering the questions. We do this every year so it is nothing new. Questions from Council?

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

Roll Call: Yeas: Gilliham, Scarnienchi, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail Passed.

Res. 144-2010 (180-10) Accept Recycling Grant

A resolution authorizing the Director of Public Service of the City of Euclid to accept a Community Recycling Awareness Grant, in the amount of Three Thousand Two Hundred Fifty Dollars ($3,250.00), awarded by the Cuyahoga County Solid Waste District to help defray some of the advertisement/postage expenses of the City's recycling program. (Sponsored by Mayor Cervenik by request of Service Director)

Councilwoman Scarnienchi moved for passage, Councilwoman Jones seconded.

Director Smith – We had applied for a grant from the Cuyahoga County Solid Waste District for the amount of $3,250 and we were successful in obtaining the grant. The monies were used to print and mail some literature pertaining to our household hazardous waste shred day, tire round up, along with our computer round up programs. This money has been expended and this is a reimbursement grant and that's why I'm asking your authorization for this legislation.

President Holzheimer Gail – Are we eligible for a second one this year?

Director Brett – Next year.

Councilwoman Minarik – So this is a reimbursement of what we already did. This is not for the recycling program then, is that how I'm hearing you?

Director Brett – That's correct.

Councilwoman Minarik – Because it says for the recycling, that's why I'm wondering.

Mayor Cervenik – That was for the recycling of the computer round up, household hazards, all these other new things we're trying to do as well.

Councilwoman Minarik – Because I thought you had said at the committee meeting that solid waste district was going to be able to help us with some educational or promotional material for curbside.

Mayor Cervenik – In 2011 we will have the opportunity for another grant, but the energy grant allows us to use money for education and although the solid waste district and Diane won't be paying us, we will certainly say come on and sit down and help us write this up. When you've got the resources out there free, we'll definitely use them.

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

Roll Call: Yeas: Gilliham, Scarnienchi, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail. Passed.

Ord. (133b-10) Amend Code Home Occupation

An ordinance repealing current Section 1377.01(e) of the Planning and Zoning Code of the Codified Ordinances for the City of Euclid and enacting a replacement section to alter the required conditions of home occupations. (Sponsored by Mayor Cervenik) (Recommended for passage as amended by Planning & Zoning Commission) Tabled 9-20-10

Councilman Van Ho moved for passage, Councilwoman Scarnienchi seconded.

Commissioner Beno – The proposed ordinance helps to bring the home occupation section of our zoning code up to date with the rapidly evolving area of home occupations which is occurring today. The ordinance eliminates what was a very narrow range of occupations which could be performed from a home and broadens this is a manner that will allow flexibility for home based businesses, while establishing performance standards by the which businesses must comply.

Our attempt was to allow flexibility while protecting the qualities of a residential area, such as low traffic, limited noise and no visual clutter which are expected in a residentially zoned area. There was significant discussion at the Planning & Zoning Commission as to whether this code went far enough in accommodating home occupations by allowing only one non household employee on the premises at a time. The Planning & Zoning Commission voted at its meeting on September 14, 2010 to recommend amending the Council sponsored ordinance in four areas of change.

The first area of change was to increase the non-household employment on a premises to two people. This change would apply to all home occupations. The administration's recommendation is that this is a step to far and that it conflicts with the goal of protecting residential areas from excessive traffic and parking demands which will be difficult to accommodate in a normal residential driveway.

The remaining three amendments recommended by the Planning & Zoning Commission are specific to home day care operations. After listening to the concerns raised in the discussion at the last Council Meeting and understanding that Planning & Zoning Commission proposed some legitimate accommodations for home occupations, we are supporting a compromised position at the three remaining proposed amendments be accepted into this Section of Codified Ordinances. While we understand that it may be optimal to place these regulations of this type in the daycare licensing chapter, the Commission recommended the amendments and they are appropriate and acceptable for home occupation operations within a residents district. Therefore we support the three following amendments: 1377.01(d)(3), which codifies the recognition that outdoor play areas as accepted as part of home daycare operations. 1377.01(d)(11) which exempts vehicles in a drop off or pick up of children from being counted against the restriction for home occupations. 1377.01(d)(12) which exempts home daycare operations from the hours of operation limits, which apply to other home occupations.

In summary we support the proposed ordinance subject to the final three amendments which were proposed by the Planning & Zoning Commission. I'll be happy to answer any questions at this time.

Councilwoman Scarnienchi – I just want to go along with what Mr. Beno has said. I have no problem with adding the in-home daycares. This legislation was never meant to even talk about daycares. It had to do with other types of occupations. Then it got brought up and then all of a sudden this became kind of out of shape. We had no legislation before and the whole purpose was that now we have something. You don't want to make it to big, it is one of those things where you do something and see what happens because we never had it before.

The idea of only having one outside person, that's not related, makes sense. As far as in number 3, keeping in entirely makes sense. We don't want people who are doing woodworking, doing it outside, doing it in their garages, that is not what the residents want. If they have a business that is disruptive to the neighborhood, then they need to be somewhere else, not in their homes and that was the whole idea behind this.

I will support what Mr. Beno said as long as we keep those the way we had them.

Councilman Gilliham – I did watch the actual video and I read the minutes of the last Council Meeting and I see this was tabled and that's why it is here today. This particular home occupation issue came before Planning & Zoning in February 2010 and I was under the impression that it was based upon a complaint from a daycare center. If I'm incorrect, I know that the daycare programs became part of the issue.

The couple of issues that I, based on Commissioner Beno's presentation, I'm not adverse at to what is actually shown here that is presented by Planning & Zoning, but there's a couple of areas that I saw at the last Council meeting in Section (e)(3) where Councilwoman Minarik talked about individuals using their place of business to entertain whether it be on the patio or a deck. I do feel that's a possibility for certain businesses and I feel that as long as it doesn't alter the character and principle dwelling or the apartment or neighborhood in which it is located. So what I had submitted an email today was a possible amendment. I'm only throwing this out there for my colleagues to look at. That, three would read, all home occupations use activity must be conducted at the site of the home and shall be limited to the enclosed dwelling unit, attached decks, patios and rear yard which will not alter the residential character or appearance of a dwelling apartment or neighborhood in which it is located.

What that does for me, my interpretation is that it includes the possibility of a business meeting to be on deck or patio. But it does not include the garage or other building structures. We can capture that situation with that type of language. If someone where to have a business meeting in the backyard or on the patio or on the actual deck and it alters the residential character or appearance of the neighborhood, then that would be a violation. That is one thing that I wanted to bring up.

We just had a daycare provider come in and explain her situation that she has two employees currently who do not live in her home or live in the city. I talked to a few daycare providers and in home daycare providers do state this, if they provide transportation and they're a type A, which takes up to 12 children, if they have to provide transportation and they only have one person in the house, they're in violation of state code. At that point they could be shut down if they're caught. These are the kinds of things that I think we might have been overzealous in looking at. Do I expect for us to amend this to three or four? No, but I think if a situation were to come into play where you're providing transportation to and from school, those situations could arise where you actually have one of those nine type A facilities out of compliance.

We talked about the background checks. We talked about all the particular inspections and all the guidelines that they have to follow by. I just feel that if this situation regarding daycare was actually utilized it would be a detriment to opening up daycare to care for students and our young children in the City of Euclid. That particular daycare provider has 11 children; nine of them are from Euclid. She's been able to provide that service to our residents. She's able to provide income for her employees. I think it is a win/win situation. In regards to other businesses that may not necessarily be the case, but there is a possibility that if a husband and wife have an in-home occupation and they go on vacation, they may need a staff of two to continue running that situation for them, as long as they're in compliance.

The other particular amendments, I don't have any issue with, but I do feel that in looking at this, the original code, 1377.01, it wasn't as restrictive but it did need to be updated. Therefore I would like to still have two employees in connection with that and I would make a motion to amend Section (d)(3) to include that language that I had particularly put in there and I'm willing to read it again if there's any questions about it.

Councilman Langman – Not specifically to Councilman Gilliham's amendment, but maybe we should back up and ask Law Director Frey what we can and can't do with this piece of legislation.

Director Frey – Because there are 8 members of council here tonight, it would take just a simple majority to approve the changes that Planning & Zoning made and sent to you. However, if you intend to disagree with those changes and revert back to the original or some combination of accepting some and rejecting others, then it would require three-quarters or six members of council to vote to override the Planning & Zoning Commission on this. Procedurally that's an issue that will come up depending upon how you proceed with the legislation.

Councilperson Gilliham's recommendation for a change in Section (e)(3) is a substantive change and would require this matter to go back to Planning & Zoning.

Councilman Langman – Thank you, I thought so but I figured I'd better ask. Thank you.

Councilman Van Ho – As I'm reading section 3, where it primarily comes up here as far as primarily within an enclosed dwelling unit. So that to me would say that you could have your business associates out on the patio to have a business meeting, doesn't it?

Director Frey – Yes, I would interpret that change that was made by the Planning & Zoning Commission to mean just that. The function is there but it doesn't get to Councilperson Gilliham's limit however where it says so long as it doesn't alter the residential character of the neighborhood.

Councilman Gilliham – Rather than to make a motion to amend, I just wanted a better interpretation and based on the information that I'm provided thanks to Councilman Van Ho's question, as long as the word primarily remains in there, I'm willing to deal with that interpretation and not make a suggestion to amend Section (e)(3). I just wanted to put that out there, thank you.

Councilwoman Scarniench – Law Director, could we not just change the title. If after home occupations said with the exception of in home daycares, does that not solve the problem that we've been going back and forth about meeting after meeting?

Director Frey – If you could direct me?

Councilwoman Scarniench – The title, 1377.01 Accessory Uses in Residence District; Home Occupations, and then we add, with the exception of in home daycares.

Director Frey – By doing so you're intending then to remove home daycares from this?

Councilwoman Scarniench – They don't have to be there; that wasn't the intent of this legislation ever was.

Director Frey – I would suggest that you would need to go through then and make other deletions.

Councilwoman Scarniench – Would that be sufficient to do that?

Director Frey – Again I think you'd need to send it back to Planning & Zoning.

Councilman Langman – I think two weeks ago at the same time, no it wasn't the same time, it was much earlier. We went through the process of reverting it back to one and removing the daycare item, that seemed to be where just about everybody was. I'm still in favor of that only because daycares are unique as far as type of business and its impact on the neighborhood.

I am willing to go through each one of these, one at a time, to see if we can get some consensus. Also I still prefer one employee, not two. I suggest we start with that to see if we can get that changed back to one employee rather than two if everybody is agreeable to that.

President Holzheimer Gail – Would you like to make that motion, Councilman Langman?

Councilman Langman – Yes I would make that motion to change Section (e)(2) from up to two employees, back to only one. Councilman Wojtila seconded.

Roll Call on the Amendment to change from two employees to one employee, just the one change.

Yeas: Scarniench, Jones, Wojtila, Langman, Holzheimer Gail

Nays: Gilliham, Minarik, Van Ho,

Fails requires six affirmative votes.

President Holzheimer Gail – Because it is a change to Planning & Zoning's recommended change back, we need a super majority or three-fourths.

Councilwoman Scarniench – I thought that because this was our resolution?

Director Frey – Planning & Zoning made an amendment to the legislation changing this from one to two employees. In order for you to amend or override their recommendation, it requires three-quarter of the members of Council present to vote in favor of overriding that decision.

President Holzheimer Gail – Well, do we want to continue?

Councilman Langman – We can go through the exercise of removing the daycares. I'll make that motion to, let's see, that would be (e)(3), except players for home daycare use. Again, it is not to say that we don't need to address it, I just think perhaps we're in agreement, that it needs its own subsection. If you want I can continue or you can just go along with a motion if there's any conversation. But in #11, except as related to vehicles involved in drop off or pick up from home daycare use. #12, except as related to home daycare uses. I would move to strike those from the ordinance.

Director Frey – To members of Council, I don't mean to interrupt, I know it has been moved and procedurally you'll want a second. In essence what the Council person is asking is that 1377.01 regulate in home businesses except that 1377.01 will not regulate home daycares. I suspect there will be a separate section of the code to regulate home daycares?

Councilman Langman – That is correct. As we discussed last time, I know Councilman Wojtila was interested in that, I am, meeting with Mr. Beno and working out something in a sub chapter that directly addresses the unique issues that arise with home daycares.

Councilwoman Minarik – So I have a question about that. If we pull this out, is there anything regulating home daycare that we have in Euclid if we pull this out?

President Holzheimer Gail – State.

Councilwoman Minarik – Other than State law?

Director Frey – We still do have some inspection requirements for a home daycare under our local code.

Councilwoman Minarik – For A's and B's?

Director Frey – I believe for both, they have to have a fire and an occupancy inspection.

Councilwoman Minarik – But this type of stuff, we don't, nothing. Wouldn't it be easier just to keep this in and then once it is worked on and figured out then come back and amend this? If we do that, then do we need a two-thirds vote again?

Director Frey –If you're not going to accept Planning & zoning's changes, you only can override those by a three-quarters vote.

Councilwoman Minarik – I'm saying if we accept these changes on the home daycare that they inserted, it goes into law and then later on when we deal with home daycare generally speaking we can come back and revisit this for a simple majority, correct?

Director Frey – You would only need a simple majority to approve what Planning & Zoning sent you. You're right, you could approve that by a simple majority. You could enact or draft additional legislation that would both modify what you just approved tonight by removing home daycare and adding home daycare as a separate section, that would then send this section of the code and your new section to Planning & Zoning for review.

Councilman Van Ho – If we were to do what Councilman Langman is suggesting and that is take each of these out, we would not be able to pass any legislation until everything is straightened out and us and P&Z agree, is that a correct assumption?

Director Frey – Yes.

President Holzheimer Gail – You mean regarding home daycares?

Director Frey – If you pull home daycares out of this legislation, it sends this legislation back to P&Z.

Councilman Van Ho – So it doesn't become an ordinance at that point until we can get agreement between the two bodies.

Director Frey – Correct. Or you muster three-quarters vote to make the change that you sought to make.

Councilman Van Ho – Based on that, I would agree with Councilwoman Minarik that we pass what we've got in front of us and then take our time to get the home daycares thing done in a logical way that covers all the bases.

Councilman Wojtila – I was going to second Councilman Langman's motion.

President Holzheimer Gail – There's been a motion made and seconded to remove the reference to home daycare use as part of this ordinance. Any questions about that, are we ready to vote whether we want to remove the reference to home daycare from this?

Councilwoman Jones – And we would have something separate for home daycares at a later time?

President Holzheimer Gail – That's the plan. They would work on something to the Section of the Code that would be specific to home daycares.

Councilwoman Jones – But if we remove this now, we'd have to go back to Planning & Zoning, we wouldn't be voting on anything, it would go back to Planning & Zoning?

President Holzheimer Gail – We could remove that with a super majority. We could make those changes, correct?

Director Frey – You would have to, you're making a substantive change to this piece of legislation. You have to have three-quarters of the members present tonight vote for those changes. By removing the home day care option, that's not an issue that Planning & Zoning addressed.

President Holzheimer Gail – We're rejecting their changes that they sent back to us.

Director Frey – If you're doing that, you have to do that by three-quarters.

President Holzheimer Gail – But we can do that.

Director Frey – And you've already voted on one of those and it did not pass by the six. If you amend this piece of legislation to a "c" version and remove home daycare, I'm suggesting that needs to go back to Planning & Zoning.

President Holzheimer Gail – So we either need to accept all of their charges or reject all of their changes?

Director Frey – Accept their changes and as Councilwoman Minarik has suggested, accept those changes, get going with creating the home daycare provision and then come back and amend this with the home daycare, send both to Planning & Zoning where hopefully it will get approved and back to you.

President Holzheimer Gail – Everyone clear on that? For one I could actually live with keeping the home daycare references in here. I won't support it with two employees, that's where I stand. So we may end up at a stalemate once again and Council has the decision to make. There's been a lot of work going back and forth with this. If it does not pass, then we have no allowances for home occupations. It is back to not allowing home occupations.

Councilwoman Scarniench – Could we table this until we have a full council hopefully at the next meeting?

President Holzheimer Gail – We could but we would still need seven of nine. Procedurally we have a motion and a second to remove the daycare pieces.

Councilwoman Minarik – Rather than sending this back to Planning & Zoning again, would it kill this council to allow up to two employees and see how it works and then come back? Otherwise, we're just playing basketball, back and forth with P&Z. It has been in front of them a couple of times; it has been in front of us a couple of times. We will have no legislation on home occupations if we continue playing this game with Planning & Zoning. I would ask that we approve it as is, with Planning & Zoning's changes so we can have something in place for the home occupations that are in Euclid. I don't think one more employee in a home is going to make or break the City of Euclid, especially when we have cars parking all over these residences anyway. I would seriously ask you if we could just get home occupations on the books. Thank you.

Councilman Langman – I'm not going to approve it just to approve it. I don't agree with two, nor do I agree with the daycare. So I'm perfectly happy to vote no and keep working at it. Sometimes government is messy and long, sometimes to long, but I think if people that this is not the right thing, then vote it down.

President Holzheimer Gail – There's been a motion and a second to remove the amendments from Planning & Zoning as relates to the exceptions for home daycares. Let's vote on that one. This is Councilman Langman's motion to remove the reference to daycare from this piece.

Roll Call: Yeas: Scarniench
Nays: Gilliham,

Councilwoman Jones – Is it still at one employee?

President Holzheimer Gail – No it is at two. We haven't changed it to one. That was not approved.

Roll Call: Yeas: Scarniench, Jones, Wojtila, Langman, Holzheimer Gail
Nays: Gilliham, Minarik, Van Ho,
Approved.

President Holzheimer Gail – So we have the ordinance as it was sent back from Planning & Zoning. We would need a simple majority to pass.

Director Frey – If you're passing what Planning & Zoning sent to you, correct. I'm sorry you've just passed an amendment, you're not passing the ordinance, you have to send it back to Planning & Zoning. All you've done is amended.

President Holzheimer Gail – We didn't have the super majority to amend.

Director Frey – You've removed substantively removed home daycare from this piece of legislation.

President Holzheimer Gail – The amendment failed.

Director Frey – Five votes to amend the ordinance. It is not enacting the ordinance. You'd have to send it back to Planning & Zoning, or you move it to go back to Planning & Zoning with here are the changes we want you to consider, remove home daycare and enact a separate section for home daycare. Somehow you've got to get this legislation back to Planning & Zoning if you want them to act on it again. If you're going to amend it tonight to remove home daycare, you then would move it back to Planning & Zoning as you move to amend. They're going to accept it, they're going to reject it. Again I'm looking at the Charter, at some point we've got to address this loggerheads and fix and it appears to me that we can fix it by way of ordinance on the relationship between City Council and Planning & Zoning in these kinds of situations and I think this is a good example of why we need to do that.

President Holzheimer Gail – We could this amend this ordinance to delete the reference to home daycare which is substantive change enough that would require it to go back to Planning & Zoning.

Director Frey – That's my opinion, yes.

President Holzheimer Gail – Or we could act on this tonight and vote yes or no because we have not made changes.

Director Frey – Either way, yes.

Councilman Gilliham – So Director Frey if we were just to vote on this language tonight and it doesn't pass, it reverts back to Planning & Zoning?

Director Frey – It just fails. If it doesn't get a simple majority as it came to you from Planning & Zoning, then the ordinance fails, it is done.

Councilwoman Minarik – I'm confused now. When we went with up to two employees, the first change that P&Z sent back it was a 5 to 3 vote and that failed. So the Planning and Zoning's language stayed. Then when we voted on the home daycare, pulling that out, that passed 5 to 3 and now you're saying that's okay.

Director Frey – But it has to go back to Planning & Zoning. Here's the difference. The first piece you were attempting to override Planning & Zoning and to do that our codified ordinances say you need a three-quarters majority. To amend a piece of legislation, you would only need a simple majority to do that.

Councilwoman Minarik – This is considered an amendment not an overriding of Planning & Zoning?

Director Frey – That's correct. The first one you were asked to override Planning & Zoning and it failed. This second one is an amendment to the piece that came before you to remove home daycare.

Councilwoman Minarik – Because they amended it and they added to it?

Director Frey – Home daycare was part of what came to you tonight. It was in here, home daycare was in here. If you moved, as you did, to amend this piece of legislation to remove home daycare, you've now made a substantive change to this legislation and it has to go back to Planning & Zoning for their consideration.

Councilwoman Minarik – I understand. What I'm questioning is why the first amendment needed a super majority.

Director Frey – The first one was overriding Planning & Zoning. The second one is not overriding Planning & Zoning, it is amending the legislation that Council initially proposed.

President Holzheimer Gail – We initially proposed one. If you see the only one is crossed out. We sent it to Planning & Zoning as only one.

Councilwoman Minarik – I understand that but I thought Planning & Zoning added the other sections that are in yellow.

President Holzheimer Gail – They did.

Director Frey – They added the highlighted yellow portion but the ordinance initially had the regulation of home daycare, it wasn't specifically mentioned but it was included as one of the in home occupations.

Councilwoman Minarik – Okay so because it passed 5 to 3, this is going to go back then to Planning & Zoning?

Director Frey – Yes, it can go back to Planning & Zoning and must before you can pass it.

President Holzheimer Gail – Because we made those changes?

Director Frey – Right.

President Holzheimer Gail – I guess that's a procedure I misunderstood. I assumed we were acting on those like we were acting on the change from one to two.

Director Frey – I see them as completely different issues.

President Holzheimer Gail – So the amendment to delete the daycare then passes because we don't need a super majority.

Director Frey – Now you have an amended piece that needs to go back to Planning & Zoning.

President Holzheimer Gail – We need to send it back to Planning & Zoning. We can't act on it because we need their approval of those changes.

Councilwoman Scarnienchmoved to send Ord. (133b-10) back to Planning & Zoning.

Councilman Wojtila – I have a comment on the motion. My comment on the motion would be that we send it back but not until we have the tandem piece that talks about daycare.

Director Frey – You could put this in a committee and hold it until you make that companion piece and then send them both.

Councilwoman Scarnienchh – I'll remove my motion to send it to Planning & Zoning and ask to send it to whatever committee.

Councilman Langman – I would say City Growth or Business Development, whichever one.

Councilwoman Scarnienchh – Business.

President Holzheimer Gail – That would be Councilman Gilliham's committee.

Councilwoman Scarnienchmoved Ord. (133b-10) to the Business and Commercial Committee. Councilman Van Ho seconded.
Roll Call: Yeas: Gilliham, Scarnienchh, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail
Sent to Committee.

CEREMONIAL RESOLUTIONS

Res. 128-2010 (173-10) Retirement Officer Buling

A resolution of congratulations to **Officer John Buling** on retiring from the City of Euclid Police Department after **eighteen years of service**. (Sponsored by Mayor Cervenik and Entire Council)

Res. 129-2010 (174-10) Retirement Officer Germovsek

A resolution of congratulations to **Officer Larry Germovsek** on retiring from the City of Euclid Police Department after **twenty five years of service**. (Sponsored by Mayor Cervenik and Entire Council)

Res. 130-2010 (182-10) Ross' Meat Market

A resolution of recognition to **Ross' Meat Market** for its many years of successful business in the City of Euclid. (Sponsored by Mayor Cervenik and Entire Council)

Councilman Van Ho moved for passage, Councilman Wojtila seconded.

Roll Call: Yeas: Gilliham, Scarnienchi, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail Passed.

President Holzheimer Gail – This brings us to the Committee of the Whole. You may speak to anything for the good of the city. Please state your name and address for the record.

Councilman Van Ho – Can I ask one question before, during this discussion, Law Director Frey said that there was something we could do to change this so we don't play political football with this thing. I would ask that he draw up that legislation.

Mayor Cervenik – We shall look into that.

COMMITTEE OF THE WHOLE

Ms. Patti Burlingham – 25211 Lake Shore Blvd. About time. The Euclid Petpals will be holding their 8th Annual For Paws Clam Jam and Boo Bash, Friday, October 22 at the Manor. As always we have cocktails, dinner, music and dancing, raffles, Chinese Auction, prizes. This is one of our big fundraisers for the year. I have tickets tonight. Our dinner will include clam chowder, a dozen clams, roasted chicken, sweet potatoes, corn on the cob, a vegetarian dinner is available upon request. Tickets are $40 as last year. Extra clams would be $9 and they are available at the Shelter, noon to 4:00, Tuesday through Saturday, cash or check no credit cards.

Also at the Shelter we have our new Our Town and All Around Dining Coupon books, similar to another one, but these are all local. They're available at the Shelter also for $28. For those of you that do recycle, if its going to go to your curb, remember to still continue to support those non-profits. Our amount going to the Euclid Animal Shelter has been reduced in the last few years. We were getting $500-$600 a month, we're getting $300-$400 a month. The amount of tonnage has been reduced because of ABITIBI's bankruptcy reorganization. They have looked into other outlets for their paper recycling. They do mostly for newsprint and with reduction in newspapers and the amount of size of newspapers, they've had to find other outlets. We still also take aluminum cans and your computer ink cartridges for recycling. All that goes to the Animal Shelter for the care of the animals. Thank you.

President Holzheimer Gail – Seeing no further comments, Councilman Van Ho you can start us off with Councilman's Comments.

COUNCIL MEMBERS' COMMENTS

Councilman Van Ho – Nothing tonight.

President Holzheimer Gail – I just would like to remind folks about a couple of upcoming meetings. On Wednesday we have a Housing Committee Meeting at 6:30 to get the NSP, Neighborhood Stabilization Program update on NSP 1, what's been spent and expended through that first grant. Discussion on the NSP 3 program, what's available, what our plan might be and I believe the graffiti ordinance is on as well. That's this Wednesday 6:30 here.

As looks like, we'll confirm, but it looks like Monday, October 25th we will have a Finance Committee meeting for a budget update and some initial discussion. We'll have to see if we're ready with the compensation ordinance, yes, and the long term budget ideas that we began talking about earlier in the year. Then, Wednesday, October 27th at 6:30 City Growth Committee meeting with JJR will be in town to discuss the lakefront grants and the plan and the progress with our lakefront improvement plans to date. Three important meetings, hopefully everyone will be able to participate. That's it.

Councilman Gilliham – I will be very short as well. The Indian Hills Neighborhood Association's next meeting, is October 13th at 7 PM at Indian Hills. I just have a couple of questions. Three questions, one to Chief Repicky, with the retirement of these two officers, how many do we have currently now? I just wanted to know that number. To Director Randy Smith, I sent an email from residents complaining about two issues, well actually one recently. The grass by the Handl-It plant, the grass needs to be cut and I just wanted to know had there been any connection, I know there were other violations that they were addressing but has the grass issue been at least communicated to them? Lastly, I still get calls from residents on 204. This has been a long term situation and I don't know how we can best solve it but I'm willing to speak to you afterwards regarding the HGR. Sometimes their trucks overnight are running and some of the residents complain that it keeps them up. Those were the three questions that I had. First Chief Repicky and then two for Director Smith.

Chief Repicky – I forgot the question.

Councilman Gilliham – I apologize, you just had two officers retire. What is our current number and we are expected to have retirements next year, correct?

Chief Repicky – We have 94 officers right now.

Director Smith – Director Bock has indicated that the concerns with grass has been provided.

Councilwoman Scarnienchi – Short and sweet. This past Saturday there was a rummage sale/garage sale at Shore. Because of the rain and everything they moved everything in and Laurie has decided if the weather is nice, this Saturday they will have another sale and it is only for the people who were already involved last week, out on the grass between 9:00-3:00 and it is only if the weather is permitting.

Lastly, I know everybody is getting their absentee ballots right now. Please, please remember there is a sewer levy renewal on there for the City of Euclid. We need you to vote yes for that. It is not an increase, but it will make sure your sewers stay clean. Anybody who has a sewer that backs up, knows exactly what I'm talking about. Please support the levy. Thank you.

Councilwoman Jones – For those of you that may not know, the Department of Justice has discontinued the Weed & Seed grant initiatives. It started in 1991 in Euclid. Weed & Seed grants have funded more than 300 successful weed and seed sites throughout the country. Those grants grew partnerships and programs continue to benefits the communities and can be used to obtain new grants from other resources going forward. Euclid Weed & Seed will use the opportunity to refocus the mission and expand our mission. The committee has been renamed to Euclid Youth First which will continue to concentrate the efforts to improve the lives of Euclid youth. This is incorporated with existing programs such as the Youth brochure of activities of social services for young people; the Mayor's Roundtable to bring young kids together with the City of Euclid; the Generation Gap Diversion presentations and the annual Youth Explosion Resource Fair. In addition to an event that's coming up on October 23 at Euclid Square Mall called Express Yourself which is an event that will allow our youth and young adults to express themselves through dance, poetry, music, movie, video, art and photography. They have to register by calling 216-570-4738. If they still register, it is free to register. It is free for anyone to come and watch the events. There will be vendors there for different types of social and family services. There will also be what I call fun vendors there. There will be a presentation and a little performance by the Gladiator Girls. We'll have someone talking about radio broadcasting, how to get into that field of radio broadcasting. We'll have someone talking about music producing, how to get into music producing if you so choose that. Art and graphics and how to get into that field if they choose to. It is a great opportunity for our youth to come out and express themselves and to show to our youth that there are so many other ways to express themselves other than violence or destruction of any of the property. Please take the opportunity to come out and share and support our youth for this event, October 23rd from 12:00-5:00 at Euclid Square Mall center court. Thank you.

Councilwoman Minarik – Director Brett I think this is typical length so I hope you can get used to it. All I wanted to say was I wanted to congratulate Councilman Wojtila. Last Saturday night the UpStage Players had their fundraiser and he and his brother performed Luck Be a Lady Tonight and Councilman Wojtila was one of the backdrop guys, you did great. Thanks, goodnight.

Councilman Wojtila – A quick announcement, Thursday, Lakeland Civic Association has their meeting at Forest Park at 7 PM. There will be a Ward 6 meeting on October 19th, I'll announce that again next meeting, because that will be the day before that meeting. Our next Council Meeting is on the 18th.

The comprehensive compensation package, what Committee is that in? Executive & Finance? Do we expect to talk about that at the next E&F meeting?

President Holzheimer Gail – Yes, I think we'll be ready.

Councilman Wojtila – We all have work to do is what we said the last time on that. Thank you.

Councilman Langman – To Director Frey or Director Smith, has the contractor responded to our letter over on 248th and Shoreview? It seems like there's more activity and will they finish by the deadline?

Director Frey – I can tell you that they've responded. I don't know what their level of activity. They have responded they are categorically opposed to our insinuation that they're in breach of the agreement. We had a rather testy conversation today regarding rights and responsibilities under the agreement. I don't know relative to their intention to complete the project in the next several weeks or not, I don't know and we're kind of waiting for their response to our letter. We're waiting for some response from the bonding company.

Councilman Langman – Thank you. To the Administration, I'm not sure since Director Pietravoia isn't here tonight, but I thought an issue that we had talked about in the wintertime was resolved and evidently it wasn't, with late bills getting over to Shore to be paid timely because it is not, we're getting late fees. So has that been resolved or are they still, are we still incurring late fees on some of our utility bills?

Mayor Cervenik – I'm not privy to any bills or invoices being sent to Shore late. So if you could provide some more information, without just throwing it out here, I'd be happy to hear, but I had nothing about bills being late.

Councilman Langman – Okay because again Director Will we had talked about it last winter and thought it was resolved, but I talked to the Building Manager on Saturday and they're getting bills in an untimely fashion.

Mayor Cervenik – I'll talk to Ms. Kidder and see what's going on.

Councilman Langman- Okay, final question on Shore tonight. Where are we as far as the boiler purchase and installation from the city's standpoint?

Mayor Cervenik – They need to get three prices, just like you would have to do and they will submit that to us and at that point the Board of Control because the ordinance has already been passed, we'll react on that. I think there was some misunderstanding that Shore had the ability to just, Coral just had the ability to go out and purchase that, but because they're using our money, they are bound by the same regulations that we are. So, I would think next Board of Control or the one after that they will have the three prices. Again, I will ask Ms. Kidder and/or Peter Rubin about that tomorrow.

Councilman Langman – I appreciate that but it is a little disturbing that we passed the ordinance on September 7th and they weren't aware of what was required until just this last week.

Mayor Cervenik – I feel bad that they're not aware of it but from my point of view they should be.

Councilman Langman – If that delays the installation of the boiler, that is a problem. Finally, I do think that we could have used that grant in a better way to leverage long term development. With that, I will say goodnight and make a motion.

President Holzheimer Gail – Just one quick forward announcement. We do have another meeting, we can talk about it then, but Halloween is on Halloween night, Trick or Treat?

Mayor Cervenik – October 31st from 6:00-8:00. If I could Issue 51 which is our sewer renewal which the Councilwoman talked about, that is absolutely no increase whatsoever in taxes. It is strictly a renewal.

ADJOURNMENT

Councilman Langman moved to adjourn. Councilman Van Ho seconded. Yeas: Unanimous.

Attest:

_____ _____

Clerk of Council President of Council