

COUNCIL MINUTES
October 17, 2011

The regular Council Meeting was held on Monday, October 17, 2011 at 7:00 PM in the Euclid Municipal Center Council Chamber. Council President Holzheimer Gail presided.

Members Present: Scarniench, Jones, Minarik, Wojtila, Langman, Holzheimer Gail.

Excused: Gilliam (arrived 7:20); O'Neill; Van Ho (arrived 7:10)

Councilwoman Scarniench moved to excuse Councilman Gilliam, Councilman O'Neill, Councilman Van Ho. Councilman Wojtila seconded. Yeas: Unanimous

Others Present: Mayor Cervenik, Law Director Frey, CS&ED Director Pietravoia, Service Director Bock, Fire Chief Cosgriff, Police Executive Officer Capt. Brickman, Commissioner Beno, Asst. Law Director Sweeney, Clerk of Council Cahill.

COMMUNICATION

Council received the following communications:

A notice of hearing from the Ohio Division of Liquor Control re: S&S Lounge and Oliver Twyst liquor permit objection.

An organizational evaluation final report for the Euclid Police Department compiled by the Ohio Association of Chiefs of Police.

Councilman Langman – On the transmission from the Ohio State Division of Liquor Control, either Law Director Frey or Asst. Law Director Sweeney, can you explain exactly what happened? I wasn't at that meeting, but it appears that these were rejected because of timeliness and did we know that they would be rejected for that reason?

Asst. Director Sweeney – We knew that these would likely be rejected by the Liquor Control Commission because any objections to renewals have to be made thirty days prior to expiration of the liquor permit. In Cuyahoga County all liquor permits expire on October 1st, so we would have had to object by September 1st. The shootings at both of these bars both occurred after September 1st, one was on the 2nd and one was on the 14th, so we didn't even have notice, the situations didn't occur until after the 30 day expiration anyways. But we still wanted to bring out points forth to the Liquor Control Commission just for them to see how serious we were and these matters were serious. So we just threw it out there seeing if they would accept it and they did not.

Director Frey – If I could follow up. This was not a vain effort. If you recall both of the operators were here at the Council meeting so they were aware of the presentation, they were both individually met with the Police Dept., the Law Dept. to discuss the circumstances, lack of control of the patrons at their establishments and certainly both seemed genuinely interested in changing the behavior at their establishment. So while we knew that these were outside of the objection time limits, I don't think it was a vain act by any stretch of the imagination. In fact Ms. Sweeney's report indicates that there have been no calls for service since that date at either of those establishments. So maybe they are genuinely interested in correcting the issues that gave rise to the resolution by City Council.

None the less and we told both of the operators that we intend to proceed through the Common Pleas Court with efforts to have those establishments declared a nuisance under Ohio law. That finding if we're successful in obtaining it, will be sent to the Department of Liquor Control and ask that their license be revoked. We have these objections on file with Liquor Control, if we find any subsequent incidents, we will be prepared again before the next year, before September 2012 to send additional notification to liquor control. We're serious about changing the behavior at these two establishments.

Councilman Langman – That is a good thing, but I was just curious, was the potential rejection, was that explained to the Council?

Asst. Director Sweeney – I believe that it was. Capt. Brickman and I talked today and he does recall me saying that likely this would be rejected by Liquor Control Commission. I don't know if any council member specifically remember me saying that, but Capt. Brickman says I said that.

Councilman Langman – Okay because in your email responses, you don't say that. It was basically we knew this would happen; when I asked for further information was council aware, you said no. So I wasn't here so hopefully you did explain that thoroughly. Thank you.

COUNCIL MINUTES

Councilwoman Scarniench moved to receive the Council Minutes of October 3, 2011. Councilwoman Jones seconded. Yeas: Unanimous.

ADMINISTRATION REPORTS & COMMUNICATIONS

Mayor Cervenik and Police Officer Bonchak recognized David Moore, Katie Petrochic, and Mikali Marciante, students of Euclid High School involved in the Stand Up Against Violence Program.

Mayor Cervenik – For those interested in signing up for our various recreation programs, tomorrow night, Tuesday, October 18th, as well as next Tuesday, the 25th, there will be evening registration that will be open here at City Hall until 7 PM. Those of you who can't make it during the day, we're staying open a couple hours later.

Interesting notation, I do serve on the RTA Board and we have been talking about long term strategic planning and it was announced today that RTA received a federal grant of a million dollars for a number of items. One of those items which are very important is to look at extending the health line that is now on Euclid Ave. all the way to the Lake County border which would go through East Cleveland, a portion of Cleveland and over to our Lake County border. If you've been down there you can see that it will be a great, great economic boom for Euclid Ave. This is coming just in time as we have our Euclid Avenue TLCI task force working and creating new ideas to improve our Euclid Avenue area. That's very, very good news and as I get more information on that and progress I will let you know.

I would like Director Bock to talk about leaf collection, Lake Shore Blvd. and a few other items.

Director Bock – Leaf pick up has begun. We started last week on a limited basis. We now have all our equipment and all our men available out on leaf collection. We ask that you place your leaves on your tree lawn, not in the street. Leaves only, do not put branches, twigs. A lot of people like to clean their gardens out and put all those vines and plants out with the leaves. Those clog up our trucks, slow down the process. Please leaves only. Leave them on your tree lawn, we'll take them from there.

On Lake Shore Blvd., you'll notice our paving, we got a full day in today, Mother Nature smiled on us. We've now completed the first half of the main run from border to border. It looks like we'll get another day in tomorrow. We will make the turn and head back east and we need about 5 days of good weather. Everyone go home and pray for some dry weather. Thank you.

Director Pietravoia – I'm pleased to announced the long awaiting unveiling of our solar panels for both the Library and City Hall will occur at a ceremony on October 25, Thursday at 10:30 AM right here at City Hall Lobby. The reason for the location is a major part of the project was to have an educational component. We'll be unveiling a live in-time kiosk that will be permanently on display in our lobby, as well as in the Library lobby, that will tell the public and anybody interested how much electricity is being generated by the panels at any point in time. It will also feature other energy related information for the city's going green program. Mark you calendars, I hope you can join us for October 25th at 10:30 AM.

Wanted to make a general announcement at the last Planning & Zoning meeting, the Commissioners discussed the potential conflict for their next regularly scheduled meeting which is on Election night, November 8th. As a result of that discussion, we checked with the Clerk of Council and all agreed to move the meeting to November 15th. The November Planning & Zoning regular monthly meeting will be November 15th at 7 PM instead of November 8th and it will be Council Chambers. Hopefully this will avoid any conflicts for both the applicants and commission members as well.

A little teaser that I want to put out there, I didn't tell the Mayor I was going to do this, but as you know we've been working very hard to start the actual construction on the waterfront. I'm going to ask you at this time to hold Friday, October 28th, Friday morning, we hope to be holding a groundbreaking for the trails and the pier component of the project with details to be announced. It is fitting that we have State Rep Kenny Yuko here tonight who helped us to get funding for the lakefront project. Also in addition with his support and others we have nearly \$300,000 in ODNR grants that are going toward that project. Some of which have time limits which is why we're anxious to get the construction started before the season ends. Director Bock, I've been driving him crazy but he's been helping tremendously to try to keep everything on that timeline. At this point if you'll hold the date it will likely be late morning on Friday, October 28th and I will make an announcement once we confirm the date and location.

Mayor Cervenik – The official tax report you should have received, we were about \$12,000 ahead of our projections but for the year, we are through September 30th we have exceeded last year's collections by \$1,126,605. That is good news because that will help us, it is not going to totally help us but it will definitely go a long way towards assisting us in dealing with the cuts that we're facing with the State of Ohio. It should be able to keep us at least on an even keel with this year as far as the safety forces and recreation and some of our other programs. This is very encouraging. A lot of our larger companies are hiring and I think these numbers show that the work of the Development Department, administration and

city council in working with our businesses is making a difference. We need to keep trying and working harder so that these numbers continue to grow. Eight out of nine months we have reached our projections and it is my hope that we will exceed our projections over the last three months as well. With that, it concluded Administration Reports.

REPORTS & COMMITTEE MINUTES

Councilwoman Scarniench moved to receive the Fire Report of September 2011; Community Assets Com. Min. of October 5, 2011; Recreation Commission Min. of March 22, 2011; Monthly Budget Report thru September 30, 2011; Board of Control Min. of September 26, 2011. Councilwoman Jones seconded. Yeas: Unanimous.

COMMITTEE OF THE WHOLE FOR LEGISLATIVE MATTERS ONLY

State Representative Kenny Yuko – Formerly of Tracy Ave. Spend so much time in Euclid I feel like I'm a part-time resident. If I may just talk a minute about Issue 2 because it is a very important issue that is getting a lot of air time on TV. You've seen a lot of mistruths about it. There is a lot of misperceptions about it and at risk is the people who serve our community. Such as our council people who you serve, we have others who serve in other capacities. When that phone call comes in on 9-1-1, because you're house is on fire, usually those fire fighters responding. You've seen the stories in the newspapers and you've watched it on TV, you've seen the commercial about Great Grandma Marlene and her great-granddaughter Zoë. You saw the two different commercials but the one that I want to talk about is the one where Grandma Marlene says Vote No on Issue 2 and she gives you the reasons why. Not the one where they take her image and talk about asking to Vote yes.

They're going to tell you if you Vote No on Issue 2 your taxes are going to go up. They're absolutely correct, but if you Vote Yes for Issue 2 your taxes are going to go up and if you don't vote at all your taxes are going to go up. They're going to go up because we have a Governor who elected to take the State budget and balance it on the backs of this very body that I'm standing before right now. What you're going to see to our cuts to our local government funding, with the cuts that they're going to do with the Estate tax is going to have devastation effects on the City of Euclid and our ability to keep these folks employed.

What have they done? They have done tremendous jobs of providing services to our communities, protecting our citizens and we're about to embark on a winter season and we know that we're going to get a significant amount of snow here in Northeast Ohio and our service department will be up to the task. We know that as crime happens in all of our communities and it happens as a fact of life, our police are ready to respond in a heartbeat. They don't care if they're facing guns or whatever the case maybe, they're prepared to come in and do what they're paid to do and they do it without complaint. In return for that they've asked for collective bargaining rights. Something that has been in effect for 28 years and it has done very well. Prior to that we had numerous strikes and this last year we've had none, we've had five in the last three years and we've had 49 in the last 12 years, strikes as compared to over hundreds in a year and year and prior to Senate Bill 133 being passed in 1983.

The bottom line is collective bargaining works, it works for everybody. It is not a democratic or republican issue because I think you've seen with the safety forces and the teachers and everybody else that is involved, they all have one thing in mind and that's providing their services to our families. Whether it is our elderly, whether it is our children, whether it is providing fire protection and healthcare when they call with a heart attack situation or you're talking about controlling crime and preventing crime which is a very important part of our police department, but they've been there day in and day out. They talked about the fact that these people are way overpaid and they don't pay their fare share. You know what, they do pay their fair share and they've made concessions at a time when the economy dictated it. Why; because they care about the communities that they live in. These are our neighbors, these are not our enemies. These are people that we live with that we send our children to the school with their children. We attend church with them on Sunday. These are good, hardworking people and we just celebrated a ten year anniversary of September 11th. I cannot find a picture of watching policemen and fire fighters walking away from the danger that those Twin Towers presented. They marched in there like soldiers to try to save not only their own comrades but regular citizens of New York City, knowing doggone well what they were facing, knowing that their lives were in peril and of course we know the end results. Many of them lost their lives having tremendous affect on the entire community as well as their personal families.

This is a very important issue. I would urge Council to recognize the fact that we have a tremendous amount of public employees in the City of Euclid that provide a service to all of our residents day in and day out, they're not overpaid, they're not glorious people. They're nothing compared to what the TV ads are portraying them to be. In reality what they are is a core part of our community, we need them. I thank them for their services and what they do for us every single day because it is sometimes a thankless job but they're there for us, they're there for the entire community and I thank them for everything that they do. God Bless you guys and thank you for listening.

Mr. Bill Mastroianni – Euclid Fire Fighters Local 337, 25971 Lake Shore Blvd. Tonight I would like to speak to you again as why it is important to vote no on Issue 2. I'll start by saying as Kenny Yuko said, money is not the reason we're against Issue 2. Our unions have taken pay cuts; increases in healthcare; decreases in benefits and lost wages, we can never recover those. Why because it was the right thing to do. We did this through collective bargaining. We did this to keep our brother firefighters and police officers on the streets. Yes on Issue 2 will not give us a raise, it will not give taxpayers a break and reduction in taxes. It will not keep the citizens safe. It will do just the opposite. Issue 2 makes it illegal to negotiate over staffing levels and equipment. It will let the politicians decide what safe means. It will take it out of the hands of the professionals and the people actually doing the work.

This is not a money issue to police and fire, this is a safety issue. If Issue 2 is passed and that bell rings at 3 AM in the morning for a working house fire, we're not going to be asking what our next raise will be, we're going to be asking where that guy is behind us. If Issue 2 is passed, he may not be there because someone in Columbus sitting behind a desk decided he's no longer needed.

Ohio is a democracy, it is not a dictatorship. Governor Kasich did not have the right to remove people from a committee at the last minute who decided to think for themselves and who were not going to vote the way they wanted him to. You did not have the right to lock people out of the public from speaking at the State House and at the Capital when it was something that you did not want to hear. You did not have the right to punish hardworking citizens for your own personal political agenda. You did not have the right to ask citizens to pay their fair share of which most of them already do and exclude yourself from doing the same. You do not have the right to demand citizens make financial sacrifices at the same time giving your staff members \$20,000-\$50,000 raise. This is not shared sacrifice you preach, it is favoritism. Governor Kasich, how do you believe collective bargaining process cost governments money in favor of unions? Less than 2% of negotiations since 2008 even needed to use the resolution process. Among those over 80% of the rulings favored the administrations. Remember the resolution process is a neutral unbiased individual making the final decision. How can you say unions have the right to bargain over a few issues like wages when in the end the administration has the final say? This is not bargaining, it is begging. How do you plan on instituting merit pay with no idea of how to make it fair so things like favoritism and cronyism will not affect good people? Ohio is a democracy not a dictatorship.

Issue 2 opponents and proponents will spend nearly \$50 million on a campaign about reform and collective bargaining. Collective bargaining works in its current form. Public employees are willing to negotiate. Through the collective bargaining process State and Local employees have given back \$350 million across the State in the last two years. Unions have already saved taxpayers nearly \$7 million on new contracts that have included pay freezes and increases in healthcare just over the last six months since Senate Bill 5 was signed into law, all through the collective bargaining process.

Last time I was here I spoke about commercials being aired by Build A Better Ohio Support of Issue 2. Their statements about pensions and healthcare stating all they want is 10% contributions to pensions, if its to healthcare. Just to reiterate, nearly 94% of public unions already pay the 10% towards their pensions and many pay the 15% towards their healthcare. Euclid Firefighters Local 337 pay nearly 18%. There is a misconception out there that public employees collect both social security and pensions. Public sector employees do not collect social security. Public sector employees do not receive 401k like many private sector employees do. The Police and Fire Pension system only has police and firefighters in it. We are the only ones putting into it and we're the only ones collecting from it.

Now onto the next set of commercials being aired by supporters of Issue 2. This past Tuesday the Issue 2 Campaign started running an ad that uses Cincinnati Great Grandmother's words of support for firefighters on her message of No on Issue 2, and manipulated this footage to misrepresent her stance sinking to a new low. Marlene Quinn stated, who is dishonest and downright deceitful that they would use footage of me to try to play tricks and fool voters. If Build A Better Ohio needs to shamelessly steal great-grandmother's words and manipulate them, what else are they not telling you.

Governor John Kasich, the main pitchman for Building A Better Ohio said he doesn't run the campaign but what he does, but what they do is fine. So the take from this is Kasich is fine using deceitful methods as long as it is a means to his ends.

Secondly it maybe true he doesn't run the campaign personally but as the Columbus Dispatch reports Beth Hanson Kasich's Chief of Staff makes \$170,000 per year has taken a leave of absence to join Building A Better Ohio. She serves as a senior advisor whose primary focus is on media strategy. It also raises the question why taxpayers are paying this woman \$170,000 a year if her responsibilities are so inconsequential that she can take a leave of absence from her job as Governor Kasich's Chief of Staff. Firefighters and policemen

Councilman Gilliam moved to extend the time limit. Councilwoman Scarniench seconded. Yeas: Unanimous.

Mr. Mastroianni – Firefighters and police officers didn't get into these professions for the money. We do it because we like to serve the people. We do it to make a difference in the community. Yes, we make a decent wage, we earn an honest living. We risk our lives on a day to day basis. We do our job with no hesitation. Many men and women have paid the ultimate price for their service. All we are asking for is our voices to be heard at the bargaining table, not to be pawns in a political game. For these reasons I have just spoke of, we encourage you to vote no on Issue 2.

In closing, I would like to share a story my wife found on the internet that took place between a group of firefighters and a member of the public. The story goes like this. So you're firefighters. I wanted to do that when I was a kid. What do you guys make? What do we make? We make holding your hand seem like the biggest thing in the world when we're cutting you out of your car. We can make five minutes feel like a lifetime when we go into a burning house to save your family. We make those annoying sirens sound like angels singing when you need them. We make your children breath after they have stopped. We can make you survive a heart attack. We go out at 3 AM to risk our lives for people who have never met, we never ask for thanks. We make a difference, what do you make? Thank you.

Ms. Sandra Gilreath-Weber – A Mother's Touch Family Home Childcare and Pre School. I'm speaking on #9 in the Agenda. We wanted to be here this evening to ask you to approve the recommendations set forth by the Planning & Zoning Committee. On behalf of myself, Linda Mitchel, Rug Rats Unlimited on Wilmore Ave.; Brenda Assian, Positive Beginnings on Farrington. We feel that the industry in which we work is a type A family childcare facility, is being attacked based on one particular home who has received numerous complaints in regards to their operations.

When the city had problems with two bars, they did not go after all the bars or the whole industry, they took care of the businesses in question. We feel it is logical to go after the one in question, don't you? If we're not violating local or state laws, then why are we being attacked? Why has this even come to be? What is the reason for requiring such strict sanctions for the Type A family childcare homes?

The three of us are Type A family childcare homes and we feel we are the elite in the Cuyahoga County area. Why is that? We are all Star rated, which means that we operate a much higher standard than the State requires. Two of us are nationally accredited homes, which means we operate even higher than step up to quality. We receive many inspections. We have recognized curriculums, policy handbooks and childcare agreements that we use with our families.

I have lived in Euclid since 1993 and I have known many people care for nieces, nephews and friends' children, sometimes upwards of 8-10 children at any given time. Clearly they were in violation of State and local ordinances through the city but no one said anything about them. What is the city doing about these homes? In the City of Euclid we have 41 professional Type B homes; 9 licensed Type A homes and Lord knows how many homes operating privately. Of the 9 Type A homes, all are registered with the city. Please check your records on that. As per the codified ordinance, Chapter 1722.

Of the 41 Type B professional homes, only 19 of those are registered with the City as of August 2011. Four private homes are registered also. What happened to the other 21 homes that is supposed to be enforced for every childcare home? You are enforcing it for Type A homes, but not the others.

I have many solicitations here from Drug Mart, Craig's List, for private childcare services clearly these homes are not registered with the city, I don't have them on my list that I received from the Housing Dept. If you cannot enforce registrations properly then why are you trying to take on something bigger? What is the city trying to do to enforce straight across the board the ordinances requiring all facilities to be registered and why are the Type A homes the only ones being sectioned out here? Clearly the ordinance that was written in the 1950's requires amending in regards to in-home occupation wording. To include daycare home and to include non-resident employees so the childcare homes can be in compliance with the State guidelines for ratios of caregivers to children. It is time for amending as the times have changed drastically since the 1950's. I certainly know the city doesn't dictate how many employees Lincoln Electric or Euclid Heat Treating plant can hire. We want to follow State licensing laws and to do that professionally and effectively we must hire employees so we are asking you to please allow up to two non-resident employees.

To limit the capacity of children to eight is contrary to the State licensing laws that allow up to 12 children based on indoor square footage. Why do you want to limit the number of personal work vehicles in the residence? Clearly there are homes in the city with more than four, sometimes upwards of 6-8 vehicles in their driveways in their residential drives, are you limiting them? Are you bringing an ordinance to the table that says they can't park their cars in their drives? We would like to know the reason why you limited the vehicles and what the true reason is for limiting the number of employees.

I sent a letter to all Council on Friday, October 7th inviting them to come to my State licensed family childcare home. I received one email from Madeline Scarniench just letting me know that the adoptions would not affect the current homes and they would be grandfathered in. David Gilliam has already been to my home and I thank him for coming to see so he could better understand my position. I haven't heard from the rest of you. It would have been nice if you emailed me or maybe stopped by and took a look to see that we operate wonderful facilities for families and they rely on us.

Lastly I received what I believe to be a very threatening phone call on Friday in the late afternoon at exactly 4:23 PM from a member of the City Council, not the City Council, a member of the City of Euclid. This person questioned my business operations when clearly my business is not the one in question. I feel that this personal attack on my business is very low and unprofessional for the city. To that person I would appreciate you to never doing that again.

To sum this up, 8 type A homes are being punished for the actions of one. To me it seems as if we've never left grade school. How would you feel if it was happening to you? You haven't walked a day in our shoes as providers caring for children, working with the families daily and a lot of times into the nights. You need to see this from a business person's perspective. Nor have any of you visited our facilities to better understand our passion. You are trying to rewrite State licensing laws regarding capacities and other specifics. I don't know why but you are. Bring yourselves down for just a moment and remember that you're just like us with one exception that you're sitting on a taller bench right now but it doesn't make you any better than the rest of us. Our passion is the children we educate and care for daily and our passion drives us to be the best. Thank you for hearing us this evening.

Ms. Brenda Assian – I reside in Euclid. I'm with Positive Beginnings Childcare and Preschool program and operate a Type A home. I provide childcare to families who are in need of finding quality care for their children. I'm proud to say that I'm providing that care. No, I do not watch children, I care for them and I educate them. I actually prepare children for Kindergarten, that's what I do. I am a licensed, preschool teacher. My Type A home is accredited as Ms. Weber had mentioned. At the present time we are rated as a two star home and we're going up for our third star. My reason in telling you all of this is so that you know how important it is that my business is respected and hopefully appreciated. There's always a lot of talk about the education of the young children well this is where it begins. It begins with people like us educating the children, my colleagues and myself. I can't speak for all and therefore I shouldn't have to pay for the mistakes of all. When the city approved me and I was the first approved Type A home in the City of Euclid, they didn't approve me based upon everyone else, they looked at what I did and what my qualifications. That's what I would expect for them to do, not to look at me and look at everyone else and base what I do upon what they're doing. But look at what we're doing, look at what I'm doing.

I agree to provide quality care and that's what I'm doing right down to today. Please if there's a problem, I would appreciate it if you would go to that specific problem, not making everyone else pay for it. One thing that I would really like for the City of Euclid to do, it seems like there's a problem with the understanding of the rules and regulations of the State. I think what the City of Euclid should do is look into the rules and regulations of the State, get a better understanding of those rules and regulations before any decision can be made. You first have to understand what you are working with. Know what you're working with before you can make those decisions. That's what I'm asking for all of us is that you all first look into those rules and regulations, get a better understanding of what the State is actually requiring of us so that the City of Euclid can work along with the State and we can all work together. That's what I'm asking for today. Thank you.

President Holzheimer Gail – Seeing no other comments, we'll move forward with legislation and item #1 please.

LEGISLATION

Res. (389-11) UDE New Birth Auto 25200 Euclid Ave. First Reading

A resolution granting a Use District Exception pursuant to Chapter 1359.03(c)(13) of the Codified Ordinances of the City of Euclid to Reverend Michael Perryman, New Birth Auto, to allow a transit garage service in a U4 (Local Retail or Wholesale Store) Use District, located at 25200 Euclid Avenue, Permanent Parcel No. 648-54-006. (Sponsored by Planning & Zoning Commission)

President Holzheimer Gail – Councilwoman Jones has indicated that there is a chance she may ask that be waived at the next Council meeting, not this one, she still has some questions.

Councilman Gilliam – In light of all the individuals that are here tonight, #9 on the Agenda, Ord. (311a-11), I was wondering can we have a motion to move that up to #5? These daycare providers get up 5:00-6:00 in the morning to await the parents and they're here tonight and they would like to see what the outcome of the legislation is. I would just like to have a motion to move it from #9 to #5?

President Holzheimer Gail – There's also people here for Item #5 which is regarding Senate Bill 5, so why don't we move it to #6 if that's okay with folks.

Councilman Gilliam – Move it to #6, thank you.

President Holzheimer Gail – Were there any other comments about the First Reading?

First Reading.

Ord. 143-2011 (384-11) Land Bank Sale 20161 Ball Ave.

An emergency ordinance authorizing the sale of Permanent Parcel 642-22-087, 20161 Ball Avenue, from the Euclid Land Bank to Kevin and Maria Sufka for an amount of Fifty Dollars (\$50.00), as authorized by Ordinance Nos. 98-2010 and 101-2011. (Sponsored by Planning & Zoning Commission)

Councilwoman Minarik moved for passage, Councilman Wojtila seconded.

Director Pietravoia – Commissioner Beno is here this evening to report on the recommendations from the Planning & Zoning Commission.

Commissioner Beno – Acting in its role as Land Bank Advisory Committee at its regularly scheduled meeting October 11, 2011, the Planning & Zoning Commission reviewed the application to purchase land bank parcel located at 20161 Ball Ave. All adjacent parcel owners were notified of the hearing. There were no competing proposals. The proposed price is in conformance with the pricing policies adopted by City Council through Ordinance 101-2011. The property also meets several of the conditions adopted as land bank policies for price reduction below the Auditor’s estimated value. The applicant owns the adjacent lot abutting the land bank parcel. The transfer will reduce our long term maintenance costs. 20161 Ball Ave. is less than 5,000 sq. ft. in size. The purchaser has agreed to consolidate this lot into their existing lot eliminating the non-conforming lot and the applicant’s property is current on its taxes and has no current violations. I’ll be happy to answer any additional questions, the purchaser is also here tonight.

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

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

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

Ord. 144-2011 (385-11) Land Bank Sale 467 E. 222 St.

An emergency ordinance authorizing the sale of Permanent Parcel 643-05-056, 467 East 222nd Street, from the Euclid Land Bank to Robert M. Cander for an amount of One Thousand Dollars (\$1,000.00), as authorized by Ordinance Nos. 98-2010 and 101-2011. (Sponsored by Planning & Zoning Commission)

Councilman Van Ho moved for passage, Councilman Langman seconded.

Commissioner Beno – On October 11, 2011 the Planning & Zoning Commission reviewed an application to purchase land bank parcel located at 467 E. 222 St. The adjacent parcel owners were notified of the hearing and there were no competing proposals. The proposed price is in conformance with the pricing policies adopted by City Council through Ord. 101-2011. The property also meets several of the conditions adopted as price guidelines for reduction below the Auditor’s estimated value. The applicant owns the adjacent lot abutting the land bank parcel. The transfer will benefit the city by reducing long term maintenance costs. The lot is over 5,000 sq. ft., it is a conforming lot with building rights. The offer is in conformance with the base price adopted by City Council. The applicant’s property is current on its taxes and has no current violations. The applicant is here this evening to answer any questions if there are any.

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

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

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

Ord. 145-2011 (386-11) Land Bank Sale 24391 Mavec Ave.

An emergency ordinance authorizing the sale of Permanent Parcel 643-29-039, 24391 Mavec Avenue, from the Euclid Land Bank to co-applicants Sophie D. Holmes and Michael M. Johnson for an amount of Two Hundred Dollars (\$200.00), as authorized by Ordinance Nos. 98-2010 and 101-2011. (Sponsored by Planning & Zoning Commission)

Councilman Van Ho moved for passage, Councilman Wojtila seconded.

Director Pietravoia – Before we get into the third item I just wanted to comment briefly on the first land bank that you acted on and the one that is currently before you. In Section 2 you'll notice that you are also approving either the lot split or consolidation. Those are normally handled in the items above the legislative agenda. But because of the action being combined with a sale, we included them in the ordinance and I just wanted to point that out to make sure Council was aware these will not need to come back. They will be checked by the Engineering Dept. once the official plats are available and as long as everything checks out they'll proceed automatically then to consolidation without needing to come back to Council for a second action. I'll let Commissioner Beno explain the third item.

Commissioner Beno – On October 11, 2011 the Planning & Zoning Commission reviewed the application to purchase the Land Bank parcel located at 24391 Mavec Ave by two adjacent owners. Similar to the other cases, in this case the applicants own adjacent lots abutting the land bank parcel. The two owners are cooperating to split the lot and consolidate it into their two respective lots. The transfer will benefit the city by reducing long term maintenance costs and the applicants properties are current on their taxes and have no violations. The applicants are here this evening if there are any additional questions.

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

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

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

Res. 146-2011 (392-11) Urge Repeal Senate Bill 5

A resolution urging the repeal of Senate Bill 5, a bill limiting the right of Ohio public employees to collectively bargain and which weakens employee rights in the work place. (Sponsored by Mayor Cervenik and Councilpersons Scarniench and Van Ho)

Councilwoman Scarniench moved for passage, Councilman Van Ho seconded.

Councilwoman Scarniench – First of all I would like to thank the Mayor and Councilman Van Ho for adding their names to this. I don't think there is any more that needs to be said. You already heard from State Representative Yuko and also from our Fire Union. If you saw yesterday's Plain Dealer they had this all kind of worked out very nicely. When you look at it and you start reading it, it is like okay we've got Little Hitler living down in Columbus. That's not what we are, we are not a dictatorship and that is exactly what it is. Our union has told me every time they go to arbitration they've lost. Collective bargaining works. It has been done right, there maybe a few things in there I agree with but overall no I don't because we're not giving the people the right to do what they believe is right and I think that belongs right here in our city doing what we feel is right. I would urge every voter in the City when you go to the polls, when you get your absentee ballot, make sure you're marking in the right place because they are very confusing, to vote no on Issue 2.

President Holzheimer Gail – I'm going to ask that we strike the reference to Hitler from the record because we should not use this forum to, we didn't say another name, who we're calling that, but I think that would be out of order.

Councilman Langman – It is not whatever, someone of the Jewish faith when it is used in that context highly offensive. The Governor is not a dictator and he has nothing to do with that individual. You have to be much more careful with the terminology. Thank you.

Councilman Van Ho – Part of the reason that I signed on to sponsor this is to me this is real common sense. This is a decent thing to do. We've got people out there as our firefighters unions said, risking their lives and we've got the other not so glorious people that's fire people that are entitled to a decent living. This is nothing more than the opening of breaking unions. Let's break the public unions first and then we're going after the private ones. You're already starting to see some of that being talked about.

I break it down real simple. I believe my firemen's union better than I do a guy that used to work for Lehman Brothers. So I would just ask that everyone support this because I think it is the correct thing to do. Our people should be entitled to collective bargaining, the same as people that work for a lot of major corporations.

Mayor Cervenik – As I mentioned earlier in my reports, we are a little over a million dollars ahead in income tax collections last year and we're going to need every penny of that just to break even. This could be very tempting for administrations to say hey I could probably get another million in forced, not even concessions just forced dictates by this law by Senate Bill 5. This country really has been built upon fair negotiations and good faith negotiations. I know in my years as Mayor we've had that, we will continue to have that. I have had just recently conversations with both the police union and the fire union about some changes in their contract that can be very beneficial to us, even though their contracts are not up, we have been talking about that. I think we all know that for safety purposes we need to be properly manned, properly trained and properly equipped. In order to continue to do that in these tough economic times, we all do need to give a little. From what I've seen that's what is happening. So forced legislation like this I don't feel is good for the moral.

On a side note, if in fact Issue 2 was to pass if the yes votes prevail, I think you would see a tremendous amount of retirements, tremendous amounts of payouts all in one year, all in 60 days. Even more so than the financial part of it, we would lose a tremendous asset of the experience of our long term firefighter all at one time. I don't think that is good for the department. I don't think that's good for the residents and I don't think it is good for the new firefighters and the union members coming in. I support this legislation wholly and firmly believe that our unions will negotiate and I give them my word I will negotiate fairly in coming up with the resolution.

President Holzheimer Gail – I, too, will support this and would like to add my name as a sponsor. Primarily the main reason I think much has been said already. Just to put it very simply, collective bargaining means collective. I don't believe this was done collectively and I think we will only make improvements to our system by working together.

Councilwoman Jones – I would like to have my name added as a sponsor also. While I don't agree with most of what Senate Bill 5 is stating, I do want to encourage residents to get out and vote. Don't think that your vote is not going to count because every vote does count. If you have someone that maybe on the borderline of voting or not, even if they just come out to vote for this issue, please encourage them to do so. You still have time to vote by mail or absentee as it is called. You can go down to the Board of Elections and vote in person, but do take the opportunity to get out and vote and make your stance on this issue as well and vote no on Issue 2. Thank you.

Councilwoman Minarik – Again the language used in this particular resolution, I do not support. We already passed a resolution opposing Senate Bill 5 and now this is coming to play. I'm curious as to why City Council has not bothered to put forth a resolution supporting the levy. This one, perhaps it is because the unions are involved, I don't know.

As to some of the comments made about Issue 5, only 21% of the private sector receives a pension. The bulk of people in the United States live on Social Security, they have not had a raise in three years in that social security. The teachers in Euclid pay 5% into the healthcare premiums. Two years ago it cost the school district, the taxpayers \$4.9 million to cover the teachers' health premiums. There is much that is good in Senate Bill 5. Some of the things that are not good is that it puts so much stuff into one bill. It is like a pork barrel project, you throw in all that other stuff.

One of the things that is bad and this is probably the biggest reason to vote No on Senate Bill 5 or No on Issue 2, is because it allows if there is a problem in arbitration, it puts the final say in the hands of this council and a city union. Personally I'm not qualified to arbitrate with a union. I think that is a very, very dangerous position. I also think it opens the door for corruption to persuade politicians who have the final authority on a union agreement to vote one way or another. Because we've already done this before, because in the past this Council has always supported school levies and now they're not even stepping up to the plate on that. As I said, the process is flawed that forced this bill across. I'm going to vote no on this resolution, but read the bill, there are some good things in it. If the bill should fail and if the vote goes down, if Issue 2 is voted down, there are elements in that bill that should and could be brought back to the table to be discussed but they should be done one at a time, not in a huge, huge package. Again it is the language of the resolution that I oppose. Thank you.

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

Roll Call: Yeas: Gilliam, Scarniench, Jones, Wojtila, Van Ho, Holzheimer Gail

Nays: Minarik, Langman

Passed.

Ord. 147-2011 (311-11) Amend Code Home Occupations

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 Councilpersons Wojtila, Langman and Scarniench) (Recommended for passage as amended by Planning & Zoning Commission)

Councilwoman Scarniench moved for passage, Councilman Langman seconded.

Commissioner Beno – On October 11th the Planning & Zoning Commission reviewed Ordinance (311-11) and recommended a set of four amendments which appear in the copy of Ord. (311a-11) which is being presented tonight. The amendments make four following substantive changes. Section E2, the amendment increases the proposed number of permitted non-household employees from the original ordinances proposed increase of one employee at any one time to two employees at any one time.

Section E9, the amendment will increase the proposed permitted vehicle allowance from one ¾ ton vehicle to two ¾ ton vehicles and would eliminate any requirement that these commercial vehicles be stored in a garage.

Section E12, the amendment completely eliminates any time based restriction on when people can visit a home occupation for business purposes.

Section E14g, the amendment increases the proposed limit on numbers of children in an in-home based daycare from six to twelve.

I'll be happy to answer any questions which Council may have as they arise.

Councilman Gilliam – Commissioner Beno could you just repeat, I believe it is Section E12, P&Z has stricken from the record that no visitors in the home occupation shall be permitted between the hours of 9 PM and 6 AM, that is their intention?

Commissioner Beno – That is correct. The entire clause E12 is recommended as being stricken, which would eliminate any restriction on the hours for people coming and going from a home-based business.

Councilman Wojtila – I would like to speak to this issue. I did watch the P&Z meeting from last Tuesday, unfortunately I was unable to be there. A couple of comments were P&Z was looking for us to be more open with them and to let them know what we are thinking. From my position what I'm thinking when I was a co-sponsor of this legislation is that this was first brought to us a little over a year ago, at the same time I had been getting complaints about a daycare in Ward 6 that was causing problems. To me the biggest item was the 12 children or clients, letter g of #14. Based on the size of households, based on the size of our yards, I don't think 12 children is an appropriate number of children to be in a daycare next to a home. Throughout the City of Euclid, throughout my ward, the lots are narrow, the lots are small, I can't imagine my neighbor on all four sides having 12, at least one of them having 12. To be it is just too high of a number from a practical standpoint. That's not to say you can't seek a variance and request additional beyond the six if this gets approved. That can be done like any other Planning & Zoning item.

That in addition to all the other positives not related to daycare is another reason why I was co-sponsor of this. Right now we have one current paragraph letter E that talks about home occupations. Severely outdated and in need of modernizing which this legislation does. So from where I'm coming at, it is very simple. That number is too high to me, that's why I'm a co-sponsor of this. A couple of the other items that were brought up, I'm not attacking any Type A homes. I'm sure the people that spoke have fantastic daycare establishments. I'm certainly not attacking the Type A daycare homes. I don't think that I'm being punitive, that's certainly not the intent of this legislation, it is strictly from a good legislation standpoint. I think it is reasonable and I think it is appropriate. Thank you.

Councilman Langman – If we change what Planning & Zoning eliminating the hour restrictions especially for daycares is problematic. We have commercial business regulations that regulate the hours of operation for our commercial districts. Like Councilman Wojtila, I've received calls over the years for my wards about daycare centers when it is pick up time there's lots of noise, lots of traffic and it creates an undue burden on the resident neighbors that are trying to enjoy their property. Limiting the hours of operations could lead to pick up issues deep into the evening and early morning. Again we don't have enough resources to police that type of nuisance activity and that does place an undue burden on the neighbors that are trying to go to work, have other issues and are trying to sleep. It does happen, I'm sorry but it does. You have pick up issues. I've gotten those calls over my ten years on council.

Ideally I would prefer to separate out the daycare issues into a separate section. But obviously that didn't go anywhere so we have to deal with what is. The change Planning & Zoning made on that element I cannot support. Thank you.

Councilman Van Ho – I have one question and this goes around the ladies that came up who were speaking about their type A. If I remember right Law Director Frey, didn't you say they would be grandfathered in and it would not be affected by the six limit?

Director Frey – Yes that is what I had indicated to City Council. We have nothing in this regulation that would make something that is legally operating today illegal.

Councilwoman Jones – Director Frey can you elaborate on the grandfathered in process? If this is passed and put in place, let's say two years down the road there is an issue with a daycare provider and we come back to this and they said that they had a daycare established but they were not registered with the city because whatever the requirements are the city requires them to register and from my understanding from Mr. Beno not every daycare is registered through the city. So how is it determined, or how will it be determined that someone is grandfathered in? If that's not included in this ordinance, a copy of those list of daycares that will go along with this? I'm talking about the future, how is that going to be handled?

Director Frey – Those facilities that are licensed with the City of Euclid and can establish that they have been an ongoing operation prior to the enactment of this legislation would be allowed to continue to operate. Those that have operated without registering with the city would not be grandfathered in. Their rationale for that is if you were properly registered with the City to operate the business we're not telling you that you cannot continue to operate that business. We are saying if you were not properly registered then you were in fact not in compliance with our code at the time and would not get the benefit of being grandfathered.

Councilwoman Jones – I think it was nine.

Director Frey – There are nine Type A homes.

Councilwoman Jones – Those nine Type A daycares are now grandfathered in if this passes. So down the road there would be some reference, if there was a question about these nine daycares, even though it is not stated in this resolution.

Director Frey – If a business was attempting to establish that they were subject to the grandfathering if you will, it would be their burden to show that they were registered and operating at the time that this ordinance went into place to take advantage of that grandfathering. We have a list of the nine that are Type A homes that are registered. We know who those are and that's presumptively sufficient to allow them to be grandfathered in.

Councilwoman Jones – My other question is and I'm not sure who can answer this Director Frey or whomever, from what I understand all of this came out of and it was mentioned that there was a daycare, Councilman Wojtila mentioned a daycare in his ward that was having a problem. Has that problem business owner been approached as far as the problems that they are causing to the surrounding neighbors? If so, my question for asking that is, if this is passed and put into place, is that same problem business owner going to do the same thing? I understand this also will handle not only daycares but other businesses, I would like to see and I think it was mentioned by Councilman Langman the daycare section split. I think there are other requirements and restrictions that are for daycares and not necessarily other businesses. I spoke with Commissioner Beno about this splitting the daycares out. I understand for just overall home occupations there needs to be some regulations. I don't want us to regulate too tightly where we're leaving out some provisions that need to be in place. If this is passed, I would like to see us go forward with different types of regulations for daycares.

Director Pietravoia – I wanted to comment and then Commissioner Beno can answer the question about the or Councilman Wojtila may want to comment on the problems that were occurring in his ward. I just wanted to comment briefly that this is why the process is so important. I know it has been frustrating for everyone because this has gone on for a long time. But the dialogue that has occurred as a result of the process is leading us in a direction, if I'm hearing correctly, I spoke to Councilwoman Minarik this afternoon, heard from Councilman Langman and now Councilwoman Jones that you would like us to take a stab at separating out the daycare regulations from the rest of the home occupations.

This is our third round, I think all of you are aware of that. When this was introduced it was on the hope of several council members that there could be a compromise or consensus on the daycare and it could stay within this ordinance. That's why we did not take the time or energy to try to separate it out. If we are at that point and I don't want to assume that yet, but if we are, we will work with council to accomplish that. At this point if Commissioner Beno has a comment on that specific daycare, I'm not sure if he recalls off the top of his head.

Commissioner Beno – In regard to that specific daycare by recollection is that we did not actually raise that to the level of issuing a violation notice. We discussed it with the property owner and there was some change in the behaviors but it did not rise to official enforcement.

Councilwoman Jones – One other question, at the last meeting we talked about updating the applications for daycares, has that been done as far as the number, now they'll only be allowed six unless they come to P&Z for a variance. Has the application been updated so that someone who is filing out the application will know upfront?

Director Pietravoia – We can quickly and easily do that through our word processing program but we have not yet done it where we're waiting for the outcome of the legislation. We did already have one example on the existing application where we pointed out to applicants if you have actually under current code if you have even one outside employee that is not a member of the family, that would require a variance and that was already noted on the application and there were instructions to the applicant to pursue an application with Planning & Zoning. We could do something similar if the six level of children is passed, we can note on the application that if you plan on having more than six, that would require a variance from Planning & Zoning and provide the instructions to make an application.

Asst. Director Sweeney – I do want to comment on Ms. Weber's comment that not all daycares are registered and it is just like the rental properties in the City, unless we're made aware of it through some means, we don't necessarily have them all registered. So she said she has a list of properties, I'd love to get a copy of that, so then once our new forum is together and ready to go we can get going on getting all the daycares registered in the city.

Councilwoman Scarniench – I was at the Planning & Zoning meeting and it did get very heated. People think that we're trying to do something underhanded and that was never the intention. I've said it here and I've stated it there a few times, this whole thing started because when I was on Planning & Zoning there was an issue and it had nothing to do with daycares. We saw that we really have no regulations because our regulations right now say that there is no such thing as home occupations in our home, we have residential areas. It was decided that we were going to work on this. It wasn't until it got to Planning & Zoning that they brought up the idea of the daycares. I have no problem with taking that out, but my question would be to Director Frey, first of all, any change that we make other than what we have would mean it goes back to Planning & Zoning, is that correct?

Director Frey – Any change that is not part of (311) or the amendments that have been suggested by Planning & Zoning, any other change to this would have to go back to P&Z.

Councilwoman Scarniench – Having said that, I am totally against the amendments that they're trying to make. I would suggest that we would go ahead and vote and I will make the motion. But I would also suggest and I'm not exactly sure if it would be Councilman Van Ho's or Councilman Gilliam's committee that we could have a committee meeting and sit down, bring in the daycare folks and see what we need to do to make this right for them. It can be as simple as daycares fall under the State guidelines and go from there. But it would be that simple I feel. I feel it is very important that we go ahead with this, it has been for two years. Remember this is residential. It is about what goes on in the residence. It doesn't matter how many cars you have in your driveway because you're a resident, you're allowed to. But commercial businesses have to be run in a certain way. I know on my street I had a gentleman who used to bring their trucks, they had trucks over there all the time for their heating company and the neighbors yelled about it all the time. You're not allowed. People want to look at their yard, at the neighbor's yard, they don't want to look at these commercial pieces of equipment. That's all this was about. It is a beginning. This is totally a beginning to something that we haven't had. We can change it, we can look at it, but I think it is very important to move this forward. At this time I would like

President Holzheimer Gail – There are a couple comments before you make the motion.

Councilwoman Scarniench – Okay, I'll wait.

President Holzheimer Gail – I do want to just make sure, I think it is important for people to know what is on our books currently. What is on our books currently as in the single family home district an accessory use in residential district. The important thing is this is residential district. This is where you live, where you are in your neighborhood. Of course you're allowed to have a house, but the specific section that talks about businesses says, a store, trade or business shall not be permitted as an accessory use except that of an office of an physician, surgeon, teacher, lawyer, dentist or musician maybe located in the dwelling or apartment used by such physician, surgeon, teacher, lawyer, dentist, musician, as his/her

private residence. It goes on to say that no other person other than the members of his/her own household can be employed in such occupation and a few other things. As it is right now and this was passed in 1967; Council and the administration realized that this was outdated.

Many people do have businesses in their home and have it successfully. Our intent and my intent is that when you buy a house on a residential street, you're assuming you're living on a residential street. You don't want businesses all over your street or else you would have bought a house in a commercial district.

In terms of permitted uses, it does talk about home daycares, but it talks about family daycare home Type B is a permitted accessory use in a residential district; that limits it to six children. That's what's in our code at the moment. It does not talk about up to 12 children, and that is a State standard, you're allowed to have a Type A home up to 12 children under State guidelines. Our current ordinances talk about, as a permitted use in residential family daycare home Type B.

I want to go back to the fact that this was not meant to be about daycares. The daycares got added in. I will support the initial version of our ordinance without the changes to Planning & Zoning because I think it takes us a step forward, it allows one employee, it allows one car, it allows up to six children. I would agree that our next step should be looking at daycares. I've been to Ms. Weber's daycare, I've seen it. She runs a very nice daycare. She has the right space but I think you will admit and I don't want to speak for her, that not every home in the City of Euclid is equipped for that. Looking at the street that I live on, everybody think about the street you live on and think about your house next door to you. As a rule, do we want to allow every house, every house would not have 12 children, but would you want to allow every single house in the City of Euclid to be able to have a daycare with 12 children, or have a business with people coming and going with up to two employees.

I think we need to make a step, we need to make a change, but my preference is to do it a little slower, let's allow one employee, let's allow one car and see how it goes. The variance system works. We have fence variances, we have building variances every time on Planning & Zoning. I'm okay with the house that can have up to 12 kids if they're going to show me that it is suitable in that neighborhood and won't impact the residential nature of the neighborhood. Ultimately our responsibility is to protect that zoning district of residential neighborhood. Of course there's exceptions, of course there's people who run successful businesses. There maybe people who come for a variance to say I want to have two employees and it is not going to impact my neighbors because, x-y-z. I would support that but as a general rule for our neighborhoods, I think our original version is a better step and that is what I would support.

Councilman Gilliam – Just a couple of quick comments, not quick. If in a perfect world we were to grandfather the nine, we would still be grandfathering in the problem Type A home, because that's one of the nine. The issue that I have is that we just can't blanket this but at the same time we have to look at each particular instance. Of course, our accessory uses need to be updated and daycare should have never been provided in the first place because we have a business code for daycares and there is also State legislation for daycares.

In regards to any problem daycare, any problem daycare, it clearly states in our ordinances, Chapter 1722 what they're required to do. It also clearly states that a person can be fined up to \$1,000, imprisoned not more than six months for each offense. Has that been done with any daycare, specifically the one that has been in violation and has caused this particular conversation?

If we grandfather these nine daycares, if one decides to move, now we're down to eight. If one decides to cease business, now we're down to seven. That's not conducive to trying to grow business within this community. Many people are going back to the home and trying to create income in various different areas because that is just something, being laid off, down-sized, whatever, they're able to do that as long as they do it legally and as long as we enforce it and not waiver on the law, we have a check and balance system.

We have a State law that at least nine homes in this city had to follow. Inspections, regulations, in addition to what we imposed upon them as being registered. My concern is that this law is too restrictive initially. The restriction should be on the individual operator who is violating our ordinances. Now if we were to separate daycare from this, there are some things that I truly like in here. But I know for a fact that if any Type A home, in which we have nine of them, I believe there is about 36 in the County, I don't know of any other community that's having this argument. I don't know and I haven't heard from anybody on either side of this, saying Garfield Hts., or University Hts., or Bedford Hts., is having the same issues. This legislation came out of our best knowledge and our best use, but I think the reality of it is, including daycares, specifically Type A daycares who have been certified by the State, that stand in good standing that have been graded by the State as being a high performer, some have been nationally rated, are we going to minimize the opportunity for that to happen again because it is quite possible. These ladies work together and could potentially train an individual to meet that standard and we won't have any issues.

The previous legislation, I think it was E, I was totally against. Now Planning & Zoning has changed some things to a (311a-11) and the only thing I have a difficult situation with right now is removing #12 talking about no visitors to the home occupation shall be permitted between the hours of 9:00 PM and 6:00 AM. Personally, I don't want a third shift home daycare provider in this city. I'm going out on record saying it. I do not want a third shift. Preferably home daycare would mean between the hours of maybe 6:00 AM and 6:00 PM, or 7:00 PM if that makes it fair.

The only thing that confuses me the most is that while we're trying to limit the potential of increased Type A daycare providers, we specifically say in our ordinances that daycare homes is any home where a child daycare as defined by the Ohio Revised Code 5104 is provided; this includes but is not limited to Type A and Type B homes. So we define it according to the Ohio Code, but then we walk away from it when we're trying to mandate how we're going to regulate these homes. To me it is very confusing for an individual to be allowed by the State, who is in good standing and if they want to move to Euclid and do the same thing, then we're putting a stop-gap in place for that. I haven't heard these homes have excessive police calls, fire hazards, they do get inspections I believe. The neighbors that are calling on that one particular home, excuse my language but bash that home and make them comply. I have no problem saying that to the owner. It is the person who is causing all these problems has never shown up because she knows why.

I'm not going to support the previous version and I would like to see the two separated. Director Pietravoia has brought up a very good argument. I don't think that we can come to a conclusion on this but I think that maybe we need to separate the two. I'm willing to defer to Councilwoman Scarniench's situation and vote on this up or down. I feel like at this point in time we're doing too many restrictive things. If we run into a groundswell we can still nip it in the bud. As far as seeking a variance, Planning & Zoning has the option of interpreting things a little bit different than Council and obviously we've seen that. The reality of it is, there could be some situations where P&Z interpret the law different which could impede a good person from coming in and moving, interpret it another way, have another bad case come in. As far as I'm concerned, the home in question needs to be addressed by the city and we can look at the legislation from a different angle. That's my comments, thank you.

Councilwoman Minarik – I look at this from a different angle. I'm not really looking at the daycare thing, I'm seeing it from a business person's angle that is not involved in daycare and I think 1311, the original is very, very restrictive. The fact that the home based business when they have to have their car parked in a garage and the garage door has to be closed, okay, vehicles used as an accessory to home occupation must be stored in a garage with the door closed. Rather restrictive to a home based business. No visitors to the home occupation between 9:00 PM and 6:00 AM. We are in a global economy now. I know people that get on their computers at 9:00 PM at night because they're dealing with Asia. They can't afford not to have those hours of operation. I discussed this with Director Pietravoia this afternoon.

I have so many problems with this. I have a friend who had to sell his building because he was downsizing. He is bringing his business into his home. Fortunately for him he doesn't live in Euclid, or he'd have to lay off three workers. Is that what we're trying to do in this business friendly city of ours, is to restrict the growth of small business? That's exactly what this does. At least four council people have said they would love to have home daycares separated out. That's easy to do. If we have three votes that say no to (311a-11) the bill dies. At that point we start all over and we can begin doing that. It only takes three votes and then we can look at these as two separate things.

I believe Bill Gates began his business in his basement. God Bless him he didn't live in Euclid because as soon as he got an additional employee, he'd have to move out of the city or rent a building. This ordinance (311-11) is not business friendly. It does not treat businesses the same as it treats residents. I know we're talking residential neighborhood. But as an illegal home-based business person, I think I'm the only one the city knows about and that is only because I continue to tell you this. I maintain a residential feel to my home-based business. When we pledge allegiance to that flag, we talk about liberty and justice for all. That is not just all homeowners. That is also the businesses. When we allow a resident to have five cars in their driveway and we don't allow a home-based business to have more than two, that's not justice for all. When we take the profit taxes of a home-based business, and then restrict it and tell it to park its car in a closed garage, you can't fit a car in my garage, I've got too many tools in that garage. That's restricting my American right to earn a living.

When we as a Council begin legislating because of annoyances and not because of nuisances, we are over stretching our bounds. We are a legislative body meant to promote health and welfare. We cannot take care of every annoyance in this city, but we have rules on the books to take care of nuisances.

Commercial vehicles parked in driveways has been illegal for years. We don't need a new law to take care of that. Enforce the current laws. That's it, I do not think (311a-11) is within our ethical rights as a legislative body. As far as the daycares, I have no problem with in-home daycares. I have a problem with restricting free enterprise in this country. In a down-sized economy, we need all the employment we can get. Anything that we do to discourage the entrepreneurial spirit of Americans is wrong and we are very arrogant to think that we should be able to do that. Thank you very much.

Councilwoman Jones – If this is passed tonight we talked about daycares being able to come back for a variance. Is any type of business allowed to come back for a variance, if they have more than one outside employee?

Commissioner Beno – All businesses, all residents are always able to file appeals on any denial of any permit or any administrative order. Nothing in this restricts anyone's right to appeal.

Director Pietravoia – I just wanted to comment, Councilwoman Minarik and I ultimately agreed to disagree because we couldn't quite come to the same point in our opinions. I do want to point out that I believe our current code definitely restricts the right to operate a business, particularly for Euclidian's and we're moving in the right direction by taking a model code that has been adopted by many other communities, years before Euclid is attempting to do this, is moving in the right direction. Is it perfect? Maybe not but my sense was that we had support from a majority of Council, I'm not so sure after tonight's discussion, to move in that direction. As you point out Council President to perhaps put this in place as a first step and work with it, experience it for a year or so and then if necessary come back and make it even more liberal if that's the desire of Council and the community. We will do whatever Council desire is at this point. But I think it is important again to emphasize as you did that this was not meant to be a discussion about daycares. It evolved into that, it is an important aspect of it and we're willing to make an attempt to see if we can easily separate that out. Or, we can go forward as it is written, test out the code and come back and make amendments at a later date if we feel that it is not working. To me those are the two options that are in front of you tonight.

Councilwoman Jones – As far as grandfathering in, we talked about the daycares grandfathered in. Are other businesses allowed to grandfather in as well? Did I ask that question?

Director Pietravoia – I don't believe you asked it quite that way. It is a little more difficult with other home occupations because they are not currently registered in any way.

Councilwoman Jones – Let me ask this question, are there other businesses that register with the City of Euclid other than daycares?

Director Pietravoia – Not for a home occupation, no.

Councilwoman Scarniench – As I said before, Councilman Van Ho, Councilman Gilliam call a meeting and we can sit down and have legislation written up, as simple as that, within the next couple of weeks. But I think it is important that we move this forward. As I've said we've been talking about it for two years and I would like to go ahead and make a motion.

Councilwoman Scarniench moved to reject the recommendations of Planning & Zoning Commission that Ord. (311-11) be amended and move that (311-11) be adopted as originally proposed. Councilman Langman seconded.

President Holzheimer Gail – Clarification on the motion, Director Frey.

Director Frey – If the motion from Councilwoman, second, would be to adopt (311-11) not (311a-11) that's before you in your packet tonight, it should have been (311-11) that was before you. It would require because it's disapproving of the recommendation from Planning & Zoning would require three-quarters of the Council to vote to adopt (311-11); that means six of the eight of you would need to agree if (311-11) was to become law. If six of you do not agree with that motion from the Councilwoman then that would fail, this ordinance would fail to be enacted.

Councilwoman Minarik – So basically Councilwoman Scarniench's motion is that we approve the original version which is (311-11)?

President Holzheimer Gail – Yes.

Councilwoman Minarik – With none of the Planning & Zoning changes. That requires six votes to pass?

President Holzheimer Gail – Yes.

Councilwoman Minarik – If it does not get six votes, everything dies and we start over again?

President Holzheimer Gail – Yes. We had the second by Councilman Langman. Do we need a motion to close debate too? Yes.

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

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

Councilman Gilliam – So we're voting on?

President Holzheimer Gail – (311-11), the original version.

Roll Call: Yeas: Scarniench, Jones, Wojtila, Langman, Van Ho, Holzheimer Gail
Nays: Gilliam, Minarik

Passed.

President Holzheimer Gail – The follow up will be to work on a separate piece that would address daycares specifically. It is the intent of Council to do that through working with Director Pietravoia, Commissioner Beno and the Law Director. That can begin tomorrow for those interested in getting that drafted.

Councilwoman Jones – I would like to encourage those that are here that representing the daycares that you can send some of their suggestions to Commissioner Beno as well. Thank you.

Res. 148-2011 (345a-11) Engineering Township Hall

A resolution authorizing the Director of Public Service of the City of Euclid to solicit bids to complete engineering work for institutional specifications for both the floor and the walls at the Euclid Historical Museum Annex also known as Township Hall. (Sponsored by Councilpersons Scarniench and Minarik) (Recommended for passage by Community Assets Committee)

Councilwoman Scarniench moved for passage, Councilwoman Minarik seconded.

Councilwoman Scarniench – I would hope my colleagues would agree with this. At the Assets Committee meeting you heard from the Museum and I guess the bottom line of this whole thing is when the city decided to purchase this building, they took it upon themselves to tear it out, they gutted it and left it. It is important that we have the work done correctly, the museum folks know they're going to have to raise money, but they need to know what they have to raise the money for. By the city going ahead and getting these bids because it is very specific, it is institutional, it is different from a regular house. I would hope that everyone would agree with this so we can move this building forward.

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

Roll Call: Yeas: Gilliam, Scarniench, Jones, Minarik, Langman, Van Ho, Holzheimer Gail
Nay: Wojtila

Passed.

Ord. 149-2011 (378a-11) Lease Agreement to Coral for Shore

An ordinance authorizing the Mayor of the City of Euclid or his designee to enter into an extension of the current lease-management agreement with the Coral Management Company (Coral); such agreement outlining the terms for Coral to lease the Shore Cultural Centre from the City and to manage the property through December 31, 2014.(Sponsored by Mayor Cervenik, Councilpersons Minarik and Langman) (Recommended for passage as amended by Community Assets Committee)

Councilman Langman moved for passage, Councilwoman Minarik seconded.

Mayor Cervenik – I appreciate Council passing this at the committee meeting. We will be happy to sign that agreement and to make sure it is funded through the five year strategic plan as well as the capital money that we're discussing with the Coral group right now.

President Holzheimer Gail – I'm sorry Councilwoman Scarniench, I should have started with you as Chairman of the Assets Committee. We did have a committee meeting.

Councilwoman Scarniench – That’s okay, I just wanted to, we need to fix in Section 1, it says January 1, 1021. We need to change that.

Director Frey – That’s a typographical error and it can be changed without a specific amendment to 2012.

Councilwoman Minarik – Can we make this an emergency ordinance? Do I make that a motion? That way it can get signed tomorrow, right instead of taking 30 days to take affect?

President Holzheimer Gail - It doesn’t need to be but we can. The lease doesn’t expire until the end of the year. The Mayor is a co-sponsor and there is no question, I don’t think that there is any question that it would not be signed.

Mayor Cervenik – We are more than funded right through the end of this year any how. Partly because of the good works Coral has done, we actually have money left over in the budget 2011, so we will not have to transfer the full amount that is in their five year plan for 2012.

Councilman Langman – I am very happy with us, incredibly happy because even before I ran for Council I heard a lot about Shore and what to do with Shore, should Shore be torn down, etc. We’re finally moving forward. I really believe Shore is a critical part of our economic development strategy especially for our downtown area. It has been proven in Collinwood, Gordon Square on the west-side, Shaker Square. We have good management, we have a good plan in place and Shore will do wonders to help bring business in the downtown community. I’m happy that the 25 year debate is hopefully coming to an end. Thank you.

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

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

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

Ord. (377-11) Sweepstakes Terminal Cafes to Executive & Finance Com.

An ordinance amending Section 1359.03, Entitled, “Permitted Uses”, Section 1359.04, Entitled, “Definitions of Specific Uses” and Section 1389.03, Entitled, “Schedule of Required Space” of Part Thirteen of the Planning And Zoning Code of the Codified Ordinances of the City of Euclid to provide for the inclusion of Sweepstakes Terminal Cafes. (Sponsored by Councilperson Gilliam by request of Mayor Cervenik) (Recommended for passage by Planning & Zoning Commission)

Councilman Gilliam moved for passage, Councilwoman Scarniench seconded.

President Holzheimer Gail – This should be sent to Executive Committee, we have the rules and regulations legislation there to be discussed, this is simply the zoning piece.

Director Frey – We would encourage this to go to the Executive & Finance Committee. It should not be acted on finally until the licensing piece is acted on. We don’t want to create a zoning permitted use and then not have the licensing piece in place.

Director Pietravoia – I just wanted to comment that we’ll give a full report from Planning & Zoning at the time this comes back to full council. But I do want to thank the Commission members, they acted swiftly on this piece which is why it is back to you. They did recognize that the licensing piece would need to be discussed further, but didn’t want this to hold up if Council is able to act quickly on the licensing piece this will be ready to go since it has already been approved by Planning & Zoning.

President Holzheimer Gail – My intent would be on Wednesday, November 2nd, potentially if all the parties that need to be at that discussion are available to have a meeting on both of those, the zoning and the rules and regulations. That would give us time to get it back for the November meeting. Any questions from Council?

Councilman Gilliam moved Ord. (377-11) to the Executive & Finance Committee. Councilwoman Scarniench seconded.

Roll Call: Yeas: Gilliam, Scarniench, Jones, Minarik, Wojtila, Langman, Holzheimer Gail. Sent to Executive & Finance Committee.

Res. 150-2011 (387-11) County Anti-Poaching Protocol

A resolution authorizing the Mayor to enter into an agreement on behalf of the City of Euclid with Cuyahoga County for the purpose of establishing a Cuyahoga County Business Attraction and Anti-Poaching Protocol. (Sponsored by Mayor Cervenik)

Councilman Gilliam moved for passage, Councilman Langman seconded.

Mayor Cervenik – I requested this be put on the agenda this evening to hopefully have Council’s support in working with the anti-poaching protocol that Cuyahoga County Executive Ed Fitzgerald has proposed. Many city’s mayors are just signing it without discussion with city council because it really is a matter of action that a mayor would take and common courtesy. As we all know to actually go out and poach businesses from other communities is not a good practice for the region. This is the beginning of other items that will help that not happen. Basically what I would need to do is identify the economic development point person and submit the information to a central data base. We would agree not to poach businesses which we don’t do any how, we have not done that. If a business that wants to come into the community allows us and it does not object for us to notify the community that they’re in now, we would do that. Fourthly we’re being encouraged to discuss with that community that the business is in now the possibility of sharing some of the revenue with them for a certain time so as to reduce the loss. That works both ways whether it be our community or another community.

In all reality, the development directors of the First Suburbs Consortium are doing this already. We are well ahead of them that we feel that it is the proper procedure when a company is looking to move into your city from another. It has worked out very well. We’re looking down the road at possibly making the revenue sharing, having some type of mandated revenue sharing just as the Cleveland Water Dept. has in their waterline project. To get things moving and to get a good understanding and a cooperation between communities the County Executive as well as most of the Mayors, especially those in the First Suburbs feel this is a very good first step towards regionally working together. I would really ask for your support this evening, I think it is very important. I’ll be happy to answer any questions.

Director Pietravoia – Three of the first suburban communities have already signed the agreement and about 6-7 including Euclid are currently either in discussions with their Law Dept. or planning to go to Council as we are, with a resolution authorizing signing the agreement. The majority of the members did an informal poll, didn’t hear back from a few of them, but the majority are already actively taking steps and several have already signed the agreement. I do think it is a modest but important first step toward a more cooperative arrangement for economic development in the greater Cleveland area.

As the Mayor pointed out, about two years ago the Development Directors were all members of the First Suburbs Development Council and as a group we had already agreed that we would not poach from other communities and that we would inform our respective colleague in another city if a business from their community approached us and was interested in moving to Euclid for example from Cleveland Heights. We already had an informal agreement that I would notify the Cleveland Heights Development Director and start a dialogue about that happening.

In essence at least with the communities where it is most likely to happen right now are Cleveland and the first ring suburbs and we were already operating under similar practices.

President Holzheimer Gail – Excuse me, would the resident talking on the phone kindly take your call to the lobby it is distracting. Excuse me, would you kindly take your call into the lobby, it is distracting please.

Councilman Langman – Director Pietravoia can you define more specifically what poaching is in these terms and would let’s say what happened with American Greetings, is that considered poaching or Park-Ohio left Euclid, would that have been considered poached business?

Director Pietravoia – If a business has made it clear that they’re looking to relocate, there’s nothing in this agreement that would prevent you from having contact with that business. But if you’re making cold calls and there’s been no public announcement or any indication that a business is planning to move, that would be considered poaching where you were actively going after businesses that have had no intent, no stated intent of making a move.

Councilman Langman – Do we have enough staff to make cold calls like that? I would assume not at this point.

Director Pietravoia – It has been my experience with thirty plus years now in the business that the cold calls are not an effective use of time and we don’t do that and don’t intend to do it.

Councilman Langman – By your definition that really is very rare for that to occur in this region now anyway, is that a fair statement?

Director Pietravoia – I think if you asked most of the communities, they would say what I described is not already occurring. But there are a handful that will tell you that they know factually that it has occurred and it has created a problem for their community. While it is not common practice or widespread practice it does occur and this would at least move in the right direction of discouraging that from happening.

Councilman Langman – I know that some regions, Louisville Kentucky, the twin cities area, they do have some form of revenue sharing so when businesses do relocate from older areas to newer areas there's some remittance back to the those older areas. This is a good step, thank you.

Councilman Gilliam – Director Pietravoia the agreement that I have was a little cloudy as far as reading, but I have a question. If an individual were to agree to this resolution, I mean community, excuse me and there was cause to believe that a member community was poaching. Is there any type of adverse action or sanctioning done? I really couldn't see that in this agreement. My copy was a little blurry so I just want that question answered.

Director Pietravoia – The Mayor may want to comment on this also from his discussion with other mayors, but my understanding is kind of just the opposite Councilman. The County is saying that those communities that agree to this protocol will have an advantage in that they will be looked at favorably as the County sets up their new hundred million dollar economic development fund and as we apply for it, if you're a member community that has agreed to this protocol, you will be looked on more favorably for applications for funding for that economic development fund. So they're trying to offer an encouragement rather than a, let's say a punishment.

Councilman Gilliam – So by this being established by the county, I'm looking at economic development from that perspective, the only concern that I have with this and this may come off as being selfish is that Euclid is the fourth largest city in this county and at times there's been situations where we may not have necessarily been accessible to certain things were being developed, no fault of the administration or previous councils. But my concern is we have every access, every avenue to increase our lot in the city as well. I can't say with much fact but there has been a lot of speculation that many of the inner-ring suburbs have so much difference to our hub, which is Cleveland, that sometimes we're at our own demise. I have a concern about that because I don't want a repeat of that with any administration or any council members or any economic development director. The situation, the economy is bad but I definitely want Euclid to be able to put its best foot forward in any avenue or anyway possible. I'm not adverse to this but I just want Euclid to, being that we're the fourth largest city in this county and we have a significant impact in a lot of different areas, that we are in the face of the County and Ed Fitzgerald letting them what we have to offer because we have a lot of buildings, a lot of pieces of land that could potentially be hospitable to industries and companies coming into this community or into this State. That's my concern that we aggressively work with this if this is passed tonight.

Director Pietravoia – I do agree with Councilman Gilliam. One of the questions that we asked directly for the City of Euclid and the First Suburbs asked as a group, we wanted assurance that this in no way would prevent us from doing our own general promotion of our community. Because at first there was a concern that might have been an undertone here and they actually did revise the language and made it clear that this in no way would prevent you from doing active and aggressive marketing of your own community and the properties available within your community. If as a result of that campaign or those efforts a company from another community contacted us, that's a pro-active move on their part and that would not be considered poaching and we would not be prevented from talking with that company under this agreement. I hope that helps to address your concern.

Councilman Gilliam – It does and I thank you for clarifying that. I haven't heard him speak but I'm sure the Mayor is confident with this agreement as well based on his affirmations of your conversation dialogue back and forth. You've answered my question, I just want to make sure Euclid is able to utilize every avenue and option available to make themselves hospitable to industry coming into the community, large or small, thank you.

Mayor Cervenik – Part of the economic emphasis on the new county government is also to make sure that we provide them with a list of all of our open and vacant properties and land that can be used for economic development so that they can openly market them with Team NEO and other regional organizations as well.

Councilwoman Minarik – So Mayor the three advantages we have, the way I see it, first, the city is already doing this but that doesn't mean the next administration or down the road, this ensures that this practice that the current administration is doing, that it continues on, an anti-poaching policy. That's the first advantage I see, correct?

Mayor Cervenik – I don't know if that's the first advantage. The real advantage is if all the cities agree to do this, they won't be poaching us either.

Councilwoman Minarik – But that's also establishes a policy for the city?

Mayor Cervenik – Yes, a written policy.

Councilwoman Minarik – The second advantage is that we now tap into a huge fund that the county is making available and then advantage is they will actually help to promote our city's vacant parcels?

Mayor Cervenik – Yes.

Councilwoman Minarik – So this is basically a win/win.

Mayor Cervenik – Yes, but I wanted you to share in it and I want everybody's name on it.

Councilwoman Minarik – You are so kind.

Councilman Van Ho – Isn't one of the side advantages too is that we won't be getting into bidding wars to see who can give the most tax abatement for somebody to move 15 miles from their present location to Euclid or vice versa?

Mayor Cervenik – If we were to poach yes, but we have 82 acres for instance at Bluestone Park. There could be a company 15 or 20 miles away that just needs to expand and they just see Bluestone and they're going to move there. Then we didn't go out to get them, we have an asset that they want to use. That's where the conversations with the other community comes into play, that's where our possibility of revenue sharing comes into play, but it puts us on a level playing field with all the communities.

Councilman Van Ho – It will also cut down on the number of people that are getting into bidding wars where Westlake is trying to out bid Strongsville and we're trying to out bid both of them on who can give the most. I'm not arguing what is happening on the front end, I'm saying the practical aspect is we're not poaching each other, we can cut down on tax abatements which is to every communities benefit.

Mayor Cervenik – That is much correct, yes.

Councilwoman Scarniench – I would like to have my name added to it and I hope everyone would.

President Holzheimer Gail – Should we add all of council? Yes.

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

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

Ord. 151-2011 (380-11) Control Construction Run Off

An ordinance amending Ordinance 151-2007 controlling post-construction water quality run off, passed by Council June 18, 2007. (Sponsored by Councilperson Wojtila by request of Service Director)

Councilman Wojtila moved for passage, Councilman Langman seconded.

Director Bock – This is ordinance as well as the following ordinance are updates to our present storm water ordinances and these updates are mandated by the EPA as part of our NPDES permit for storm water. The base changes here come in the post construction ordinance. Besides a lot of technical things that are done in this ordinance updating them for our consultants on a plan review and so forth, the biggest items of note in here are the maintenance plans and the perpetual easements that are going to be required which allow us to go on and inspect the settlement ponds and so forth that are installed as part of the projects and identifying the person who is going to be responsible for maintaining those and cleaning those sites up with it comes time to do that.

The perpetual easements will become part of the project, part of the document and as I said it will identify the person who is going to pay to clean these places up and it also mandates how they get rid of the material that is drained off of the storm water before it is pumped out of there. We've seen cases where they go into clean up a silt pond and their idea of cleaning up the silt pond is get a backhoe, dig the material out of the bottom and dump it into the same drain and it ends up back in the lake again. It defeats the whole purpose of what we're doing.

Also in this ordinance one big part of this, we just went through an audit with the EPA on our storm water program and what was stressed throughout this program, throughout the audit and here in this ordinance is the qualified and certified personnel to do the inspections. This is a big part of this ordinance and the next one. Presently we only have one certified inspector, that's myself. I am working on the other inspectors in my engineering department, they are studying those study guides, there will be training seminars they are going to have to attend in order to become certified as inspectors in storm water.

These are mandated updates. The second ordinance, the biggest thing there is the qualified inspection personnel. This is probably the least change of the two ordinances. The only other change that affects anything is to identify the sub-contractors on these projects and requires them to sign off on their knowledge of the storm water plan during construction and how to take care of it. A good example of this is our present schools that are going in. We install storm water run off construction entrances while sub-contractors come in there and work, they end up not maintaining the storm water stuff and we get the mud tracked onto the roads, we're out there sweeping and cleaning, we're trying to track down who did it; well it was the other guy. This is going to make them all responsible for cleaning up this mess.

Councilman Wojtila – The only question I have and all these changes being in the development industry we're encountering all the time. This is only an amendment to a previous ordinance. Do we have this listed anywhere as part of our code so that developers see this readily like our subdivision ordinances?

Director Bock – All projects that come into the City of Euclid and we did this even before our storm water ordinances were in place, we have taken on Cuyahoga County Soil and Water. They do all our storm water reviews. They are the ones the agencies work with. The different companies that are coming in, the project managers, this is where their storm water management plan is developed through, with the help of these, we did it with the schools. We bring them in as part of the planning process and get these plans put in place. We did have existing ordinances. When we went through the audit, the EPA sent us our ordinances with the updates that you see in here, this is what they wanted strengthened as part of the ordinance that we have existing.

Councilman Wojtila – What I'm asking is I'm looking at a development in Euclid, will I find in our code this section?

Director Frey – You will not find it in our codified ordinances. It is an ordinance that's available on the website, but it is not part of the codified ordinances. I'm not sure the best way to approach this. We have several of these type of regulations that have not been included in the codification of our codes. There are still just as effective as ordinances, but admittedly they're more difficult to find except for the specific user. I will talk to American Legal, we're going through right now the update to our code and I'll talk to American Legal and see if they have suggestions on how we might be able to incorporate these sections without the need to print them into the updated version, maybe we can do it by reference. I'll talk to them and see if they've got suggestions on how to do that. Clearly the building department and the plans examiner have this information so anybody coming in for a project of that scale is going to get the information.

Councilman Wojtila – That would be very helpful. One of the things with the internet and website, it is great but it is also a burden that we need to keep up with keeping stuff like this available to anybody that really wants to develop so they can easily see what is going to be a requirement of a project like this. I think that would be helpful, thank you.

President Holzheimer Gail – This is not unique to Euclid. This is EPA mandated both federally and statewide?

Director Bock – Anyone who holds a storm water NPDES, which is National Discharge Pollution Elimination, anyone who holds that has to have these ordinances. We are also all subject to the audits by the EPA which we went through which is about a day and a half worth of them picking us apart and telling us where we made mistakes and where we did good things. We went through that and this is a result of that.

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

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

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

Ord. 152-2011 (381-11) Controlling Construction Site Erosion

An ordinance amending Ordinance 150-2007 controlling construction site soil erosion, sediment and other wastes and storm water runoff. (Sponsored by Councilperson Wojtila by request of Service Director)

Councilman Wojtila moved for passage, Councilman Van Ho seconded.

President Holzheimer Gail – Director Bock I know you discussed both of them at the same time, any additional comments?

Director Bock – No additional comments. As I said this has really changed minimally other than identifying sub-contractors and them signing off on the application. There is some settlement pond and some design changes there and then also with the qualified inspection personnel being identified and a need.

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

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

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

Res. 153-2011 (382-11) Advances on 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 All Members of Council by request of the Acting Finance Director)

Councilwoman Jones moved for passage, Councilwoman Minarik seconded.

Mayor Cervenik – This legislation which is done annually allows us to get advances from the collections of the real estate taxes, so whether we get a monthly payment and prevents us from waiting for the settlement at the end of the year.

Councilwoman Minarik – I do have a question and it occurred to me this year. We take the advance on the full amount that we're expecting. What happens when people don't pay, do we have to repay the County?

Mayor Cervenik – There would be a settlement at the end of the year. There would be an adjustment. We never collect more than what they've collected on our behalf.

Councilwoman Minarik – If we get an advance of 100% and only 90% pay, we return that 10%?

Mayor Cervenik – We don't get the advance of 100%. I'm not sure, it is maybe 95%, Nancy just sent me those figures. They never budget for the whole amount to begin with, which is a smart thing to do.

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

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

Ord. 154-2011 (383-11) Proposals for Towing of Vehicles

An emergency ordinance authorizing the Mayor, as Ex-Officio Director of Public Safety of the City of Euclid, to enter into a contract(s) after requesting proposals for the towing of junk, abandoned, impounded vehicles or vehicles that otherwise must be removed at the direction of the Euclid Police Department. (Sponsored by Councilperson O'Neill by request of Executive Officer)

Councilwoman Jones moved for passage, Councilman Wojtila seconded.

Capt. Brickman – It has been several years since we've actually gone for the bid of the towing for our police vehicles. At that time we had entered into contracts with two separate vendors. We've done some recent research and we found out that because of the bid process, our prices are considerably lower than almost all the other municipalities in this general area. With that being said, we're going to pursue the same process that we did for the jail meals, we're going to solicit bids from local area towing companies and once again get the best price, the best service for the residents whose vehicles we have to tow.

Councilman Gilliam – Capt. Brickman, just out of curiosity, in the past when you went through this bidding process, was there a standard procedure, a minimum number of people that bid it before you awarded the bid? Was it just a response of local or nearby areas? Was there a specific minimum number that you requested or the police department requested?

Capt. Brickman – Last time we did it, we actually advertised in the Plain Dealer. We did receive three bids for the towing services and we entered into contract with two of the vendors. We have found with the multiple vendor system we get good response from the vendors and they're very responsive to the needs of the department.

Councilwoman Jones – Capt. Brickman, what is the process once a car is towed to the location, whichever vendor it is going to be, what is the process currently on the number of days that the vehicle is there and what's the process after that expiration date is acquired, where do the vehicles go from there?

Capt. Brickman – The vehicle is there generally until it is released to the owner and that could vary depending on multiple circumstances. There are also situations where there are holds placed on a vehicle for investigative purposes. There are also holds that could be placed on the vehicle for the court. To answer the question would be very difficult, I guess it would depend on the circumstance in which the vehicle was towed.

Councilwoman Jones – So there's no towing and an auto owner is told that they have to have it out by a certain date or it will be disposed of?

Capt. Brickman – If a vehicle is unclaimed by a specific period of time, the owner will be sent a certified letter explaining to them that they have to reclaim their vehicle, which would include getting a release at the police station and also paying all storage and towing fees. If they don't reclaim the vehicle, we go through a process by which a vehicle could potentially be junked or forfeited to the city as an unclaimed motor vehicle.

Councilwoman Jones – So there's no time limit on how long a vehicle was held?

Capt. Brickman – I'm not sure I understand exactly what you're asking. There is no defined, when we send them a letter, we'll give them a deadline that they have to claim it by a specific date. If they don't meet the requirement and pick it up by that date afterward, we're going to process it either as a junk or unclaimed vehicle.

Councilwoman Jones – My other question is, if we do decide to go with another vendor, are there vehicles that are at the current vendor that still have to be settled and how would that process be handled?

Capt. Brickman – The current vendors that we do use are responsible for all the vehicles that have been towed under this contract. Yes, we would make sure that either the vehicles are returned or processed according to our policies.

Councilman Langman – How many cars a day usually does the police department have towed?

Capt. Brickman – I would say it all varies depending on weather conditions and multiple other circumstances. However, I would believe that we tow in excess of 1,000 a year, I don't have the exact statistics.

Councilman Langman – Why then do we need two contractors to do this? Have we always had two contractors to do this?

Capt. Brickman – We started using two contractors when we had issues with response time with our current contractor and it was done in part to make sure that we were going to get good response time. We do have good response time at this point in time. We've continued to operate under that because it has produced good results.

Councilman Langman – How long has this current contract lasted? You said several years, how long?

Capt. Brickman – We actually went to bid and awarded the contract for two years in 2008. It went 2008, 2009, it was extended 2010 and 2011 and we're taking it to bid again.

Councilman Langman – Who are the two vendors currently?

Capt. Brickman – Its United Towing Service and O'Connor's Towing.

Councilman Langman – Capt. Brickman as you might know, I know you know, but tonight on news channel 5 there was a news story about one of the vendors with the towing situation and the disposal of the cars. So first I'm not happy that we had to learn about something surrounding the city on the news. Second, I would like all the information that was displayed in that news report distributed to the city council so we can review. Does city code govern how tow operators actually operate or is that a State code issue?

Capt. Brickman – We have a contract that will mandate a specific response time, how much they can charge. We have an ordinance that requires the administrative fee for a vehicle to be released that's charged. There are several elements of it that is actually governed in our contract and in ordinance.

Councilman Langman – What State code governs how cars are disposed of? Again, is that a city code or is that a State code?

Capt. Brickman – If you're dealing with an unclaimed vehicle, I cannot tell you the actual ordinance number but there is one that requires specific criteria for how unclaimed vehicles are dealt with.

Councilman Langman – Law Director Frey are you aware of the State code that governs how vehicles are disposed of or towed?

Director Frey – There are title codes in the State code. I don't know the code numbers are but yes there are state codes that deal with the processing of type and the tow operator and the police department are responsible to coordinate that activity so that the titles are properly handled on those vehicles.

By the way Council person, I sent an email when I learned about the inquiry from Channel 5 to City Council at 4:25 today. Those who had email access, you did have some advance notice, admittedly not much but we didn't have much notice that that was going to run on the news. I did try to get that information to you.

Councilman Langman – Let me ask the question directly then because I want to know whether this firm can still bid. Is the report that we saw, is that substantially true? Were cars destroyed without the proper documentation?

Director Frey – There were several vehicles that were scrapped out before the title paperwork had been processed through on those. Yes, so the answer is yes, there were vehicles that should not have been scrapped until that paperwork was processed. There was no financial loss to the city as a result of that. I know claims against the city for recovery of those vehicles, they were vehicles that were going to be scrapped but they shouldn't have been scrapped until we had cleared that paperwork through.

Councilman Langman – But the vendor did not have clear title to those vehicles, correct?

Director Frey – We had not processed through the paperwork that would have allowed them to get a scrap or salvage title on that vehicle.

Councilman Langman – Wasn't one of those vehicles, according to the report, a vehicle that was forfeited to the city so it was technically a city vehicle?

Director Frey – Probably, not probably, was going to be scrapped. It was not a vehicle of value to us.

Councilman Langman – How often do we check the tow yards to see if in fact these companies are complying?

Capt. Brickman – We have recently done a complete audit and it was done in conjunction with the process by which we junk cars. We went out to both of the towing vendors and we did find out that there were vehicles that we believed were going to be there that weren't at their locations at both places.

Councilman Langman – How often do we do the audits?

Capt. Brickman – We did it this year. We should do this monthly. We should be doing this monthly as part of a process by which we constantly visit the vehicles at a certain date, when they've been there for a specific period of time.

Councilman Langman – When did we last do it? If I recall the reporter correctly, you had said these vehicles were several years old, they had no value, etc. Kind of get out, when was the last time we were at the tow yards to inventory?

Capt. Brickman – I cannot tell you when a complete inventory was done.

Councilman Langman – One last question for you Law Director Frey, if an entity doesn't have title to the vehicle, what type of penalty is that? In other words, is it a misdemeanor? Is it a felony? What type of charge is that?

Director Frey – This is what Capt. Brickman discussed with the Highway Patrol and they indicated that they were not inclined to investigate any title irregularities on those vehicles. I would have to look at the State code and tell you because I don't know what it is offhand.

Councilman Langman – Can you do that please?

Director Frey – Sure.

Councilman Langman – I'm sorry Madam Chair, I fibbed, I have one more question. Based on a report Capt. Brickman, did you show the State Highway Patrol Officer that you talked to, did you show him whatever we saw on television? Or was this just a phone conversation?

Capt. Brickman – I don't know what you saw on television, I didn't see the report. However I did have telephone conversation with two individuals with the State patrol detailing what had occurred.

Councilman Langman – They did not see what was presented to us on television? I'm sorry Tom but there are several memos that were shows with lists of vehicles, memos from the Police Dept. saying this company is suspended, now they're back on, etc. Quite frankly if they're not doing something right, I don't want them necessarily to be able to bid on this next contract. That's what I'm looking for so I'm asking you, you did not show the State Highway Patrol Officer any of the paperwork?

Capt. Brickman – I did not show them any paperwork.

Councilman Van Ho – Before we go out for bid, could you provide council with a copy of the bidding documents? I'd like to make sure that we have sufficient language in there that we can cancel a contract when they're screwing up and we can investigate to make sure they're capable of handling a contract where you're running through a thousand cars a year.

Capt. Brickman – Yes I can get the towing specifications out to you, they will also be reviewed by the Law Dept. If you do know of any towing vendors in the community that are interested in bidding on it, please forward their information to my office and I'll make sure they receive one of the packets for bids.

Councilman Van Ho – We will advertise this in the Plain Dealer?

Capt. Brickman – We were going to send out directly to vendors as we did with the jail bidding process, feeling that we're going to target the towing vendors in the proximity that will work well with our operations.

Councilman Van Ho – Could we do both, Plain Dealer and send out to them?

Capt. Brickman – We can do that.

Councilwoman Scarniench – I've got a big concern about this whole thing too. I saw the report, I have a copy of what was online. I've heard about these issues probably for the last year and a half from different places and here it is right in front of me. I have a problem that it says here that even though they decide, the Ohio State Highway Patrol advised no criminal charges would be filed, though State law forbids this.

We gave them a slap on the wrist and they had two months that they couldn't tow. I would not want this company to do business with us again.

I've heard and I will ask for this, I would suggest that we separate this out and we just go out, allow the Mayor to go out for proposals, but I would like them to come back to City Council. I would like to have a meeting because there are some specific things that I would like to ask for and I will give them to Capt. Brickman after the meeting so that we can have them and we can make good judgment. It is a slap in the face, it's a slap in the face to our residents that they get charged things that we shouldn't be charging them for and I've heard this over and over again. When we go out for these bids, we need to make sure that the vendors know that they need to give us a bid for them as a single entity or as sharing the job. I think if that would have been done to begin with, you would have gotten different numbers. When people agree that's what I'm going to do and then they don't do it, I have a real problem with that. I would like to have these separated out and take away the emergency from this because we have the time to do it.

Councilman Gilliam – I concur with Councilwoman Scarniench. I think we need to separate these two out. The thing that bothers me the most is that there is always a financial gain. When you scrap a vehicle, you can get anywhere from \$300-\$500 for all that metal. All they do is weigh the vehicle and they cut you a check or give you cash depending on the particular entity. In addition, a reputable entity that will scrap a vehicle would request identification and a title. O'Connor definitely has a friend in the business that allows this individual company to do this type of thing. How do I know? I had a junker that I took down there and got towed and they gave me cash with my title and ID. That's the way it is supposed to happen in a reputable business.

The other issue is maybe we need to establish criteria. I don't think O'Connor should be on the list, based on us giving them a two month suspension and at the same time, they could not deny the claim that they had scrapped vehicles without proper title representation. So, I would not like to see O'Connor on here. I don't blame the Police Dept. I don't blame anybody. I blame O'Connor for putting us in this position and they should be removed.

President Holzheimer Gail – Is there any objection to separating it out just to bid, or get proposals rather than award the contract as well?

Director Frey – We can get the proposals and send those back. Need to appreciate that there is no cost to the City of Euclid for this service. This is not something we pay for out of the general fund or any other fund. Part of this discussion could be, do we need to be here with this piece of legislation tonight, or do we just go out and obtain that service and award it because there is not a cost to the city. We will get those proposals, we will bring them back to Council and you can review them. Capt. Brickman made the comment early in his comments this evening that our prices are lower than many other communities for towing and impound fees. I would hope that we don't jeopardize that. That truly is going to be an impact on our residents who, if we are demanding in the bid process additional services and I'm not talking about proper handling of title, clearly that has to happen in every event. But if we are asking for additional services we can expect that those additional services will come at additional cost to those individuals who have vehicles towed. I think we need to be mindful of that when we look at these we need to look at what the cost is today for that service and what it is going to be if we start asking for additional activity to take place. Certainly we can amend this piece of legislation if its Council's desire, just authorizing us to go out and get proposals.

Councilwoman Scarniench – I don't want to cause our residents undue strain, but the fact that when a company bids for a job, they think they're going to get the whole job. When this was originally done no one ever told anybody that this was going to be a split contract. So contracts have gone out for, I'm going to get the whole job, so this is how we can go lower. Because we did not specify that this was possibly going to be a split job, their fee is lower, which necessarily isn't the right fee. But, then you have another company that comes in and they get a job, okay, I'm going to do this and I'm going to do that, the same thing. But then I'm hearing that they went ahead and charged extra fees that we didn't allow and that's my concern. I don't want to use a company that has already messed things up with us. I've heard that some of the things that they've scrapped have actually been found in his building where he does his body work. I don't know if that's true or not, but as I said I have some specific things that I would like for us to look at. I think it is very important that the people we do business with are doing everything above board and it doesn't sound like that's the case right now. Thank you.

Councilwoman Minarik – So if we leave it as is the contract, I'm sorry, when you go out for the bids, you would verify that it would be a split job or it they would get the whole job that would be included in that? Second thing is, several members have said they don't want O'Connor's to be included. Are you going to allow O'Connor's to bid?

Capt. Brickman – The contract when we put out for it said to enter into contract or contractors, so it was clear there was an opportunity for there to be more than one vendor involved in the towing process. In terms of the bidding, I would accept bids from anybody who wished to submit them, however, when the bid is awarded, that is when I was planning on conferring with the Law Dept. and the Mayor in reference to the possibility of eliminating specific companies either based on distance, services, facilities, which we have to inspect their tow trucks, things of that nature.

President Holzheimer Gail – Including past performance obviously.

Capt. Brickman – That is correct.

Councilman Van Ho – Capt. Brickman outlined the correct way to do it and that is to allow anybody to bid and then to check to see if they're responsible or capable of doing the job in the manner in which we've specified; so he's 100% on target.

Councilman Gilliam – I understand the spirit of allowing anybody to bid, but Councilman Van Ho you've done a lot of purchasing with federal guidelines. There have been lists that have established in federal and state of banned vendors who have had impractical or unethical practices. No one in this room has denied that O'Connor had did an unethical or what I would consider a banned practice. While I understand the need to have a level playing field, individuals remove themselves from that level playing field and O'Connor did in my opinion by their own means. There's plenty of towing companies out here that could answer to this contract, maybe they will, maybe they won't. But we're talking about, at one time there were two contractors, one committed a violation that put a black eye on this city. I don't feel that we should reward them by giving them an opportunity. Maybe ban them for a year, whatever the case may be. But I promise you, if I robbed your house, you wouldn't let me back in.

Councilman Van Ho – You are 100% correct, there is a way of banning someone. Law Director, do we have a debarment policy in the city ordinance, rules, regulations or any place else?

Director Frey – In our bidding process that is codified as part of the Board of Control process, there is criteria to look at past performance as one of the factors in determining whether a potential vendor is qualified and should be awarded the contract. We also check to see if there are findings for recovery against that contractor through the State's database.

Councilman Van Ho – Is that prior to the bidding?

Director Frey – No, it is after the bidding.

Councilman Van Ho – That's my point, if you're going to say that they can't bid, you need a proper debarment policy and they need to go through, it is basically a hearing.

Director Frey – We don't have that mechanism in our codified ordinances.

Councilman Langman – Capt. Brickman, how many times was O'Connor warned about this type of practice for the last year or so?

Capt. Brickman – They were warned when we did the audit earlier this year that they were responsible for any vehicles that had been processed without our authorization so they did have prior warning, that was one time.

Councilman Langman – After they were warned, again I'm just going from memory of what I saw tonight on News Channel 5, were they suspended for a period of time?

Capt. Brickman – Not at the first occurrence.

Councilman Langman – So there were two occurrences then?

Capt. Brickman – There was the second occurrence that resulted then in the suspension.

Councilman Langman – Was the first occurrence of similar incident as far as disposing of vehicles without proper title?

Capt. Brickman – Releasing vehicles without releases from our department. It was when we did the full audit that we found issues with both of the towing vendors that processes weren't followed strictly as they were supposed to be. At that time O'Connor's was provided a warning and they were advised that they were responsible for any claims made in conjunction with the improper processing of any of these vehicles.

Councilman Langman- It is tough to judge what you see on television without all the background information and clearly we don't have that information. So I'm not prepared to move forward with this until I see the entire file that the news organization has. I want to see all the memos, I want to see all the reports and more specifically the vehicles that are listed. Because again, if I heard the report correctly, one of those vehicles is a forfeited vehicle so it is city property that they went ahead and scrapped. Whatever dollars we could have gotten, that should have gone to us. Until that's resolved, I will not support this, thank you.

Councilwoman Jones – I know we spoke about splitting this ordinance up into two, one just going out for the bids and the other one if we come back and get some questions answered. I know Law Director Frey mentioned it is not costing the city anything for this service. But I think it is a matter of just seeing what the cost of the services are. Ultimately it is the auto owner that is paying those fees. It needs to be a question of what is included in those services. I have no problem going forward tonight with just going out for the bids but not entering into a contract for either because I would like to see how many other vendors respond to the bid proposal.

Councilwoman Scarniench moved to amend Ord. (383-11) by removing, enter into a contract, from the first paragraph; and remove said contract shall be awarded by the Board of Control in Section 1. Councilman Van Ho seconded.

President Holzheimer Gail – Director Frey, you have the language or what is necessary to be removed?

Director Frey – We'll make the changes if Council approves it.

President Holzheimer Gail – Any questions on the amendment? Roll Call on the amendment.

Roll Call: Yeas: Gilliam, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail. Amended.

President Holzheimer Gail – Any additional questions on the amended ordinance?

Councilwoman Jones – After we go out for the request for bids and you get the responses back, will Council be notified as far as the number of responses and the companies that respond?

Capt. Brickman – Yes, Council will be aware of the bids from all of those who chose to submit them.

Councilwoman Jones – It has to come back to Council before you actually enter into contract, right?

Capt. Brickman – To be quite honest with you, when we were doing our research, we're the only city that even solicits bids. All the other ones just either pass an ordinance or they hire the services of a vendor. We're the only ones in this whole entire area that do that and that's why I attribute our prices to being lower because we do go to the extra step in order to do that. In terms of the process, how it is done, if we're not allowed to award the bid, I really don't know.

Director Frey – We'll bring legislation back to City Council to award the contracts.

President Holzheimer Gail – And we would have the information on who bid and how that decision was made. Those who want to be a part of that should talk to Capt. Brickman, or have specifics to be considered. Seeing no further questions, motion to close debate.

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: Gilliam, Scarniench, Jones, Minarik, Wojtila, Van Ho, Holzheimer Gail
Nay: Langman

Passed as amended.

Ord. 155-2011 (388-11) VOCA Grant

An ordinance authorizing the Mayor of the City of Euclid, or his designee, to accept and expend a Nineteen Thousand Three Hundred Fifty Nine Dollar (\$19,359.00) grant through the Victims of Crime Act (VOCA) that is distributed and managed through the Ohio Attorney General's office, with a Six Thousand Four Hundred Fifty Three Dollar (\$6,453.00) local match for funding the Victims of Crime Act. (Sponsored by Councilperson O'Neill by request of Executive Officer)

Councilwoman Jones moved for passage, Councilwoman Minarik seconded.

Capt. Brickman – This grant is used to fund our victim advocates in part and the match is arranged and coordinated through these advocates who line up volunteers to provide additional services and the hours that they work negate any financial match on behalf of the city.

Councilwoman Scarniench – Capt. Brickman, 430 hours of volunteer service, I don't think I've ever heard that before, has that been traditional, have we been doing that all along, that we had volunteers that helped them?

Capt. Brickman – We have had this grant two previous years. The first year the in-kind was the office space that was donated to them by the city. The second year that they're going through right now the entire match was met through the use of volunteers for the program.

President Holzheimer Gail – We do get the report as part of the monthly police report which is now being sent electronically, thank you. We do get a report, the last page is the Victims Assistant program.

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

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

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

Res. 156-2011 (390-11) Matching Capital Funds for Henn

A resolution to provide matching funds to be used toward continued restoration of the Henn Mansion in the amount of Twenty Thousand Dollars (\$20,000.00). (Sponsored by Mayor Cervenik)

Councilwoman Scarniench moved for passage, Councilman Gilliam seconded.

Mayor Cervenik – As we have been doing annually we match certain number of dollars, up to \$20,000 that the Henn Mansion raises for their capital projects. This year they did hit the \$20,000 mark. We believe the legislation expired as of 2010 so we wanted to be extra careful since we are in 2011 to have a resolution to provide the match. We have budgeted the \$20,000 already, it has been in there, we just wanted to present this resolution. The next piece will continue the program if Council so desires for years to come. This is to pay for this year's application for the \$20,000.

President Holzheimer Gail – This calls for the funds to come from the general fund. Is it an eligible capital expense?

Mayor Cervenik – We at one time, we were paying for it out of the capital fund and our bond counsel told us that was inappropriate, so we do pay for that out of the general fund, I'm sorry Endowment.

Director Frey – We've paid it in the past from both the Endowment fund and from the General Permanent Improvement fund. We're recommending that we change to pay it from the general fund.

President Holzheimer Gail – So the legislation is correct?

Director Frey – Yes.

Councilwoman Scarniench – I don't have any problem with this but I don't know how my colleagues feel. I would like to send both of these to the Assets Committee which is just a week away. I would like them to come in and tell us what's going on because I can't remember the last time we heard from the Henn, so we see where our money is going and what we are doing.

Mayor Cervenik – The administration has no problem with that whatsoever.

Councilwoman Minarik – I, as a member of the Assets Committee, I have no problem inviting Henn to speak with us. They have been waiting for this close to a year. I would like to let them have their \$20,000 and invite them to the meeting.

Councilwoman Scarniench – I don't have any problem with going ahead with that one, but I would like them to come and tell us what's going on so that the second piece we can go ahead with next meeting.

Director Frey – Just to be clear, they didn't send us the financial information until August 24th. It is not like they were sending it to us in January 2011 and nothing happened to it. We've acted on it fairly quickly. I would agree, particularly the second piece would be appropriate for the Assets Committee since we're talking about continuing this for an indefinite period.

President Holzheimer Gail – Any additional questions on (390-11) which is for 2010's reimbursement?

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

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

Ord. (391-11) Annual Grant Friends of the Henn Mansion

An ordinance to provide for an annual grant to the Friends of the Henn Mansion to be used for capital improvements to the Henn Mansion as approved by the City of Euclid. (Sponsored by Mayor Cervenik)

Councilwoman Scarniench moved for passage, Councilwoman Jones seconded.

Councilwoman Scarniench moved Ord. (391-11) to Community Assets Committee meeting Monday, October 24th at 6 PM. Councilman Gilliam seconded.

Roll Call: Yeas: Gilliam, Scarniench, Jones, Minarik, Wojtila, Langman, Van Ho, Holzheimer Gail. Sent to Community Assets Committee.

COMMITTEE OF THE WHOLE

Mr. Christopher Michael Litwinowicz – 21970 Morris Ave. A couple of years ago I filed with the State of Ohio as an LLC and I continue to do that. I appreciate the President's comments establishing that a one person can have a dream and start a small business. The problem is that there is no communication between administration or even sometimes council members or even the direct mayors of this city to either walk and meet and greet with the businesses that we have already. That's a known fact. Is there a reason why the Asst. Finance Director is not here?

Mayor Cervenik – Except for the annual request for advances for real estate taxes, there was nothing else on the agenda this evening for her.

Mr. Litwinowicz – No, I'm saying for the best of the city, we lost a finance director that the citizens are upset about the trash and lighting. This individual has put his bid in or her bid in for a high ranking position. I just seen another thing is, why don't we have a Sergeant at arms?

President Holzheimer Gail – That was a council decision when budgets were being cut, not to fill that position.

Mr. Litwinowicz – I really think Mr. Frey, I really think that's not a budget issue, I think that's an organizational issue to make sure the council, the mayor is not absent or why they are absent.

I do support the Henn. If you look right outside, where the Henn is, Mr. Sims probably had almost 50-60 years as a Mayor if I'm not correct.

The basketball hoops, who can discuss the progress on that because there is none. That was passed the first part of Memorial Park.

Now, I did something for the best of the city, I don't even care if I go to jail because I didn't do nothing wrong. I've asked to be a consultant of the city and I put government grants in the city name and they can go collect them.

Lake Shore looks pretty good. As far as investment in the city. In less than 21 days, the voters will chose. They already chosen seven members of this council already. I'm asking for the trash and lighting to not have assessed but put it on your \$38 million budget. I'm asking and the people's asking

for new streets, put it on your budget. Week after week you come here with new ordinances. I live in Euclid and if somebody came to tow my car, I'd be highly upset because I have another car there. A requirement on cars, that's too much. I'm going to leave this last note off, real simple. We all can make change after this election, so let's work together. Thank you.

Mr. Bud Hilf – 891 E. 237 St. I'm here tonight, sorry that I missed the earlier meeting this October but October is Cancer Awareness Month. The Euclid Public Library has their Garden of Hope and is having events throughout the month with displays and handouts and other things including staff members that have given donations, on Monday get to wear a color regarding cancer research.

Also regarding cancer, I am on the committee for the Euclid Relay for Life. This year back in May we held our third relay in the City of Euclid and our goal was \$50,000. Thanks to many people in this room and a very many Euclid citizens that are out there, we were able to raise over \$60,000 which means we beat our goal by over \$10,000. As the City of Euclid we did such a great job, they've come back this year and I was told last week they now have set a goal for the one next year of \$75,000. So we have a little bit of a challenge ahead of us and I'm here tonight, we don't have a date saved yet, we are working on it, negotiations with the schools since they are kind enough to let us use the track at the high school at the football stadium. We're looking for teams, we're looking for sponsors, we're looking for survivors. We're looking for the City of Euclid to do as they have done time and time again to come together and work for the greater good. To find out more about our relay, go to RelayforLife.org/Euclid will take you to the page for our relay. Right now it will show a date of May 11th, that's just the starting date for all relays, that's not official of when ours is going to be yet. But we're looking for teams. If you are at a school, if you have a business, if you have a church, if you have a community organization that wants to have a team, we're looking for teams. Last year we had about 20 teams, they've set a goal of 36 teams for this year. As the Team Development Chair, I have a lot of work to do now so that's why I'm here. \$75,000, a lot of it comes from, we're looking for businesses, we had a lot of great restaurants last year that donated food for our survivor dinner.

For those of you who don't understand what Relay for Life is, it takes place over an 18-24 hour period where teams are supposed to have a member of the team on the track at all times. That doesn't mean that we're asking any one person to walk the whole 18-24 hours. In fact if you can't walk, you can come sit and work a tent or sit there on the stands and support the walkers. It is a great event, we start with a survivor lap where we have cancer survivors and those who are still undergoing treatment to take a walk around lap and lead us off. The teams walk a lap with their banners and for the rest of the night we have people out there walking. When you get to dusk, we have an incredible ceremony call the luminary ceremony where people buy luminaries in honor of those who are battle cancer, and in memory of those who we've lost to it. We light those up and announce their names and we line the track with them. As someone who has participated the last two years and last year had my own team for the first time, it is probably one of the most moving events I have ever had the opportunity to participate in. I just came back in September from the regional training for the east central region which is Pennsylvania and Ohio have been combined and it is amazing there were over 5,000 relays around the world in 21 different countries. Euclid is only in its third year and we've, I'm not going to name any names, but we've out done a number of other communities in northeast Ohio that have been around a lot longer than we have and it just shows what we can do if we work together.

For something that has nothing to do with that and maybe it has been covered, I just have a couple of questions as a citizen. First as someone who lives off of Tracy Ave., I was wondering what the schedule was to get a street repaired? I know they put the new pipe in, but that street, especially if you're traveling eastbound on it, is rather difficult to drive on right now. Also, in reading the News Herald and in talking with an officer at the Library a couple of weeks ago and seeing the article about our SWAT team breaking up a burglary, there's been a lot of stories about daytime burglaries on the east side and in Lake County. I was just wondering what the status was of that.

Also with the two bars that they talked about a couple of weeks ago, what the status of their liquor license were and if there were any other bars in Euclid that was an issue with. I've heard some complaints about the ones near my house. Thank you.

Director Bock – Tracy we hope to complete the installation of the main this week. Then of course we have to install the new hydrants, do the tie-ins at all the side streets and 222. Then we have to do all the house connections. I would expect at least 4 weeks out if the testing goes well. There's also testing involved there. We're at least 4 weeks out. Residents were informed prior to construction that this street would not be resurfaced this year. Cleveland Water will do the trench line repairs. They will temporary cover the concrete work that they do and we will resurface in the spring.

President Holzheimer Gail – Capt. Brickman, anything you can share about daytime burglaries, SWAT team interaction?

Capt. Brickman – Yes, I'm certain that incident did get some media coverage and the individuals that were arrested were charged with aggravated burglary and they are presently in County jail.

President Holzheimer Gail – Any advice to residents?

Capt. Brickman – What happened in that particular case and I would just say keep your eyes open. The residents are our eyes and our ears and we rely on them for information, we're as good as they are. If you see anything suspicious, anybody who doesn't belong in a particular yard, somebody walking door to door, anyone in the neighborhood, please give the police department a call. I'd rather we check it out and it be something innocent than we not come out and someone's house be broken into.

President Holzheimer Gail – We did touch on the two liquor permits early, but Director Frey I know there was going to be a review of other establishments. Were there any findings?

Director Frey – I am unaware that any other bars have fallen into the category of the two that we are seeking to revoke their license.

President Holzheimer Gail – But there has been a process put in place to review those regularly?

Director Frey – We would be getting that information on a complaint basis from the Department. We've not had that kind of activity that I'm aware of that caused us to take the action that we did with the two.

Mr. Warren Wallace – 24430 Mavec. First off, I've been working 28 days, 16 hours a day, so I'm dead tired right now, I did wake up to come down here. I think there are several issues that the residents need to address. I support the police department 100%. Previously I supported the Mayor 100%, but I've gotten in the middle a bunch of nonsense that's trying to say that the Mayor of our City, the leader of our City is in cahoots with a certain corrupt individuals. I think that's wrong. I believe that's wrong. What I do for a living is research and development. If I am wrong on the analysis that I submit to my bosses, people lives, thousands of people's lives are in jeopardy. I try to look at everything, everything, every little detail and make sure it is correct. It really disturbs me that there are certain individuals trying to paint the Mayor as being corrupt and the literature we've gotten is trying to say that he is in cahoots and that's wrong. I think the intelligent voters and residents in this city should know better. The Mayor has done a good job during his time.

President Holzheimer Gail – Mr. Wallace, I just want to interrupt you. We're not allowed to campaign for individuals.

Mr. Wallace – I'm not campaigning.

President Holzheimer Gail – I just want to check you.

Mr. Wallace – I appreciate that but I'm talking about the Mayor, leader of this city, I'm talking about what's out there. This is not about campaigning. This is about informing the people of what our Mayor has done for us and the lies that are being put out there about our Mayor. It is about who can do, it is not about the Mayor, it is not campaigning, even though you cut my time off. I have been a supporter of the Mayor and like all things, ideas that worked in the past, is not suitable for the future. But I don't want the residents, the intelligent residents to think that the Mayor is this really terrible guy. I want them to look at the merits on what people can do for this city, on how they can make our lives and our quality of life better. It is wrong for someone to run around and paint the Mayor as bad. The person I support, doesn't believe in that. The person I support who I think can do a better job ...

Councilman Langman – Madame Chair ...

President Holzheimer Gail – You may not use this forum, this is a public meeting, this is not a forum for political campaigning for advocacy on behalf of a specific candidate is prohibited. You can talk about a city issue.

Mr. Wallace – The city issue is that it is the same old game that is being played with the residents and we need to get past it. We need to look at what's best for the city. We need to look at what's best for our quality of life. That's what we need to look at. We cannot continue to go down the same old path that didn't work. I know I'm getting there with a little campaigning but we need to do what's best for the city and we need to stop looking at the negativity, depressing stuff that's going to hurt us. We need to look forward, look to what's best for the city. Thank you, I'm going home and going to sleep.

COUNCIL MEMBERS' COMMENTS

Councilwoman Jones – I want to start off by announcing an event that is taking place Saturday, October 22 at Euclid Square Mall from 12:00-3:00 pm. Crown of Life Ministries is presenting their first annual health and wellness conference. This is an event that will feature health screens, nutritional information and information on chronic health conditions, exercise sessions, fitness testing, children's activities, local vendors, food and fun. Please come out and take the opportunity to investigate some of the health opportunities that are out there. This Saturday, October 22nd, Euclid Square Mall. If you need further information, call 216-334-5545.

Another event on Friday, October 28th is the Petpals Clambake. This will be held at the Manor Party Center at 6:30 PM. It includes a buffet meal, tickets are \$40 and contact anyone at the Animal Shelter for tickets in advance.

I have a few questions and I'll ask all my questions and if you could just answer them at the end. Director Bock, you mentioned about the leaf pick up and I didn't get a chance to look today if the website has been updated as far as what areas we're starting on with the leaf pick up. I know you mentioned there was some light pick up last week but we officially started this week, but what areas did we start in.

We have an ordinance in the City of Euclid for residential properties that cannot put plywood or wood in windows. Why don't we have that same type of regulation or restriction for commercial properties that have that up in windows as well? If we don't, I think we need to have that restriction because there are some that are using wood in windows where it shouldn't be.

Director Pietravoia, can you give an update on the dialysis center, the new one on Euclid Ave., give a status on when that will be opening. If you could also include in your status the landscaping? It looks like part of it that's closest to Euclid Ave. is blocked off. I wanted to make sure that's included in the landscaping and they will be taken care of.

I just want to wish everyone, for those that celebrate Halloween, a Happy Halloween. Be careful driving out there, there will be kids out running from house to house so please be careful while driving so they're not darting in and out of automobiles. Also I'm sure there are other Halloween alternatives that are available for those that don't celebrate Halloween, but have a safe and happy Halloween event. Now you may answer my questions, thank you.

Director Bock – The leaf pick up we begin, at least at the beginning of the year, we start out on your regular garbage collection day is the day to post leaves out to the tree lawn. We will continue to follow that as long as Mother Nature allows us to. When it gets heavy, obviously we're going to fall behind and that's where the website comes in as to updating on what section we are. Residents can look at that, follow to see where we're at. At the beginning of each day, Supt. Reese will put on that website which area we're going to be in that day. If they follow the website they can get a feel to where we're at. Hopefully leaves starting early, coming down gradually will continue and maybe we can keep up with it and get it over with early but somehow I doubt that will happen, but we can always keep our fingers crossed.

Councilwoman Jones – What area were we in today?

Director Bock – Monday's collection route.

President Holzheimer Gail – Director Pietravoia, can you answer the plywood on commercial properties and the Dialysis center?

Director Pietravoia – I would have to look up the specific provision but I believe there's also a restriction on plywood being used for commercial board ups. I will look up that code provision unless Director Bock knows it off hand and we'll send it to you. I can think of a couple of examples over the past few years where business owners have attempted to do that and we have contacted them and advised them against it. If you have specific locations we can take a look at them through the building dept.

Councilwoman Jones – Yes I do and I informed Director Bock of that location which is still existing.

Director Bock – We do have that location you're speaking of in front of the Prosecutor. We're waiting for them to be summons in. We have allowed a plywood board ups on some of the larger commercial buildings. We do request when they do it, we've had them paint the plywood black so it can't be distinguished as easily as being boarded up. It has worked well. The case we're talking about there, I think it would work well also. When they're coming into the Prosecutor, I will let you know, you're more than welcome to attend that with us and hopefully we can take care of the many issues at that site.

President Holzheimer Gail – Director Pietravoia the Dialysis Center?

Director Pietravoia – The Dialysis Center being built by Fresenius Weston Corporation at Century Corners. The building is substantially complete, they're working on the interior finishes now. The last time we contacted them, they expected they would have everything done toward the end of the calendar year. We would work with them to have a grand opening at that time. I don't have a definitive date but they did tell us they expected to be completed by the end of the year.

The landscaping, I'm not sure I understand the issue. I did look at it recently but I wasn't looking specifically at the landscaping, if you could describe more fully the concern that you have, we can check it out against the approved plans.

Councilwoman Jones – It is the landscaping as you come down the hill, there's part of it that is blocked off with some pegs and plastic materials. The part that is above that section looks like it is cleared out and leveled out. The part that is below that is still high grass.

Director Pietravoia – What you're seeing is a temporary installation and Director Bock can explain that's for erosion control.

Director Bock – The area you're talking about is silt fence, that's installed to keep the mud and dirt from washing off onto the sidewalks, into the streets and into the drainage systems. That silt fence is installed at the beginning of the construction and maintained. Once it is removed, they'll be able to mow that area and if there is any disturbed they'll have to re-seed them and take care of them at that time. That silt fence will remain up until construction is complete.

Councilwoman Jones – I do have one last question, I'm sorry. Director Bock if you could give an update for those residents that are part of the waterline replacement on Tungsten, Mills, 279 and Sydney. I know we went over a little bit but just for those that are listening so they can know.

Director Bock – Mills, Sydney, E. 276, 279, we have completed the installation of the water mains, Cleveland Water has, not us. Their contractor is now doing the ditch line repairs, they're cementing the ditch line that they did. They will be placing some asphalt in the ditch line also. As soon as they pull out of there which I hope to be within the next week, week and a half, I've already marked out and residents will notice a lot of white marking in the street alongside of sidewalks, along curbs. That's for my contractor who will be coming in to do road repairs. As soon as they pull out of Mills, 279 area, I will get that marked up and then we'll be bringing in our contractor to do our repairs that are required and then we will be paving that soon after.

Councilwoman Minarik – First off I'd like to send my condolences to the Udovic Family on the death of Mr. Udovic. Joe, God Bless and Mrs. Udovic.

We will be having a Sustainability Committee Meeting, 6 PM November 2nd, that's a Wednesday. We will continue the process of talking about Pay as You Throw and making some headway on it I hope. That's Wednesday November 2 at 6 PM right here.

I wanted to talk about the Leslie Avenue incident. Capt. Brickman I think it is just tremendous what SWAT has done in the last month, these two incidents, but I have a question. Because there seemed, the Leslie Avenue incident, where that was a suicide, seems very similar to the incident that surrounded Sgt. Blakely's death. I wanted to know, I just had four questions regarding the two incidents because there were differences in how they were handled.

My understanding is the Leslie Avenue incident, the officers that showed up on that, they were put on paid administrative leave, is that correct?

Capt. Brickman – Yes, they were placed on administrative leave.

Councilwoman Minarik – And then I remember reading we waited on the autopsy report results before releasing whether that victim committed suicide. The body was not removed until the Coroner arrived at Leslie Avenue. I would imagine that crime scene investigation procedures took place at Leslie Avenue. My questions basically are, none of those things occurred on April 20th though. The officers present were not put on paid administrative leave. The Coroner did not arrive before the body was removed, the body was removed before he arrived. But we did not wait for the results of the autopsy before we went public and said Sgt. Blakeley died. And it was not treated as a crime scene where we got statements from the witnesses. I'm just curious and you don't have to until I'm finished, I just want to know what the difference is between those two incidents that they were treated so differently but the outcome of those incidences were the same, two suicides.

Mayor, I think the last time when I asked you what Chief Repicky's role was as Chief, you said he was working on the Police Chief Association Report, is that correct, as one of his jobs?

Mayor Cervenik – He was to make himself available if they needed any additional information. His main jobs has been duties and responsibilities have been in the communication, getting 9-1-1 grants and getting a tower for the narrow-banding, he's been working on that. He's also to make himself available to the Chief's Association.

Councilwoman Minarik – Thanks, the reason I'm curious about that is, my understanding is, we're six months left to go until he retires; that's going to cost the city, I would figure between wages and benefits roughly about \$75,000. But in this report that we received from the Police Chiefs, there were 16 points that Capt. Brickman pointed out that were inaccurate. Of those 16 points, when the Police Chiefs Association came back, Mr. Sarver came back, eight of them, the information had been provided to the Association by Chief Repicky. I'm thinking, what are we paying the Chief for if he's giving bad information to an organization that we are paying to work on a management report for the city. That's what I'm curious about. Now I'm finished with that. Capt. Brickman, if you could answer those questions about why those two incidents were treated so differently?

Capt. Brickman – They were treated differently because they were very different in nature. In one incident an individual took aggressive action and fired a round at police officers, narrowly hitting them. It was very traumatic for these officers, not that the other officers weren't traumatized, however there was aggressive action directed toward those officers. Additionally it took an extreme amount of time to carefully enter that room. There was a great lapse of time but it is done tactically. The SWAT team handles situations like that and I believe they did a very good job in actually clearing the house. There were some other specific questions that you had?

Councilwoman Minarik – The body. In Sgt. Blakely's case the body was removed before the Coroner. Euclid Police Dept. was not treated as a crime scene investigation. And, we did not wait for the autopsy results before saying it was a suicide as we did over on the other incident, why?

Capt. Brickman – In terms of the investigation, in one case there were two shooters. The individual who shot at our officers, who also committed suicide, and our officer who returned fire. We wanted to ascertain entirely and completely, accurately 100% before making any statements that he in fact did commit suicide. We refrained from making any public statement until we received a conclusive report in that regard. The dynamic was entirely different and it would be handled differently. One of them happened in a public building, another happened in a private residence.

Mayor Cervenik – As far as the answers that Chief Repicky gave, it is my understanding that those answers were given before he announced his retirement would be my guess.

Councilman Wojtila – I didn't realize that the report was issued.

President Holzheimer Gail – It was emailed today, later in the afternoon, maybe 3 or 4:00.

Mayor Cervenik – Right after the Directors meeting.

Councilman Wojtila – My only comment is that there is a Fullerwood Neighbors are having a meeting tomorrow night and they've opened it up to a Candidate's Forum. That will be 7 PM and I believe it is the Mayor and Judge. That's at Ss. Robert & William at E. 260th Street, Tuesday, October 18th at 7 PM.

Councilman Langman – First I'm happy to receive the Police Chiefs Association report, it should make for interesting reading. That should get the department hopefully back on track. It is interesting though that the unfortunate genesis of all this was the death of the Detective. That really opened up many issues within the Police Dept. including FOP meetings with most of City Council and then that led to this particular report. So we've had a tremendous amount of turmoil within the department. But what's still outstanding is the Sheriff's Department investigation. That was mentioned in the statement by the Mayor the day after the death of the Detective, his name was linked to the investigation that was ongoing then. Law Director Frey, I will ask like I did two weeks ago, where is the Sheriff's Department with their investigation?

Director Frey – I don't know. I spoke with the County Prosecutor's Office more than two weeks ago asking where the report was. I was told that the Sheriff's Dept. was to turn it over to them, that did not happen. The Prosecutor's Office told me that it was delayed because the Sheriff's Dept. wasn't complete with it. I have no further information and that's been more than two weeks, I don't know where the report is. I was under the impression that they had nearly concluded their investigation, would be presenting their report to the Prosecutor and I've had no word on it sense.

Councilman Langman – Okay because you understand that family is here every council meeting and they're still looking for answers. That investigation is a part of that. Obviously the residents need those answers too. I am troubled by one aspect, Law Director Frey, does it have to go to Cuyahoga County Prosecutor's Office and should it go to another jurisdiction's prosecutor's office?

Director Frey – I don't follow your question. Cuyahoga County Prosecutor's Office is responsible for the review and presentment of charges, if there is criminal activity that occurs within Cuyahoga County. If the County Prosecutor is unable because of some type of a conflict or the subject matter to be able to handle that, they will ask the presiding judge to assign an outside prosecutor to handle the review of that case.

Councilman Langman – Who actually decides that? The reason why I ask is because obviously you and everyone else who is watching is familiar with the various scandals that emerge at the County level. Mr. Mason our County Prosecutor has decided to endorse a candidate for Mayor here in the City of Euclid. On the surface that could present conflict.

Director Frey – Then I would suggest to you Councilman that you write to the County Prosecutor and ask that he assign the review of that matter to some outside counsel. I don't believe that an endorsement would suggest that the two hundred plus attorneys in that office are incapable of a thorough and comprehensive review, or that they are in some way beholden to either the County Prosecutor or this administration in giving a fair and impartial review. I'd be offended if I were the County Prosecutor with that suggestion. But I would suggest, if that's important to you, that you make that case to the County Prosecutor directly. I think he's got a tremendous staff of attorneys in that department that are more than capable of making that review.

Councilman Langman – With all due respect sir, I think the Plain Dealer and Scene have a little different take on it. You cannot have the perception that somehow this is going to be slowed down in any way for the family and for the residents of this community.

Director Frey – Councilman this administration would like nothing more than to get that matter concluded. It has been an open wound that needs to heal. It won't heal until that report is released. I absolutely want that report released sooner than later and it certainly has been way too long in my opinion.

Councilman Langman – Can you call and get us an update then?

Director Frey – I'd be happy to call. I don't know that I'll have more than the information that I presented tonight, but I'd be happy to make that call. I'd like to see this done.

Councilman Langman – Very good. On a more happier note, be safe on Halloween and please watch out for the children that are out trick or treating. Thank you.

Councilman Van Ho – My first question is relatively simple. I have a little old lady in my ward who has about a 6-8 ft. railroad tie that is badly deteriorated, it was used for landscaping. I looked at it and said why don't we put it in the garbage. She said something about a 3 ft. rule. Is there somehow we can get this little old lady's tie removed?

Mayor Cervenik – If you give me her address, I'll find some volunteers who can do that.

Councilman Van Ho – To people who have consistently said that we need to get rid of the garbage user fee and the lighting thing, it is very easy to stand out in the audience and say let's do that. It is a little tougher because my question has always been to those people, how many police and fire men do you want us to lay off to do that? I will keep saying that until they come up with a number for me.

I would like to personally thank all of those who work on the Relay for Life and the people who donate. As the husband of a cancer survivor we need to defeat that disease and I hope that everybody will join a team, reach into their pocket and donate and hopefully we can wipe it out in the near future. That's all I have.

President Holzheimer Gail – I don't think we announced the hours for Trick or Treating. It will take place on Monday, October 31st, Halloween day from 6:00-8:00 PM, typically is when trick or treating is available. I would ask that everyone be respectful and responsible to our neighborhoods and to the kids. As always I'm sure there will be members of both safety forces out that evening to be visible and active in the neighborhoods, we appreciate their efforts as well.

Two other quick announcements. Our own Euclid Symphony Orchestra will be having their first concert of the season on Sunday, October 30th at 3 PM at Shore Cultural Centre. For those who have not been at one of their concerts, they really are very good, it is really a treat to have them here in our city and they need our support. Those who are able and interested, please attend the Euclid Symphony Orchestra, Sunday, October 30th at 3:00 at Shore Cultural Centre.

We will follow the Sustainability Meeting, most likely checking everyone's schedules on November 2nd with the Internet Café rules, regulations and zoning legislation, so keep that on your calendars as well.

Councilman Gilliam – A couple of announcements and a couple of questions. There will be a Ward 1 Candidates Forum this Thursday, October 20th at 7 PM at Euclid Central Middle School. Mayoral candidates, judicial candidates and also Euclid School Board candidates will be in attendance.

Director Bock, thank you for Chippewa, the residents are extremely happy about that street. The only concerns that I still have is that there is a street light on the corner of Grand and Euclid that is still out. Now this particular pole doesn't have any numbers on it but it is the pole with the Grand Blvd. sign on it that is still out and it is actually leaning.

The other issue that I have is if you could have somebody assist the Grand Blvd. hill, it just seems to be sloping and knocking some bricks down. I'm just thinking maybe there needs to be some bricks replaced or at least tuck pointed. I just wanted to make those two announcements.

Capt. Brickman, I had asked a question about Beachwood being part of the original SWAT team. I know you said that they were, but I was still a little hesitant to buy into that because I don't remember Beachwood being mentioned. So I looked in the ordinances and please understand that I know you were not Chief or Acting Executive Officer, you were not Chief at this time. On May 3, 2010, Ord. 073-10 was an original ordinance that included Shaker Heights, South Euclid, University Heights and the City of Euclid. Two questions, when was Beachwood added and by who? What is the status of EDGE at this current time?

Then I'm going back to Ord. 083-10, which was passed on April 5, 2010, the regional emergency response team. There were some dollars that were of a concern of mine, \$58,000 for training activities, equipment purchases. In addition, there was \$19,000 in-kind for training of our officers. I'm wondering, has this money been allocated before? Who was responsible for reporting this information and has the report been completed? Lastly, are we still under a grant currently, are we under a grant currently?

Executive Officer Brickman – I don't know the exact date that they were added onto the agreement. I do know that they are part of the agreement. If I do have it in electronic format, I will try to get it emailed to you. If I just have a paper copy of the agreement, I'll make a copy of it and get it to you in inter-office envelope, make sure you have it. Again it will show that they are part of the agreement, but I don't know that it will specifically state the date that they were added on. Also as I understand the EDGE agreement, there is the ability to add additional communities into that as time goes by.

Councilman Gilliam – That's correct, I'm aware of that. My concern was we voted to have the Law Director amend as necessary with consultation with the Chief of Police. But I was just wondering the reasons for adding, was it a cost sharing, were we having a particular city that was not necessarily owing up to the responsibility. So those are the concerns, when was Beachwood added and what was the motivation behind it? I know that we voted for it to be amended by the Law Director and I just wanted to get some clarity on that. I can email you that information if you need to.

The other issue was basically as I said, as far as the status of EDGE, where are we at right now. In regards to the Regional Emergency Response Team, \$57,000 were supposed to be used for training activities and equipment purchases and \$19,000 was for in-kind training. Dealing with grants in the past, I know that this information has to be documented. Who is responsible for it and has this all been documented for these allocated dollars?

Executive Officer Brickman – The grant that you're referencing there is currently expired. The final report had been submitted and the amounts that you have mentioned there were not obtained. Some of the purchases were made for equipment, I believe it was in the area of \$12,000-\$13,000. Additionally some of the operations that the team is involved with had been funded through that grant and in kind part had been met. I can also get you a copy of that final grant report.

Councilman Gilliam – I just would like to have that complete. One last question with the time that I have available, do you have any indication of while we were not able to obtain those level of dollars as far as those two amounts that we had discussed earlier?

Executive Officer Brickman – I believe that the problem with that was the amount of time it took from when this team was conceived until when it actually got to the point that it could become operational.

There was a long delay in terms of the communications and getting the background work done so that the team could actually be formed. Had that been expedited or be able to be handled a little bit quickly, it is very possible we would have been able to use all the funding that was afforded to them through that grant.

Councilman Gilliam – So without disparaging the other communities, there was no indication that other communities couldn't step up to the plate to meet the demands of the grant?

Executive Officer Brickman – I don't want to say that there's any one particular to blame other than perhaps the thought was that it was going to be a little quicker in terms of getting the team operational and functionally it just couldn't happen that quickly.

Councilman Gilliam – Okay, thank you.

Councilwoman Scarniench – First of all, that little expression, open mouth insert foot. I want to again publicly apologize to Councilman Langman and to the residents for the remark I made earlier.

I also want to say Happy Birthday to Councilwoman Jones, I heard today is her birthday. I'm not going to ask her how old she is, but Happy Birthday.

We already discussed the Assets Committee Meeting will be next Monday, October 24th at 6:00. We'll hear from the Henn and from the Golf Course. We will review what's been going on this past year and hear any updates, anything that we need to hear from them on the 24th.

I did get to read this very quickly. I'm very impressed. This report was submitted September 30th. Capt. Brickman went through it very quickly, in less than a week, and made some corrections and they responded right back on October 14th. So for us to get this today, I appreciate that very much.

What I would like to know is can we set up a meeting at some point because I would really like to go over some of this stuff and actually see what you feel, what we've already changed and what's the next step for us. There's an awful lot of information in here that would be very timely that we can look at and discuss what is going on if that's possible?

Mayor Cervenik – I don't want to speak for the Executive Officer, but I believe that is what's planned to be done is to have a task force, for no better word, of police officers to review this to come up with some recommendations. One of the reasons we wanted to make sure we got the revised report and ask Capt. Brickman to send in some of the corrections was so that most of them would be already, it was going to be sort of difficult working with staffing levels that were wrong. Also a couple of items, such as they thought Mayor Cervenik commented that he was permitted to promote a police chief from any of the top three candidates. I know I can't do that and we're not sure how that got into the report. Items like that so we tried to fix those. I would suggest we give the police department a little bit of time to go through them and put a timetable together and then possibly have a meeting, an Executive & Finance committee meeting and go over that report.

Councilwoman Scarniench – That would be great, I would appreciate that. I've also heard that I believe it was either Friday or Saturday that the other report was given and they were deciding if it was going to the Prosecutor. I don't know if that's true or not, but that's what I've been told. I would appreciate hearing whatever the Law Director finds out tomorrow.

The last thing is and this is a question for Director Bock, I think I answered it correctly. Residents wants to know, can we supplement the city employees efforts by private contractors to clean up the leaves. I said I didn't think we could do that because of contracts, so what do you think of that idea and was I right?

Director Bock – I don't know if I can answer that, that might be a question for the Law Dept. I don't know if our contract prohibits us from using outside sources in that case for offsetting maybe overtime or for some reason we might do that. I don't know that you'll find a private contractor with the type of equipment necessary that can do the job cheaper or more efficiently than what we do. Privatization of leaf collection, don't know most communities are actually going away from leaf collection. Cleveland cancelled theirs, some other communities no longer collect leaves.

Councilwoman Scarniench – I said I would ask.

Mayor Cervenik – We're collecting our leaves.

Councilwoman Scarniench – And we're assured that it is all going to work out peachy-keen this year not like last year. On that note, I will make a motion to adjourn.

ADJOURNMENT

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

Attest:

Clerk of Council

President of Council