

SPECIAL COUNCIL MINUTES

August 8, 2012

A Special Council Meeting was held on Wednesday, August 08, 2012 at 6:30 PM in the Euclid Municipal Center Council Chamber. Council President Holzheimer Gail presided.

Members Present: Caviness, Jones, O'Hare, McLaughlin, Langman, Van Ho, Holzheimer Gail.

Excused: Scarniench (arrived 6:40 pm), Lynch

Councilwoman Jones moved to excuse Councilwoman Scarniench (arrived 6:40 pm) and Councilman Lynch. Councilman McLaughlin seconded. Yeas: Unanimous.

Others Present: Mayor Cervenik, Law Director Frey, Finance Director Malone, CS&ED Director Pietravoia, Service Director Bock, Police Chief Brickman, Recreation Mgr. Stephens, Asst. Director Sweeney, Clerk of Council Cahill.

President Holzheimer Gail – I would like to take the opportunity to welcome our new Councilwoman Stephana Caviness, who was appointed to fill the Ward 1 Council seat, we are very happy to have you here. Please don't hesitate to ask any questions that you would like to.

Liquor Permits

Councilman McLaughlin moved to receive without objection a new D1, D2, D3, D5 liquor permit to 22572 Lounge Inc., Db a Emerald Isle Lounge at 22572 Lake Shore Blvd. Councilman Van Ho seconded.

Asst. Director Sweeney – I spoke with Lt. Meyer about this and there were no issues with the applicant.

Roll Call: Yeas: Caviness, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail.

Councilman McLaughlin moved to receive without objection a Liquor Agency Contract, to Shiv Krupa Inc., Db a Euclid Mini Mart, 355 E. 200 St. Councilman Van Ho seconded.

Asst. Director Sweeney – Lt. Meyer advised there were no issues with this applicant.

Councilman McLaughlin – Do you know if the ownership has stayed the same?

Asst. Director Sweeney – I don't think so, because I think it was a change in ownership. It was a different corporate name. I'm pretty sure it is a new owner but the new applicant did not have any issues.

Mayor Cervenik – How long do we have to act on this?

President Holzheimer Gail – August 13th.

Asst. Director Sweeney – My email from Lt. Meyer, Regina was cc'd on that and I asked if there were any issues and Lt. Meyer said there were not.

Councilman McLaughlin – I'm just curious because I've seen different people there and just wondering if there was any history about the current owners. No objections.

Roll Call: Yeas: Caviness, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail.

Approved.

Councilman McLaughlin moved to receive without objection a transfer of a C1, C2, D6 liquor permit to Shiv Krupa, Inc., db a Euclid Mini Mart 355 E. 200 St., from Econo Inc. Councilwoman Jones seconded.

President Holzheimer Gail – This is the transfer of ownership who they did the background check on.

Asst. Director Sweeney – Correct.

President Holzheimer Gail – For history, we have objected in the past for reasons, there was nothing in the background of this case. We know the liquor control board has their own agendas and it has not always upheld an objection from us without serious violations, does not typically have merit.

Asst. Director Sweeney – Correct. I thought there was two applications for this one. There was a transfer of ownership, this is a new owner, no issues with the new owner.

President Holzheimer Gail – If there are issues, we should make the police department aware and they will do their best to follow up. I don't know if you're aware of issues at this time?

Roll Call: Yeas: Caviness, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail.
Approved.

Council Minutes

Councilman Langman moved to receive the Council Minutes of June 18, 2012 and Special Council Minutes of June 27, 2012. Councilman O'Hare seconded. Yeas: Unanimous.

Reports & Committee Minutes

Councilman Langman moved to receive the Monthly Finance Report thru June 30, 2012; Police Report of June 2012; Executive & Finance Min. of 6/20/12 and 6/25/12; Sustainability Com. Minutes of 6/13/12; Board of Control Min. of 6/25/12; 7/2/12; 7/9/12; 7/16/12 and 7/23/12.
Councilwoman Caviness seconded. Yeas: Unanimous.

Committee of the Whole for Legislative Matters Only

Ms. Mary Jo Minarik – 18870 Abby Ave. This is regarding the purchase of the parcel at Alexander's. I'm sorry I forgot to bring the legislation up but I believe it is item #10. I have three basic approaches. One is, I approve of the purchase, I question the price of \$900,000. The reason for that is in checking out internet, I see that the property was purchased in 2010 and it was purchased for \$600,000 from Franchise USA. The current value by the County is \$308,000. When I went online, there is a source called, the Coin Report, which is a weekly report on commercial real estate trends in northeast Ohio. They value the property at \$730,000.

I have a couple of questions, one, I would like to know if there was a real appraisal done on this property, why a \$300,000 increase in value over just two years, when we know the property values are going down in Euclid.

The second point, this is more to the Mayor because I'm addressing you because I'm concerned about your reputation. I think by you sponsoring this it could have an appearance of inappropriate favoritism. The incorporator of the owner gave the Mayor \$1500 last year to his campaign. My concern is the public will misinterpret a \$300,000 profit as a payback. Many people in this town view our Mayor as a man of great integrity. So am I concerned that this may have an appearance of impropriety.

My third point is to the Council. This parcel will be purchased for \$900,000, on the backs of a sewer increase that was recently passed by Council. The incorporation, the LLC that is receiving the \$300,000 it could appear as a windfall profit on the backs of the citizens and businesses of Euclid. I encourage and I ask Council to please, do your due diligence in finding a fair market price. We do need the land, eminent domain sets a fair price. A \$300,000 profit in just two years to me seems a little bit over the top. Thank you very much.

President Holzheimer Gail – Welcome to Councilwoman Scarniench, we will add her to the attendance.

Ms. Chrystal Chillious representing the One 2 Lounge, the owner, 509 E. 185 St. I have my consultant with me with also will speak. I would like to first thank the Law Dept., we spoke with them earlier today, sat down and came up with a list of things they would like us to implement and things that we've already implemented on their list.

Mr. Marvin Cross – Consultant. One of the things the Law Dept., Police Dept. we had a conversation today, it was a communication gap that they didn't know what they was supposed and got some bad advice. Today we sat down and hopefully satisfied the Law Dept. and the Police Dept. There's already going to be some changes made and I don't think they'll have any other issues with any problems. She's a Euclid resident and Euclid business owner, so definitely would like to contribute to the City of Euclid.

Mayor Cervenik – Could you give your address.

President Holzheimer Gail – I'm sorry, I'm having trouble hearing tonight, so would you please both provide your addresses as well.

Ms. Chillious – 25501 Briardale, Euclid, Ohio 44132.

Mr. Cross – I'll just go on the same since I'm working for her. I'm the consultant. My home address is 9005 Chinaberry Circle North, Macedonia, Ohio.

President Holzheimer Gail – We ask everybody for that information.

Mr. Dan Reagan – 18700 Pasnow Ave. and I wish to speak to One 2 Lounge issue. I have a contingent of residents that are all going through the same problems. I want to thank the Police Chief and the Councilman for putting forward the motion to deny them their liquor license. It has been an ongoing nightmare for 2-3 years with the traffic problems, parking, noise, the broken bottles, the people urinating in the street and the ridiculous amount of noise. Regardless of what they say about their promises to correct these problems, I don't see that happening. We're standing by the resolution to deny them their liquor license. Thank you.

Mr. Harvey Hutter – My wife and I reside at 1446 E. 204 St. The house next door has been torn down finally and we are hoping to purchase the property. We have plans to do some landscaping and turn into a real tribute to the neighborhood and it is not going to be just another vacant lot. We respectfully request everybody votes in favor of the #4 and thank you very much.

Mr. Victor Goodman – 20201 Glenn Russ Lane. I would also like you to approve for Harvey, he's been a heck of a citizen and he'll make that place look beautiful. I want to talk about #6 first and I want to make sure that the former Councilman Mr. Gilliam get credit because this was his baby and at least on the record it should be. I cannot thank you enough for finally getting this approved but I have to ask a question, I really do. Which is, the hottest summer in history and it is August 8th and now we're approving this, not in May and not in April, when the kids could have used it all summer long. I know they'll be thrilled to use it in the future summers, but I hope things can be done in a more timely fashion in the future especially when it benefits citizens.

The only other thing I want to talk about is #10, and I only want to ask it in this sense. Has the EPA absolutely positively, fully, not somewhat, not almost, not could be, we're expecting a great answer, but have they approved 100% of our plan so that this purchase of this land will not be St. Robert's.

We cannot continue to spend citizens money. In light of what was just said by someone else which I had no idea before I came here, I would just simply ask this council to please, if nothing else put this into committee and talk about because the last thing in what has happened in this County to begin with, we're coming into a new day of sunshine, let's not bring rain to it. Thank you.

Mr. John Shipitka – United Towing Services, 21200 St. Clair. I just want to remind everybody about the towing contract. There really isn't the need for two companies, there's isn't enough business. I can cite last weekend as an example. From 5 PM on Friday until midnight on Sunday we did one Euclid police call in that whole time. Also by sending the business out of the city to another company, you're hurting other Euclid businesses. All the other repair shops, body shops, the places we get our fuel from, the people who work on the cars that leave our impound lot, if they're not in the City of Euclid, they're not going to come back to the City of Euclid.

Also we've been doing it for 20 years, there has been no problems. We don't have any paperwork saying there's been any problems. We haven't been suspended. We've done a good job and we are in the City of Euclid and I also reside in the City of Euclid. I can understand the police department wanting to have a back up company. In 2005 this letter was put out that there was supposed to be a back up company. Several months some how it was put to a rotation. One-third of our business was taken away just like that. Now from my understanding is they want to take half of our business. I think the city would want to promote and support the city businesses, not take business away from them. Thank you.

President Holzheimer Gail – Seeing no further comments, we'll move forward with legislation.

LEGISLATION

Ord. 111-2012 (136-12) MOU Cleveland Clinic Police @ Euclid Hospital

An emergency ordinance authorizing the Mayor or his designee to enter into a Memorandum of Understanding (MOU) with the Cleveland Clinic Police Department ("CCPD") to authorize the CCPD to exercise their police powers within the Euclid Hospital grounds and in certain areas surrounding the hospital and to develop protocols for the proper exercise of those police powers. (Sponsored by Councilperson Jones by request of Police Chief)

Councilwoman Jones moved for passage, Councilman McLaughlin seconded.

Chief Brickman – Chief Easton from the Cleveland Clinic Police Dept. is here tonight. He did bring some information to explain about the Cleveland Clinic Police Agency and it is set up as a power point presentation that he would like to make. I just want to say that we did meet and part of the reason for meeting, to move forward with this legislation deals with organizationally the requirements of Cleveland Clinic in order to make staffing arrangements and budgetary considerations. I know that it is their desire to try to get this process underway and I agree it is beneficial for the entire City of Euclid. It is beneficial for the police department to be working in concert with the Cleveland Clinic Police Dept. I see this as being a very positive move for the community.

Councilwoman Scarniench moved to suspend the rules to allow Chief Easton to make a presentation. Councilwoman Jones seconded. Yeas: Unanimous.

Chief Easton – Thank you for this opportunity to speak with you about the memorandum of understanding that we're seeking with the City of Euclid. I'm going to go through a power point presentation about our police department because as Chief Brickman and I have been meeting and speaking here, I know you probably want to know a little bit about our police department. We're asking you to allow a police department, you may not have a lot of knowledge of, to come into your community and exercise police authority. Me as a resident, I think it would be really critical of you and your residents have an understanding of what our police department is all about. You have the legislation and you have the protocol. It is pretty self-explanatory and I know you've had an opportunity to look at it. I'll talk a little bit about the police department and then I'm here with Chief Brickman to answer any questions you may have regarding the MOU and the protocol.

The mission of our police department is pretty basic and pretty simple. It is to provide a safe and secure environment in order for the Cleveland Clinic to deliver world class healthcare. That's what we do. We are involved greatly in contributing to the quality of the patient experience throughout our health system. Quite simply our police department exists to help people heal. That's the basic of our mission.

Why do we want to deploy officers? The Cleveland Clinic is talking about One Cleveland Clinic now. The Cleveland Clinic is in the process of standardizing the best clinical administrative personnel procurement in security practices throughout our health system. We are part of that. What we want to do is integrate the best police and security practices throughout our entire health system. We believe that we're in the best position to do that. We want to provide a safer environment for our patients and employees. We believe in being very pro-active, not reactive. We're here to supplement the Euclid Police officers in our emergency department, not replace them. We want to make that crystal clear, that is not our intention. We're just simply there to help them and assist them primarily work on the inside of the hospital, a little on the exterior side. They'll remain working in the emergency department. We very much value our relationships with all the local law enforcement officers that work in the emergency departments in our hospitals and want to maintain that relationship.

There is risk in hospitals. We have a very vulnerable population. It is very stressful. We realize that almost everybody who comes to the hospital is under some sort of stress. They're either ill, sick, have emotional problems or they're visiting somebody who is ill or sick or in our hospital. We deal with that environment all the time, hospitals have multiple entry points, 24/7, visitation, unrestricted. We have a lot of high value items, lot of expensive items in our hospitals, including even research that we would like to protect. You've probably seen it on the news fairly regularly now that in the last few years there has been 13 active shooter incidents in US hospitals and health centers across the country. Recently the City of Akron had a shooting. Pittsburgh Medical Center, John Hopkins, Hillcrest Hospital, one of our hospitals itself had a shooting a couple of years ago and we had to deal with the aftermath of the Chardon shootings where we had two patients in our hospitals and it was a very volatile situation. We provide a lot of service.

There is a lot of risk in hospitals and we are here to help minimize that risk. We do have the legal authority to be a sworn police department. Our authority came to us in 1987. We've been a police department in 1987, the state passed the required legislation. It requires legislation from the municipality where we seek authority. We've had that authority in the City of Cleveland since 1987. We've had it in East Cleveland and now we're asking you for this same authority.

This is an organizational chart of our police department. We are a very large police department, it is probably one of the better kept secrets in northeast Ohio. We have 185 employees on our police department. We're authorized to 190. We have a command structure that consists of a police chief, three commanders, four lieutenants, sergeants and corporals, support staff in the communication center, very, very sophisticated. This is how we're laid out.

We own three hotels on the main campus and we provide security for them as well too. You probably know that many, many world dignitaries and other high profile patients come into the Cleveland Clinic and our police department and protective services in the office of inspection are very well versed and trained in handling these types of incidences too.

This is what the Cleveland Clinic expects of our police department. To provide a safe and secure environment. We view that in a number of different ways. We're an intelligence led policing department. We have our own crime analyst and protective services in the Police Dept., where we analyze our crime daily then we plan how we're going to minimize or reduce that crime. We do actuary reviews of every incident that happens in the Cleveland Clinic and we decide what we can do better, what went right, what went wrong, what resources we need, what we don't have and then we plan from there to minimize the risk the next time around.

We use the same law enforcement networks everybody else does and our training is entirely based on our mission. We don't do a lot of futile training. We train specifically to our mission. We're there to enable the delivery of world class healthcare. We believe in patients first, victim first and our employees and visitors.

Engagement, we're all about our employees communication mentoring involvement and employee committees. We're very fiscally responsible. We have a fairly large sized budget with that, so we do a comprehensive business review. We measure everything, even our response times. We look at them, we have content meetings. We review them daily. We're making sure we're getting where we need to be in the right amount of time. Of course we do risk-based staffing for the return on our investment.

We believe in organizational value, our police dept. has some value and the way we look at that is the quality of our police department versus the cost and that's how we establish our value at the Cleveland Clinic. You have to remember, we are a business too.

Our police department is accredited through the Commission of Accreditation for Law Enforcement Agency. We are only the second hospital police department in the country to achieve that distinction. It is comparable to the magnum award that nurses get throughout the country. Every component of the Cleveland Clinic is accredited and so is the police department. We'll talk a little bit more about accreditation.

What does accreditation do for us? It really builds capacity. Right down from our core mission, we focus on quality of service, crime prevention, management procedures, accountability, continuous process improvement, non-discriminatory personnel practices. We're a very diverse police department, 38% of our police department are women and minorities. It builds continuity and staff confidence. Everybody on our police dept. knows what our mission is and what their job is. One of the bigger components is liability avoidance and preservation.

When we talk about quality, in 2010 our Police Dept. received the Lindbergh Bell Award along with protective services. They said we were the best in class out of 75 largest hospitals and healthcare facilities around the world. We won that for service quality, risk and management. We were competing with John Hopkins, Mayo Clinic and some of the larger ones for that. It was a great distinction for us to do that.

Security 500. In 2011 voted us the best fiscally managed protective services in the country, which is another great achievement. They look at what we do, they look at our value, they look at our cost and what we've accomplished and they say yes, you guys are doing this very well, in fact we were number one out of 75 hospitals. The year before that we were number two.

This is our communication center and as you can see it is very sophisticated. We have eight dispatch work centers, we have about 20 employees now that work out of the communications center. We monitor 15,000 alarms. We have over 1,000 close circuit TV cameras that monitor what we do. We're a very sophisticated center and you can see.

I would just like to close that we want you to be comfortable and confident with us in your community. We believe in excellent policing. We were founded in 1975, we're a service engagement focus, we have a strong business acumen and we're involved in very comprehensive recruitment selection, training. We have the same powers and authority, we have the same equipment and things that any police department has. We have a minimum mandatory 40 hour in-service training for all of our employees and it is more like 60-70 hours that our employees get every year. We're state of the art. We're intelligence led and we compare our crime regularly to the Third District. We're right smack in the middle of the third district in Cleveland so we do a monthly analysis of their crime versus ours and when you're on Cleveland Clinic property downtown, you're 72 times less likely to be a victim of a violent crime on a Cleveland Clinic campus.

That's a quick overview of our police department. We're very proud of it and we would very much like to serve the City of Euclid as well too. Thank you for your time and Chief Brickman I can answer any questions you may have.

Chief Brickman – It is pretty clear that the Cleveland Clinic Police Dept. is an organization that is excellently run. Chief Easton has an excellent group in place and we do feel that they will work out extremely well in partnership with the City of Euclid police department providing excellent service.

Councilman Van Ho – I don't question the quality based on your presentation. This agreement is similar to what we have with RTA's police department for the Park n Ride and various RTA facilities, is it not?

Chief Brickman – That is correct, there are similar agreements in place for different agencies. They primarily exist in the City of Cleveland where there's a greater presence of these agencies. Like RTA police can operate in the City of Cleveland where they're centered but they can also enforce laws on buses in the City of Euclid and at bus stops.

Councilman Langman – Chief Easton, how many officers would be on the campus?

Chief Easton – One officer, 24/7 365. It is our plan to assign six officers to Euclid Hospital. That's how we're going to do it. We can assign them to Euclid Hospital, they'll be working at Euclid and at the Cleveland Clinic. 56 hours at Euclid and 24 hours at the Cleveland Clinic to make sure they still remain in contact and are involved with what we do as well too. That is what it will take to provide you the

coverage that you need and we have a special officer, they get every other weekend off. So in order for them to maintain an every other weekend off status, 24 hours, seven days a week coverage takes six officers to do it.

Councilman Langman – Will this officer have access to a vehicle to patrol the campus?

Chief Easton – Not initially. That's in the plans. This is a huge investment for us but the long range plan is to provide a car. Initially there will not be a car. We will have other officers and supervisors coming to the campus.

Councilman Langman – Question for you Chief Brickman, if a resident is driving down Lake Shore, sees something going on at the rehab center, they call 9-1-1, is there any change as to how that call gets routed?

Chief Brickman – There is not. The call would be routed directly to the Euclid Police Dept., a 9-1-1 call and we would direct a response from there. Internally and we have to have further discussions after the MOU agreement are in place, but I believe there was going to be an internal notification so if something did happen in the facility, they would be able to contact the police officer that was there on scene instead of going through the Euclid Police Communication center and it would increase the response time so somebody is there more quickly.

Councilman Langman – I want to make sure the residents that are watching understand that there is no change if they see anything or feel anything is happening even though they maybe on the Clinic campus.

Chief Brickman – They can call our police department, radio frequencies are such that we would be able to communicate from the Euclid Police Communication Center with officers who are with the Cleveland Clinic Police Dept. working at that facility.

Councilman Langman – I take it that works vice-versa if they need assistance, they can radio in?

Chief Brickman – Likewise we will be able to monitor the frequency and communicate with them over the radio.

Councilman Langman – A question for the Law Director, I did notice on the slide about liability and responsibility, etc. If there's for example an excessive force issue regarding a Cleveland Clinic police officer, the City of Euclid would have no liability?

Director Frey – No, the Cleveland Clinic would handle that matter against the Cleveland and that officer.

Councilman Langman- Even though we signed an agreement with them, we are not liable.

Director Frey – That doesn't increase our liability in any way. If it is a joint police action with Euclid and Cleveland Clinic police, one would expect that there could be a claim against all the officers that were involved. If a Cleveland Clinic officer is responding to an event and there is a subsequent claim made of let's say for excessive force, that would not involve the City of Euclid.

Councilwoman Caviness – Just for clarification, this question is for either Chief Brickman, or Chief Easton, I don't know which one would be able to answer. What is the area of jurisdiction for the Cleveland Clinic police in this agreement, in terms of not just the hospital but are there streets that you also have jurisdiction over?

Chief Easton – On city streets that are adjacent to the property. With the City of Cleveland, we extend that authority out to 300 ft. and that's what we'd be looking at. We'd now be looking at extending it 1,000 ft., quarter mile or half mile down the street. We're there to focus on our mission and our mission is the hospital and to provide any assistance that Euclid would need in and around the hospital.

Councilwoman Caviness – If anything occurred within the hospital you have the adjacent streets which are basically dead end streets, you have the right to chase someone down that street is what you're saying?

Chief Easton – Yes, in hot pursuit whether it be on foot or on vehicle, that's an agreement that we would have the authority to do that.

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Councilwoman Jones – This question is for either Chiefs, Chief Brickman thank you for answering my questions that I sent you earlier. I just want to clarify, you mentioned that the officers would be 24/7 365, how many officers would be on a shift and is it an 8 hour shift, 12 hour shift, how does that work?

Chief Easton – One officer on an 8 hour shift at all times.

Councilwoman Jones – As far as the training, you mentioned on the slides something about some of the training, do the Cleveland Clinic Officers get the same type of training as a regular police officer would go through?

Chief Easton – Absolutely, we're all certified police officers through the Ohio Police Officers Training Academy. We have a lot of specialized training, a lot of active shooting training, a lot of dignitary protection training. We have mounds and mounds of customer service training, traffic enforcement training, use of force training. Leadership training, all our officers go through leadership training. Our command staff goes through a complete leadership assessment. We assess our leadership skills and we work on them with mentoring and developmental plans. Our training is ongoing and it is second to none.

Councilwoman Jones – When a call is dispatched, Chief Brickman, would our dispatchers hear the calls that are dispatched to the Cleveland Clinic officers or how is that connection?

Chief Brickman – We're going to work out the details on how that's done. We do have the ability through the use of our portable radios or in car radios to communicate with each other, each other's agencies. It is our intention that if we do have a call outside of the facility on the adjacent streets that the Euclid Police Officer would respond to that call. However, it would not preclude Cleveland Clinic officers from, if observing something in that area, responding to it and taking enforcement action.

In terms of internally, if a problem is reported within the hospital, I think Chief Easton would be able to direct an answer to that question. The only thing other that I wanted to add to this is that when you talked about the police officers and the training, we were successful and I'm sorry Chief Easton, we did hire two of his officers through the lateral entry process and they qualified as police officers and they're doing an excellent job with the Euclid Police Dept.

Councilwoman Jones – Chief Easton, if you could just answer and maybe this is the part you're talking about after, as far as internal calls to the hospital. You mentioned that there would still be a Euclid police officer in the emergency room. Would that officer just be covering the emergency room and if there are other things going on in the hospital, is that where their jurisdiction resides or would they be assisting Cleveland Clinic officers in other parts of the hospital.

Chief Easton – They could if the call warranted as such. The primary focus is on the emergency department. The emergency departments are pretty volatile places at times. But if a call warranted the Euclid officer in the Emergency Dept. to help inside the hospital we would certainly welcome that. The same thing holds true for us, with anything the Euclid Police Dept. would need in or around the hospital, we would be more than willing to come out of the hospital and help them with that call as well too. We will keep a complete accounting of what we do in the hospital and keep the Euclid Police Dept. informed of what we do. The MOU is very specific, the protocol, the types of calls the Police Dept. has reserved the right to investigate. We have been doing that with the City of Cleveland and East Cleveland since 1987 and we've not had any issues. We collectively respond to the calls of the City of Cleveland virtually every day on the main campus. It has not been an issue, it actually works out very, very well.

Councilwoman Jones – My last question on this topic, Chief Brickman, in the Emergency Room, is it usually just one officer, an off duty officer that's staffed there or are there multiple officers?

Chief Brickman – That is correct, we have one off duty officer that works for the Clinic and is paid for by the Clinic for their work there. Frequently other officers are called down if there is criminal activity, disturbances, things of that nature. I think you saw today there was 175 that we had in our CAD system from last year where officers had to respond down there for various reasons.

Councilman O'Hare – Thank you Chief Easton for being here and this is a great initiative and we welcome it. A couple of questions, is Euclid the third community in northeast Ohio to go through this or have there been others that this has been extended to?

Chief Easton – The third. We've been with the City of Cleveland, City of East Cleveland when we had Huron Hospital. We're doing this in Hillcrest Hospital as well. We've already gotten approve from Chief McGrath; it is just a matter of modifying our current MOU for Lutheran Hospital and Fairview Hospital as well. You are the third, once this passes to actually have the legislation and the protocol in place.

Councilman O'Hare – Along the lines of that MOU, you're rolling us out in the One Cleveland Clinic initiative and this is a pretty weighty MOU. Is this boiler plate or was this modified for Euclid? If it is not too cumbersome is there major issues we should be aware of how this differs from how you set this up for Cleveland for example? The reason I ask that is we're in a little bit of an unusual situation, you already have an arrangement with Cleveland and if you have authority and agreement with 300 ft. buffer, there's an area where there's potentially three police departments that have overlapping jurisdiction. Again, just curious or is this nothing modified for what you've done for Cleveland or what you're doing for Mayfield Hts.?

Chief Easton – I'm probably in the best position to answer that. It is not boiler plate but it is essentially a product of an evolution of working with the City of Cleveland since 1987 and we've refined that memorandum of understanding that has worked very well for us. It was later looked at the City of Lakewood. At one time we were contemplating doing this in Lakewood. Due to a temporary inability for them to supply police officers for Lakewood Hospital. It was worked out with our office of general counsel, Frank Titus, worked with Kelley Sweeney on this to make sure it met the needs of the Cleveland Clinic and the municipality and Chief Brickman and I have reviewed this to make sure it met the needs of the City of Euclid Police Dept. as well too.

It certainly does us because we've been using it and refining it since 1987 but we want to make sure any modifications that we're in it, we would be amenable to those.

Chief Brickman – I echo that.

Councilman McLaughlin- Chief, have we had any additional off duty policemen working at the hospital in addition to the person covering their emergency room?

Chief Brickman – In the past we have had different off duty officers working there for various functions that they had within the facility.

Councilman McLaughlin – Not on a daily basis?

Chief Brickman – Not on a daily basis.

Councilman McLaughlin – Can you tell me who initiated this potential relationship?

Chief Brickman – Cleveland Clinic contacted us and asked that we had a meeting and it was with the administrative staff. They had informed us about their One Cleveland Clinic Initiative and their intention and desire to staff the hospital with the Cleveland Clinic police officers. From there we had conversation with the Law Dept. to get the MOU and agreement drafted and in place. We've had continued dialogue as the process has evolved.

Councilman McLaughlin – This is covered by Cleveland Clinic, they fund the police department?

Chief Brickman- They do, they pay all the cost for the service they provide.

Councilman McLaughlin – I just wanted to put that out there so people know this is not an additional person to our force. Lastly, who keeps the records?

Chief Brickman – We will keep our records of any incidences that happen that we're involved in handling. In terms of records or police involvement from the Cleveland Clinic, they have to make us aware of incidences that happen there. The specific incidence, we will continue to investigate based on the agreement that we have in place.

In terms of the Cleveland Clinic records, they're maintained by the Cleveland Clinic police department.

Councilman McLaughlin – If they detain somebody for any reason, they would have to do it in Euclid Jail I'm assuming? Would they take them somewhere else?

Chief Brickman - We would use the Euclid Court system. We've discussed meeting with the Judge in the future once this agreement is in place to discuss what requirements she would have for the Cleveland Clinic officers. They would use our citations in a case where an arrest is made. In terms of jail facility, I believe they'd be using the Euclid City Jail.

Councilman McLaughlin – They have agreements with surrounding cities, I didn't know if they were able to take them anywhere they wanted?

Chief Easton – Currently we work in the City of Cleveland and we take our prisoners directly to the Cleveland City Jail. If we arrest somebody, sometimes we take them to the County jail, if it is a felony and they're not going to be processed through the city jail, if it is a warrant or something. We've been using the Cleveland City Jail, their policies, their procedures, their protocols, anything they do with their City of Cleveland Officers, we do it exactly the same way. We don't ask for anything special for our police officers. The same thing in your municipal court. Whatever the municipal court judge has rules and mandates and policies and procedures are, we will follow them to the letter. One thing you should know, any fine that results from anyone we arrest, either on a criminal charge or traffic citation or parking citation, the City of Euclid will get that money, it does not go back to the Cleveland Clinic.

President Holzheimer Gail – Any more questions? It sounds like a win/win we appreciate your partnership and appreciate your helping to keep the clinic and the neighborhood safe.

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

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

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail.
Passed.

Chief Easton – Thank you for allowing us to serve the community.

Res. 112-2012 (137-12) Object One 2 Lounge Liquor Permit

A Resolution objecting to the renewal of liquor permit number 4199271 owned by JCJ&B, L.L.C., dba One 2 Lounge, 509 E. 185th Street, Euclid, OH 44119 and encouraging the Ohio Department of Commerce, Division of Liquor Control, to deny said renewal of the liquor permit. (Sponsored by Councilperson Jones by request of Police Chief)

Councilwoman Jones moved for passage, Councilman McLaughlin seconded.

Asst. Director Sweeney – We did meet this afternoon, Capt. Savage and Lt. Meyer and myself met with the owners, Mr. Borsay, Ms. Chillious, and also Marvin Cross, he is their security consultant. I do believe the owners are sincere in wanting to make changes to their business. Mr. Borsay got some bad legal advice and was told pretty much to not contact us, that was the wrong move and that was made very clear to him today and prior to him today with Mr. Cross his security consultant. I do believe they are sincere in correcting that business. They did pay their \$1,000 nuisance fine today. We discussed the changes Euclid wants to see with that business. All that being said, I told them I am still going to request that we press this issue with objecting to the liquor permit. I want to see they're going to put their money where their mouth is and make the changes that we are requesting. Hopefully by the time we have a hearing with liquor control we won't have a nuisance situation any more.

Director Frey – If I could add to Ms. Sweeney's comments, it is easier, first of all we are on a time deadline, we have to have our objections to the State before the 1st of September. We don't have a regular meeting prior to that time so it is important that we move forward. We can certainly later withdraw our objection if it turns out that all of the changes that have been proposed are put into place and the nuisance activity which in my opinion has been substantial at that facility ceases. I know Mr. Cross and I have great confidence in his ability to provide security and advice for that establishment, but the fact of the matter is we've had an ongoing problem there. It is my opinion we need to move forward with this legislation tonight.

Councilwoman Jones – Law Director or maybe Chief Brickman can answer the question. I think it was last year we went through the same type of situation with two other establishments. We talked about being pro-active. Are we being pro-active when there's a request to either make a change to a liquor license or get a new one as far as reaching out to those establishments to make sure they are aware of what we as the city type of business we want them to be and the type of incidences or occurrences that we don't want to see. Have we reached out to any establishment? I know last year we talked about we're going to start reaching out to those either that have had some minor incidences prior to that and make sure they're on the right track. For those that have either had continual, like this one has had, obviously has had multiple occurrences. In doing this process, have we reached out to them as far as the type of establishment that we don't want it to be?

Asst. Director Sweeney – Capt. Savage, Lt. Meyer and I have met with multiple bars in the city that have had nuisance problems. We have the same conversation with everyone of those bars. We discuss increased security, cameras, metal detectors, improving the dress code, improving the age of admission into the bar from 25 to 30 instead of 21. We've discussed swipe systems for their driver licenses. All kinds of different things that we think should be in place to avoid nuisance issues.

Every bar has been very cooperative with us, has made those changes and today I hope we will have those with the One 2 lounge as well. Last year you will recall we were too late in the too objections because as Law Director Frey said they are due September 1st of every year for Cuyahoga County and the two shootings at the two establishments happened after September 1st. We were too late in getting the objections to Liquor Control so in those two situations we filed nuisance complaints in Common Pleas Court.

Regarding the S&S Lounge, they voluntarily closed after the filing of our complaint and with respect to Olive Twist, they closed down temporarily, regrouped, made the changes that we suggested. They've now opened as Choices and not had another nuisance complaint since.

Shakers, we objected to that liquor permit and we were successful with Liquor Control Commission and that was one of the new liquor applications that Council opposed. Lt. Meyer and I went to the hearing and we were successful in that hearing. Besides going to Liquor Control Commission with our objections, we have been pro-active between myself and the Police Dept. in letting the bars know what we will not accept.

Chief Brickman – We do try to work together with the Law Dept. when we do see a problem that is taking place outside of a bar there's communication that is opened up and we do try to encourage dialogue to prevent problems from taking place.

With that being said, there was another establishment, I know that Mr. Cross became involved with. We had problems there. After he became involved, it seems as if we've not had any further issues at that establishment. I'm confident in his ability to work with us and with the business in order to prevent problems.

Councilman McLaughlin – Ms. Sweeney can you tell me when their current liquor license expires?

Asst. Director Sweeney – Every liquor license in Cuyahoga County expires on 10/1. That's why we need to get our objections in by 9/1. Every bar in particular counties all have the same expiration date.

Councilman McLaughlin – The Liquor Control Board hearing is when?

Asst. Director Sweeney – We don't have it scheduled yet. This objection, like for last year, I put packets together with our piece of legislation, a letter signed by the Law Director and then all of the police reports as documentation with this piece of legislation.

Councilman McLaughlin – If we go through with this resolution, will they have to temporarily close their doors?

Asst. Director Sweeney – They will not. They will still stay open until we have our hearing and then when the hearing officer makes a decision, since it is October 1st, I'm guessing we'll probably have a liquor hearing maybe end of October. Usually we get a quick turn around a couple of weeks after that. Either side can appeal that decision, whichever way it goes. They will still remain open after this.

Councilman McLaughlin – The liquor license include all alcohol?

Asst. Director Sweeney – Correct.

Councilman Langman – Asst. Law Director Sweeney, I want to try and understand, have we not had any contact with the ownership group until today?

Asst. Director Sweeney – Mr. Borsay contacted me shortly after my initial nuisance letter which was April 25th of this year. He advised that he was going to have a lawyer contact me and that lawyer never contacted me. I then sent every single follow up letter with the additional nuisance reports and invoices as of July 31st we were up to \$1,000. It is \$200 per time, so there was \$200 times five times and that's when Mr. Borsay called Mr. Cross. Mr. Cross called Capt. Savage and that's how this meeting came to be today.

Councilman Langman – I'm reviewing the incidences on here and I'm surprised we're simply not trying to shut down the business permanently. Because what I'm concerned with is that clearly the residents around this establishment have suffered the burden for over a year. They come in today and settle up.

I hope they're successful but again the residents are the ones that are going to have to wait and see and they're going to have to suffer the brunt of it if this problem doesn't get resolved. I'm a little skeptical that they come in today when we're going to vote on denying the liquor permit, saying we're going to do better. I hope they do but it's tough to ask the residents to keep saying, oh yes, we're going to work with them now and they get it now. I know one of the owners who lives in the city, maybe both of them, they really believe that kind of activity for those residents would be acceptable in their neighborhoods? I don't think so. I remain skeptical and hopefully they will turn around.

Councilman Van Ho – Ms. Sweeney if we go ahead and in September everything looks wonderful like they're going ahead and doing what they need to do, but it falls apart next summer. Can we go back on September whatever and try to get this suspended? If I'm understanding you, this is the one year lease on life for this establishment, they either do it right or they go back in next year.

Asst. Director Sweeney – We also have the nuisance complaint at Common Pleas Court also as a fallback. This is kind of a free remedy right now. It doesn't cost us anything to file this with the Liquor Control Commission. If they lose their permit, in effect they will be out of business.

Councilman Van Ho – We have two bites at the apple don't we then? Something roughly October, we're going to try to get their license if things aren't what we feel they should be. Then again, once again in August of next year or September when they if their behavior reverts back to its old self.

Asst. Director Sweeney – We don't even need to wait that long depending on how things go with the hearing at the Liquor Control Commission, we can file a nuisance complaint with Common Pleas Court right after that.

Councilwoman Scarniench – I have to agree with my colleague, Councilman Langman. I have a real problem with the fact that they showed up today. Asst. Law Director Sweeney just said that it was April 25th of this year when they received the notice. Then you look at the legislation and we see on 5/6; 5/13; 7/8; 7/29, the same type of thing was going on. So we're waiting until today, we didn't do anything to correct anything then. I have a very big problem with that. The fact that Euclid, all of our bars are neighborhood bars, well the word neighborhood means something to me. If you shoot off a gun, it can go anywhere. I don't want to see any child, any resident, anyone, even the patrons that are affected by a bar like this. It needs to be shut down and I would assume everybody is going to vote for this now and I hope we go vehemently to close this one down.

Councilman Van Ho – Unless there are any comments, I think we've all pretty much agreed we need to pass this, so I ask that we close debate.

Mayor Cervenik – I don't want anyone to think the meeting today means the administration is in favor of this establishment staying open. It has been a cancer in that neighborhood and unless there's a tremendous, unbelievable change in the character in the behavior that goes on, especially at closing time, we will do everything in our power to have this liquor license cancelled. If in fact the liquor license is not cancelled because behavior has turned around and something happens, we will use the full force of the law for the nuisance end of it and we'll get them shut down even though they still have an active liquor license. I think they've seen that we're serious here and that's our job. I guaranty you that if there are any more problems, there is no letting down.

Councilman Langman – Mayor, thank you for your comments, it is helpful. I would just recommend that all of our names go onto the Resolution.

President Holzheimer Gail – We will add all of council.

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

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail.
Passed.

Res. 113-2012 (139-12) Object Liquor License BP Station on Lakeland Blvd.

A Resolution objecting to the renewal of liquor permit number 4978427 owned by Lakeland Boulevard, Inc. and operating in the BP Station at 24310 Lakeland Boulevard, Euclid, OH 44132 and encouraging the Ohio Department of Commerce, Division of Liquor Control, to deny said renewal of the liquor permit. (Sponsored by Councilperson Jones by request of Police Chief)

Councilwoman Jones moved for passage, Councilman McLaughlin seconded.

Asst. Director Sweeney – The Narcotics Dept. received complaints that the owners of the BP station were selling drugs that may not be known to folks, it is a synthetic marijuana called, spice. You may have read in the news about these bath salts that are being done. Narcotics department received complaints about the synthetic marijuana and bath salts being sold out of the BP station. We received a search warrant for the premise and the search warrant was successfully executed and we retrieved a lot of this synthetic marijuana and bath salts. That was January of this year. The owners had no idea these were illegal substances. Either way, whether that was true or not, they were indicted on felony charges and we were pursuing that in Common Pleas Court.

Then, not even a month later, they're busted again for the same synthetic marijuana and bath salts. I cannot believe they did not know the second time, that these were not legal substances. I have sent a letter to BP corporate asking them to revoke their BP franchise, I have not heard back anything from BP corporate. The next step is to try to get their liquor license revoked from this premise.

Councilman Van Ho – I think this is a slam dunk, I'll move to close debate and let's do everything we can to put these guys out.

Councilman Langman – If we could have everybody's name on it?

President Holzheimer Gail – We will add everyone's name.

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

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail.

Passed.

Ord. 114-2012 (140-12) Land Bank Sale – 1450 E. 204 to M/M Hutter

An emergency ordinance authorizing the sale of Permanent Parcel 646-28-002, 1450 East 204th Street, from the Euclid Land Bank to Linda L. Koeth and Harvey J. Hutter for an amount of Five Hundred Dollars (\$500.00), as authorized by Ordinance Nos. 98-2010 and 101-2011. (Sponsored by Planning & Zoning Commission)

Councilwoman Caviness moved for passage, Councilwoman Scarniench seconded.

Director Pietravoia – I have the report from the Planning & Zoning Commission. At their January 14th meeting of this year, acting in their role as the Land Bank Advisory Committee, they reviewed the application to purchase a land bank parcel located at 1450 E. 204th Street. As we always do, all the eligible parcel owners were notified of the hearing and there were no competing proposals in this case. The proposal conforms to the pricing policies that were adopted by City Council in 2011 through Ordinance 101-2011. The applicant owns the adjacent lot that abuts the land bank parcel. In this case, the standard price of \$1,000 was reduced to \$500 based on the applicant's willingness to accept a garage structure on the property. This is a little bit unusual and the reason it has waited this long since January, this was a situation where the city was demolishing the structure and we wanted to have that work complete before the sale went through. We were able to save \$1,000 by allowing the neighbor that's purchasing, allowing the garage structure to remain on the property. \$1,000 in demolition costs.

The lot also must be consolidated and the primary reason for that is a two car garage is not allowed as a primary use on a residential lot. So by consolidating with the home next door, it will become an accessory use which is permitted. I'll be happy to answer any questions and we appreciate council's willingness to have this on a special meeting so we won't have to wait until the fall to finalize the sale.

Councilman McLaughlin – Is there any time limit when they have to have the structure down, did we put any time limit on that?

Director Pietravoia – The city took the house structure down and the garage structure is remaining. They will have a time period to correct any problems with the garage structure. There are some issues with the garage structure itself that they will correct as new owners.

Councilman McLaughlin – The inspectors have looked at that?

Director Pietravoia – They have and part of the reason they're anxious, they can't get on the property and start correcting those problems until they own it.

Councilwoman Caviness – This question is to Director Pietravoia. It has come to my attention that the contractor who was hired to level the house and grade the property did not grade it appropriately, there's a lot of dips in that land. Is there anything that you can recommend to level it off?

Director Pietravoia – Thank you for bringing that question up this evening. We have talked to the perspective purchasers about this as well. The contractor hasn't completed their work and there was some miscommunication. They put down seed and straw before the final grading was complete. They know they're not going to get paid until that work is done correctly. They also have some sidewalk and concrete apron work to complete as well.

Councilman Van Ho- Director Pietravoia, you guys are recommending it so I'm going to go along with it. When I look at the map, I see either a parking lot or roof of a substantial area, 002. What is that? Do you have any idea? It looks like it is either a substantial parking lot or the roof of a building.

Director Pietravoia – That is a roof of an adjacent commercial/industrial property.

Councilman Van Ho – In the future can you have somebody mark that on it for us? It gives us a frame of reference and allows us to make a more intelligent decision of do we want to sell this or do we see that there maybe some commercial or higher use or higher monies for that property in the future. Just hand written on there that it is Suburban Auto Body or whatever it maybe, that would help me.

Director Pietravoia – We'd be happy to try to provide more information on the maps that come to council.

Councilman O'Hare – I support this especially with plans to do something. So often we see this and we don't see anything that comes afterward. I understand the land bank program and this process is relatively new. It would be very interesting and I think long term, give us great feedback to look at a year from now, have the resident, the buyer back in. Perhaps this will be on the Pond & Garden tour or whatever based on what we hear. It will be interesting to see how this evolves and how we bounce back. Thanks.

Councilman Langman – I'm very happy for both Linda and Harvey. The since demolished house was an eyesore next to them for many, many years. So now they're going to be able to enjoy that space next door to them. Hopefully this will go through and they can begin that enjoyment.

Councilwoman Scarniench – I, too, would like to congratulate Linda and Harvey, I've known them for about 20 years, whether we agree with each other or not. They're good neighbors, they're good stable family at that corner of 204. With this house gone, it is really great because it has always been an eyesore and big problem. That's 002, is all part of the Inland property, that's a parking lot. Right at the corner, there's a fence that we had to fight to make sure that stayed close because of traffic that came in there. It probably would help to let people know exactly what's there when you're looking at this but that's what it is, Inland property, everything behind them is Inland property.

Councilman Van Ho – My point was not on this one to make it standard procedure but if they would write Inland there so we understand what we're dealing with.

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

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

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail.

Passed.

Ord. 115-2012 (126-12) Towing Contracts for Police Dept.

An emergency ordinance authorizing the Mayor, as Ex-Officio Director of Public Safety of the City of Euclid, to enter into contracts for the towing of junk, abandoned and impounded vehicles or vehicles that must otherwise be removed at the direction of the Euclid Police Department for the period through December 31, 2013. (Sponsored by Mayor Cervenik and Councilperson Jones and Van Ho)

Councilwoman Jones moved for passage, Councilman Van Ho seconded.

Chief Brickman – I'm aware that this particular piece of legislation has been discussed in great detail starting at the beginning of this year. I was not directly involved in the process by which the recommendation is made. Councilwoman Jones and Councilman Van Ho both were and I believe they could speak to the process if there was any questions associated with that.

Councilman Van Ho – As the Chief said, we went through a pretty thorough procedure to come to these conclusions. Everyone was given a chance to put in proposals. There were five proposals. We visited every single proposer's facility, looked at their equipment, looked at their physical plant and looked at their storage yards. The Chief had requested we have two co-companies. So, when we came down for various reasons United and O'Connor were the two that fit the bill, okay. The others there were various problems that I don't want to go into in public session because it could cast dispersions on the other ones operations. Suffice to say they were serious enough that Councilwoman Jones and I felt that we couldn't go to them for that reason.

A couple, it was a matter of equipment, there was another Euclid vendor, but besides United who they would have had to sub-out anything heavier than a heavy pick up or small dump truck because they just didn't have the equipment which would have meant bringing in a sub from probably downtown Cleveland. Without getting into detail about the others because we did look, and we felt that United is not tied to a body shop in anyway. They have been doing this for years and they're very cognizant of spills, of things other than the normal oil and anti-freeze that you get during a wreck. They have sufficient equipment to handle it, as does O'Connor. There has been some questions about O'Connor's business procedures and we talked about that. In addition, Capt. Savage brought up the fact that the cars that were disposed of before they had the title, did actually have junk written across them by our officers. Which leads me to say it wasn't a theft, it was a mistake. Everybody makes mistakes now and then and I don't think we should crucify them for a mistake. They've already taken a hit, Chief, tell me if I'm wrong, of two months of not doing any towing for the city because of this.

Chief Brickman – That is correct. They were suspended for a period of time because of the violation of the contract.

Councilman Van Ho – So to go back and hold them against it, in effect we would be on real weak ground. Also looking from a straight price process, they were the lowest priced by substantial. The second lowest was United. I will be quite honest, when we went into this, I had some preconceived notions and it didn't turn out the way I thought it was when you start digging into it. I have qualms at all about saying to put United and O'Connor in because I think both of them can do the job. They have enough equipment between both of them, if we had a massive 30-50 car pile up, in the winter, we could get it handled relatively quickly. I believe they can work together.

I know what Mr. Shipitka is saying about it is cutting his business but we have to look at what will be best for the City of Euclid. After a lot of searching of the facts we came to these conclusions and I hope everyone would support it. Thank you.

Councilwoman Jones – I won't go into any more specifics that Councilman Van Ho had already covered. In going through the interview process with each vendor and then doing the site visits, the interview process and the site visits brought up two different areas. Sometimes the interview process went very smooth and everything was fine and you go to the site visit and it is something different. We did talk about additional things that we wanted in the contract. For example, if the Police Dept. calls for a car to be towed and that person wants that car towed to ABC Auto body, they would be able to tow it to that location of where they want it towed to. Instead of towing it to their impound lot and towing it from there. That was agreed upon.

The other thing we wanted to make sure that, when the Police Dept. gets copies of the towing receipts, they're getting copies of the towing receipts that are actually signed by the customer, to make sure both vendors are doing that. To assure first of all, is the customer being charged what the agreed upon towing fee is for that.

The other thing on the towing receipts is that there's an area that's listed as miscellaneous, for additional charges for clean up. We wanted to be able to see what those additional charges were instead of just saying miscellaneous and actually is specific for what those additional charges are.

Not in addition to the contract, but Capt. Savage and the group and Councilman Van Ho we asked questions from Chief Brickman as far as noting or designating or somehow keeping track of the time when a tow truck arrives on the scene. Chief, in one of our conversations, you and Capt. Savage were going to go through and you mentioned there is an error in that process where that can be kept track of because right now we don't keep track of when a tow truck arrives on the scene. To make sure, first of all that they're meeting the SOA, as far as the time arrival that they're supposed to be there.

One of the things we talked about towards the end and this has nothing to do with the contract or anything, but just more of a customer service type of randomly surveying those who are using the tow service to find out if there was problems or issues. Once a person goes to the police department to get

their release form and they go to the impound lot to pick up their car, the city is not involved in that transaction. If there was some issues or something that went on at the impound lot when they went to pick it up, we would not know that. Going forward, I would like to and we talked about this in committee, to find out if there are other circumstances going on that we're not aware and the customer is approached with.

Those are some of the additional things we talked about as far as finite-ing or trying to get more information to streamline the process as well.

President Holzheimer Gail – I would like to thank Councilwoman Jones and Councilman Van Ho for working with Capt. Savage and Chief Brickman. They did spend a great deal of time meeting with vendors, making site visits and discussing this and coming forward with this recommendation. I do thank you for that additional effort.

Councilman Langman – I was a little surprised to see the two vendors that came back, but I too would like to thank the committee and Capt. Savage and Chief Brickman for working on it. The reason why I'm a little surprised is we talked about this in great detail back in January about an hour and a half meeting. I don't want to rehash all of it. I said then and I will stand by that today, with O'Connor's as part of the contract, I cannot support this legislation. As was discussed in January, O'Connor's and United shared the contract. At that time O'Connor's was warned of violating a Chapter of the Ohio Revised Code. They subsequently did that again. I say that because two of our officers went out and made a report on the behest of then Acting Chief Brickman. They were then suspended for violations of the contract because they violated Ohio Revised Code.

I don't think we should reward that because at the very same time you had another vendor also serving the city that had very few problems. Certainly not enough to warrant any kind of suspension. I don't believe O'Connor's for a period of time should have any association with the City of Euclid and we should only have one towing contractor. If that's United, I would support that. I would support some additional suspension, but based on what our officers reported and subsequent actions of suspension, I don't believe the punishment was enough because they were on a rotation so I don't believe the full two months was actually served in suspension.

That's my belief, I don't know how many would agree, but I'm going to stand by what I said in January.

Councilwoman Scarniench – Let me say first my Doctor told me to be very stress-less. Can't do that. I too cannot support this. I don't understand how we got to this. When we have our Euclid police officers saying that crimes were committed and now we're going to give them a better contract than they had. The current contract is three weeks United, one week O'Connor. Now we're going to split it. We're giving them something for being bad with what they do.

I think we had enough evidence to prove what was happening. I've been told that they're still not following the rules. I would like to ask the Chief that as soon as possible I would like to see every tow sheet from both companies from June. I've been told that they're not signed again. It is the same thing. They do what they want to do and they don't correct it, it is just wrong. To say, well there's problems with United too, well you know what, that question was asked publicly, what are the problems, show it to me. Nobody could answer that. There's never been anything written that United has done wrong. I would be assured that if they had been, it would have been taken care of but no one could answer what it was they did or show that they were ever reprimanded.

I cannot support this. If everybody would say no to this and continue the contract as it is, and come back in November and let's do this all again and do it right. I truly believe we only need one company. Mr. Shipitka said it, we're taking businesses away from people like Papp's and Action, all those people that are on that strip on St. Clair, because we're sending these cars somewhere else.

I have given emails about complaints from residents that had to deal with O'Connor. I don't understand how we're going to give them this kind of a contract for continually doing what they do and do it wrong in the face of our police officers. I will not say that my Euclid police officers lied. Thank you.

Councilman Van Ho – First of all I don't think anybody lied. I believe our police officers called it as they saw it at the time. There is always more than one viewpoint on how things happen. Number two, there's been a lot of rumors flowing around. One of them had been that O'Connor's was making everything up on the miscellaneous charges. We looked at that situation. We looked at a lot of invoices and tow sheets with Capt. Savage and they were coming out the same as far as the percentage of where there were extra charges and the cost. There's been a lot of rumors flowing around and I just don't think we should throw somebody out on rumors. I'm going to be my normal trite self and say everybody makes mistakes. God only made one perfect person and look what they did to Him. That's where I come down. There were mistakes made and if there were mistakes made by O'Connor or by United in this upcoming contract, then we come down on them. Until then, we should go ahead.

The Chief is the man who has to live with this and he asked for two tow companies. I don't think that me as a part time councilman who is not an expert at police should decide that he only needs one. He's asked for two. I haven't heard this Chief ask for anything that was unreasonable since he's been Chief. I'm going to trust his judgment.

Chief Brickman – In reference to the Councilman's comments, I did ask for two and I said worst case scenario a back up vendor in place. It is not as if we have this contract in place for the benefits of the vendors, we do for the service that it provides. We feel having two vendors enables us to provide the maximum service that we can have. That is the reason for it. It is not to try to punish one particular vendor or another, it is to provide the best service available.

President Holzheimer Gail – I think it is important to note that we have discussed this several times. This was the process council asked for to come up with a recommendation. I have to trust in the process that two of our colleagues plus the police department engaged in. If we don't act one way or the other, this was the process we asked for so I'm prepared to accept the results.

Councilman McLaughlin – I believe I asked the last time we talked about this if any unlawful acts were done by O'Connor and the Chief I believe said none. Is that correct? None that we would act on?

Chief Brickman – We did in fact confer with the Ohio State Patrol and informed them of the incidence that happened and they had no desire to move forward with any type of investigation or prosecution associated with any actions that took place by the vendor.

Councilman McLaughlin – I was at the meeting where O'Connor's came and spoke. For me, I thought it was genuine. To error is human, to forgive is divine. I will be supporting this legislation.

Councilman O'Hare – I want to add to the thanks to Council Members Jones and Van Ho. We all sat at that meeting and it was a long meeting. There were tortured looks all the way around. Finally when the offer came to two people to go off and work with staff members, work with the police department, to review this. Since I've been around, I don't know any people who have gone out and done site visits. When I saw that I thought, wow, they did a lot. I'm voting for this and I'm also voting for the process. I don't know how we can apply this in other things, but a matrix. We could all quibble with this, I could probably say one of things on here, providing points for Euclid owned-business. The point is, it is not on here now. We can go on and on with that. I didn't think it was going to turn out this way but we bought into the first place and said we would live with it and I will live with it and I will support it.

Councilman Langman – We have lots of processes and we've had lots of ad hoc committees over the many years. That does not advocate your responsibility to vote as your conscience dictates. So, as I mentioned, I said what I said in January. I still stand by it today. We didn't suspend O'Connor's just for kicks because nothing happened, something did happen and they were warned. If that doesn't meet the level for some council members, I'm perfectly happy with it. Just because prosecution wasn't pursued, it doesn't mean that wrong doing didn't occur. There are many instances throughout this county and other counties where for whatever reason particular cases are not pursued. For me, what was done in the past does have a great bearing, it is not just the low cost.

I don't want to slough it off because it is part of the Ohio Revised Code. It is an archaic-ing piece but it is the law. Hopefully they will do well, but I cannot support it. With that I will close debate because I don't want to talk about for another hour.

Councilwoman Scarniench – If I remember correctly if this would have happened to a Euclid company we would have pursued it. Because it was not in our city, there wasn't anything we could do about it. Of course the highway patrol wasn't going to bother with this menial thing. To me it is not. It has to do with the reputation of this city. There's many things that I've heard that I won't share on this floor. But if anybody from the administration wants to know I'll tell it to them. This is just wrong. It is absolutely wrong. I stated back then, I didn't care if it wasn't United, because that reference was made that I know them. Yes that's right, I do know them and they're my constituents. John is a worker, he's not the owner of the building. He's not the owner of the company. This is just plain wrong. I do not understand. If we threw these bids out, why did we even include about the cost factor? What is the cost factor? If it goes through and obviously it is going to go through, their bids were very different so how does that work? O'Connor has to go by what they said and United would go by what they said? Can somebody answer that and then I'll close debate because I've had enough.

Director Frey – As a result of this we would negotiate those contracts with O'Connor and United at the same price for services provided.

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

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

Roll Call: Yeas: Caviness, Jones, McLaughlin, O'Hare, Van Ho, Holzheimer Gail.

Nays: Scarniench, Langman

Passed.

Ord. 116-2012 (143-12) Splash Park @ Indian Hills

An emergency ordinance authorizing the Director of Public Service to enter into a contract with GameTime, PO Box 3315, Alliance, Ohio, for the purchase and installation of splash park equipment at the Indian Hills pool in an amount not to exceed Two Hundred Seventy Thousand Dollars (\$270,000). (Sponsored by Councilpersons Lynch and Caviness)

Councilwoman Caviness moved for passage, Councilwoman Scarniench seconded.

Director Bock – The splash park at Indian Hills will replace the closed pool that is there. The Recreation Dept., Mac Stephens specifically working with the neighborhood association and the former Council person, came up with the design, the company and the pricing on this item. Initially when it was brought to me in April, I had a few questions that arose concerning the construction and some of the equipment that was left behind out there. Since then I've met with both David Williams and Assoc. who is the exclusive representative for GameTime. I've had those questions answered.

Mr. Stephens did a great job, he solicited prices and tried to work with 4-5 different companies in establishing this. Mr. Williams was the only one who would come here and work with us personally on the design of this item. They go through the State competitive pricing on this which makes them the best price out there for buying and installing this equipment. I'm happy with the agreement. I'm satisfied that Mr. Williams' company is one of the top in the State. I believe they're the largest installers with this type of equipment within the State of Ohio. They do a good job, I've seen some of their other parks. You can go online and look at them, they do a real nice job. It is a unique system that GameTime puts out there. The items that are put in there are removable, you can switch them. If we decided to go with another splash park in another area, you can use and rotate the equipment from one to another, there's a universal coupling device that's used. I think there's a lot of advantages to this company.

As far as the pricing goes, I have recently spoke with them. The initial pricing was \$269,000. We're currently at \$249,000 for the same work. Some of it is because we're going to do some of the work ourselves in-house. With some of the existing equipment, I hope to salvage some of that for use in some of the other pools. I would ask Mac if he had anything else to add.

Mgr. Stephens – One of the things that I would like to mention also is David Williams and Assoc. through GameTime had also worked with the City of Rocky River, the City of Bedford, the City of Norton and also the City of Canton in recent years.

President Holzheimer Gail – Director Bock or Mr. Stephens, the question about the timing and why we're discussing this now instead of splashing around in it on such a hot summer. I know we discussed that earlier as well but if you could share that.

Director Bock – As I said, this was brought to me in late April. As I met with the contractor, it was pretty clear that even if we had entered into a contract that day, we wouldn't be finishing this project until probably this week or next week. We would have rushed into it. As I stated I still had some questions that needed to be answered, I wanted to look into the company a little bit. It didn't make sense to move forward to have two weeks of a splash park. As it worked out the construction will be completed this year, we'll be able to test it. We will basically mothball it. The devices will be put into storage, we'll bring them out in the spring and put them together and be able to open on day one at a savings of \$20,000-\$30,000. Waiting was the prudent thing to do at that time.

Mgr. Stephens – This has been an ongoing process. I've talked numerous times with Indian Hills Neighborhood Association President Sandra Weber regarding this project. I've personally attended several of their meetings just to not only discuss the initial closing of the pool, but also to discuss the idea of having a splash park at that location. But also for that particular area where this splash park would be located, we discussed upgrading the baseball diamond, cutting the brush around that particular park and painting the fence and also eventually adding bleachers to that area so parents could enjoy watching their kids play baseball or softball. A lot of those things were accomplished this year. To be honest I had hoped we could have started the initial work on the splash park earlier in the year but there were some things related to the water line and some other issues that my expertise, well I didn't have any expertise for that area, which also played a part in the delay of getting construction started.

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Councilman McLaughlin – Have you had a chance to visit any of the splash parks that you had mentioned?

Director Bock – I didn't personally go out there. I did look at them online. They are available online, you can take a look at some of the work that was done and they are fairly impressive. It looks like the kids are going to have a great time.

Councilman McLaughlin – My concern is the materials being used and how they weather. Is it heavily plastic bound and colorfulness? Like the one in Memorial Park is already fading. I don't know if you've noticed. I was just curious.

Director Bock – With these items as I stated, they are removable, every year at the end of the season. You can take them off, bring them into the shop, work on them, if they need a little cleaning up, if they need a little painting. I don't see the problems with the ones that are sitting out there all winter long.

Councilman McLaughlin – They're modular so if one piece goes bad you don't have to replace the whole thing you can just plug and play another apparatus?

Director Bock – That is correct. The apparatus is a universal hook-up, you can switch them if you have more than one part. Different apparatus at each one, you can mix and match so you don't get the same play items every year in and year out, you can mix it and match it. You can also just have the spray nozzles by removing certain items and rotate them around within the splash park.

Councilman McLaughlin – Can you tell me how much horse power the pumps use?

Director Bock – No I couldn't.

President Holzheimer Gail – I believe he designed and built the one at Martin Luther King at University Circle next to the pond?

Director Bock – I believe so.

President Holzheimer Gail – As you go down Martin Luther King before you get to the turnaround, there's a very nice one next to the playground and it is very well used. It will be a great amenity to the neighborhood.

Councilman Langman – First Director Bock, my condolences on the passing of your Dad. Regarding the equipment, what kind of warranty is on the equipment?

Director Bock – We'll have to look into it, I'm not quite sure to be honest with you.

Councilman Langman – Mgr. Stephens, will we need a splash park supervisor up there once everything is up and running?

Mgr. Stephens – One of the things I discussed with David Williams was that the other locations they've installed these parks, how did they go about manning that particular area. Basically he said in most of the cities, number one it didn't require as many lifeguards because some cities the way they would go about it is if a resident had a pool pass, they would gain admittance. Basically there was a teenager there in the summer to check that pool pass. In some instances it is just an open area for the residents to come and partake in.

My feeling I would still like to use our current pool policies for admittance so we can control who comes in and out of the spray park area. Based on splash parks that I've looked at in Akron, in the City of Cleveland and surrounding suburbs, they are very well received. Most surrounding suburbs similar to Euclid, have gone away from the neighborhood pools and instead have gone in the direction of the bigger splash parks partly because it is a lot more attractive to younger families. They can bring toddlers and the younger aged kids without worry. They don't have to compete with the teenagers for use of the pool.

Councilman Van Ho – Director Bock or Mgr. Stephens, when we originally were talking about replacing that pool, wasn't the number we were looking at roughly a half a million?

Mgr. Stephens – We did receive numbers that did approach half a million dollars in some cases. That was just primarily for the splash park. In my meetings with the neighborhood association group, one of the things that was requested initially was to repair the pool and have a splash park but the costs were astronomical in that case.

Councilman Van Ho – You said it would have been half a million, roughly, to fix the pool and bring it up to snuff, or replace it, is that correct?

Mgr. Stephens – One estimate was just for a splash park approached a half million, just for the splash park alone.

Councilman Van Ho – I would like to compliment both of you on not rushing to judgment, taking this thing very thoroughly because yes, we might have been able to get it open for a few weeks this summer, we've got to live with this thing for 20 years or so. I'm glad you guys did the job right. Thank you.

Councilman McLaughlin – Councilman Langman pretty much flushed out what I was going at when he asked about the warranties. Director Frey, on something that is this big, \$270,000 do we go over the terms and conditions of GameTime? They give us a proposal, set of standard terms and conditions, do we just accept them or are they reviewed?

Director Frey – We'll review the agreement before we execute it. The legislation would authorize us to do that, but we're not compelled to do it if there are terms and conditions that are not satisfactory to us. We certainly will look very closely at warranties and the whole schedule with installation and timing and so forth.

Councilman McLaughlin – We're authorizing to have the money, but you will still give it a look over for standard warranties for terms and conditions before you actually go into contract?

Director Frey – It is a pretty basic part of what the administration process is when we get to this because we will go through it to make sure that we are protecting the money that council has authorized to use on the project.

Councilman Van Ho – I believe I heard Director Bock say that this was being purchased off of State pricing. So they have already negotiated a contract with this company with terms and conditions. My experience is the State is very good at negotiating terms and conditions so we're probably pretty well protected on this one.

Councilwoman Scarniench – I just want to switch gears a minute. I don't know if the Mayor would want to answer this or Director Malone. I know our evaluations don't really affect anything until next year. Are we still pretty comfortable with everything we've got in the capital budget for this year that we can go ahead with this?

Mayor Cervenik – If feel very comfortable going forward with this. We're having a meeting tomorrow with our bond counsel and our underwriter Al Bauccho and we're going to review the next few years. I think this project has been a long time coming and has been promised to the neighborhood for a number of years. My job is always balancing what can go to infrastructure, what can go to recreation, who do we make happy, who do we disappoint for another year. If Council passes this tonight, I think you're doing the right thing we will be able to handle the expenditure.

Councilman O'Hare – One last comment and it has to do with timing, it does have to do with the budget and maybe has to do with some things that we've discussed informally like to begin talking about more formally. We're here in August, it will be September, October, end of the year when we blink our eye. I appreciate the fact that this got handed to you in April and it would have been silly to push it through for a couple of weeks. On the other hand, this has been on the planning for awhile and this is part of the budget and the budget process, my first one on Council, lingered well into March. I understand that there's a lot of reasons for prudence, especially now, but I'd love the opportunity and incongruous as that sounds, I'd love the opportunity to begin at least preliminary parts of the budget process a lot earlier so we're not doing it in February and March and then passing it then. That's when we start looking at something that we clearly want to implement in the summer. It is never easy. It is never fun and it is not going to be exact. It is not exact in March either. I know this year more than ever it is going to be dicey as we close out the year. I'm happy to support this and I'd be happy to support looking at the budget process and moving along a little earlier. Thank you.

Mayor Cervenik – Do you have my office bugged? No it was in his office. I had came down and talked to him today, we received our, this is general fund money. We're probably going to suffer a good decrease again in the local government funds. I told him today that next week or the week after we need to start our internal gathering of information and estimates and get started much, much earlier. We will be doing that on the capital and operating as well as Waste Water as we start with our EPA project.

President Holzheimer Gail – I would like to thank again former Councilman Gilliam for his work on this. He did work hard and as the resident suggested, we do want to make sure he gets some credit for his work for advocating for this splash park.

Councilman McLaughlin moved to close debate, Councilwoman Caviness seconded. Yeas: Unanimous.

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

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail. Passed.

Ord. 117-2012 (132-12) Replace Councilwoman Caviness on Committees

An emergency ordinance amending Ordinance 175-2011 to update the Council Committee Assignments by inserting Stephana C. Caviness for the seats/chair held by David Gilliam for the remainder of the December 1, 2011 through December 31, 2013 term of the Council of the City of Euclid. (Sponsored by Council President Holzheimer Gail)

Councilwoman Scarniench moved for passage, Councilwoman Jones seconded.

President Holzheimer Gail – This just as it states very simply replaces Councilwoman Caviness in the committee seats and the committee chair that Councilman Gilliam had formerly served on.

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

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

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Van Ho, Holzheimer Gail. Passed.

Ord. 118-2012 (130-12) Osborn Engineering Contract Modification Glenbrook

An ordinance amending Ordinance 108-2011 and authorizing the Director of Public Service for the City of Euclid to enter into a contract modification with Osborn Engineering to include additional design and administration work for waterline replacement on Glenbrook Boulevard, in an amount not to exceed \$19,750. (Sponsored by Mayor Cervenik)

Councilman McLaughlin moved for passage, Councilwoman Caviness seconded.

Director Bock – The waterline project which involves E. 201 and 202 north of Lake Shore, Glenbrook Blvd. and E. 260, a small there by the freeway where we've had some major water breaks. There was additional engineering work that was needed on Glenbrook as that project was expanded. The initial plans were to stop at just east of Sherwood Blvd. If you've been up there you'll see that many of the water holes and repair holes that have taken place over the years kind of go up to the ravine area on Glenbrook. I've asked Cleveland Water to extend that, it took some additional engineering work. E. 201 and 202, the major reason for that waterline work going on there is to improve the water quality, those are dead end lines that terminated at the end of the street on the north end to provide a looping of those lines and tying them in together to provide the circulation. When I examined the plans, that was not on there. I asked that additional work be completed as well as the easement work that would have been needed to be completed. That was added to it and that's the reason for the additional funds.

Councilman Van Ho – One of my pet questions whenever Osborn comes up. How were they selected?

Director Bock – Osborn was selected by former Director Smith as part of his RFP for engineering firms. They were one of the firms that solicited those proposals and he selected that firm at that time.

Councilman Van Ho – I'm going to go ahead and vote for this because it is \$19,000 but I have no comments against Osborn, please don't anybody take it that way. I just want to make sure that we spread this around as much as we can when it comes to engineering work.

Director Bock – I believe that's what took place here. This is the only project Osborn is doing for us at this time. They were selected from that group of, I believe it was 7-8 engineering firms, they were selected as one of them. As Director Smith asked for proposals for this project, they were the group selected for the engineering and the construction management end of this project. We will continue to look at every project that comes out and seek proposals and make assignments accordingly.

Councilwoman Scarniench – Director Bock, I know it was before you were the Director, I was told we were doing all of Glenbrook. Is there a reason we're not at least going to Beverly Hills instead of stopping mid-way on the street?

Director Bock – The waterline ends at that ravine and then another section of waterline begins at the ravine, they're not tied in due to the fact that there is that ravine there and a pipe that runs through there. They're not connected those waterlines and that's why it ended where it did.

Councilwoman Scarniench – That's the answer I needed to tell the folks, thank you.

Councilman McLaughlin – This is \$19,000 for additional engineering, the project not to exceed \$126,000. After they do the initial engineering for this, are they going to come back and ask for additional monies for the work?

Director Bock – They are not, that is included in the price, the construction management.

Councilman McLaughlin – Included in the \$19,000?

Director Bock – It's included in the \$126,000. All of this money is going to be completely reimbursed by Cleveland Water. This was a Cleveland Water project that we agreed to administer for Cleveland Water. Even though it is coming out of our water line fund initially, it will be fully reimbursed by Cleveland Water to the city's waterline fund.

Councilman McLaughlin – At 260th, where exactly are we talking about? Is it by the freeway or by the fire station?

Director Bock – Just south of Benton running underneath the underpass where we had that major break a year ago that was tore up for quite awhile. That's the section of line that's being replaced.

Councilman McLaughlin – There was another break down towards the Boulevard.

Director Bock - I believe there's a hydrant leaking there now, or a valve leak there now. We've got a few of them.

Councilman O'Hare – I just want to reiterate, this is not money that we're expending, we're getting reimbursed by the Water Dept. which is great. We're administering it, do we move up the order of priority for the various water projects we need to do when we offer to administrate that? Does that give us brownie points or move things in our favor or not?

Director Bock – I don't know that it gains us anything by Cleveland Water standards actually. This latest round I've submitted to Cleveland Water, they came to us and asked us to submit projects for us to administer. They seem to have some extra time on their hands and looking for jobs for their own people. I submitted a list of streets for them to administer. I don't know, just a timing thing. At the time this project came up, they were booked solid and couldn't handle it with their people so we did it on our part, not is has reversed the other way.

Councilman O'Hare – It is an agonizing situation for residents and actually for the city too. Just resurfaced Lake Shore Blvd. last year and Lloyd Rd. for that matter, to see the breaks coming up and we can never repair the roads to the level they are when you have a monolithic surface and its all rolled with a heavy roller, we can't do it. I'm seeing that in front of Stevenson's right now with the very large water break there. I don't know if we're able to then resurface that again because it's already bad and let know what happens after a winter.

Be that as it may, where are we with other streets? How do residents, Council members get their streets higher up on the profile list? If it just becomes sheer phone calls and wailing and crying and everything like that, that turns into a free for all. E. 266, as you know, is a huge issue and a number of different streets, we're facing the entire city. We're going through this and it is mind numbing to think of it and I'm not sure how you plan it all out, especially when you're not responsible for doing it and you have to work through the City of Cleveland Water.

Director Bock – Cleveland Water did just two weeks ago let out their design work for projects forthcoming; E. 266 was on that list and will be done. The engineering is taking place now. There were I believe six other streets in the City of Euclid that will be done. Shoreview, Mallard, Oriole, 266 and I don't want to say another street if I'm not sure. There's a pretty good list of streets and I do plan on submitting additional streets within the next month or so for their consideration.

Councilman McLaughlin moved to close debate, Councilman O'Hare seconded. Yeas: Unanimous.

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

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Holzheimer Gail.
Passed.

Ord. 119-2012 (131-12) Terrace Construction Waterline Replacement

An emergency ordinance authorizing the Director of Public Service of the City of Euclid, to enter into a contract with Terrace Construction Company, Inc., 3965 Pearl Road, Cleveland, Ohio 44109, for an amount not to exceed One Million Three Hundred Twenty Two Thousand Sixty Nine and 25/100 Dollars (\$1,322,069.25) for the Waterline Replacement work on East 201st, East 202nd, East 260th, and Glenbrook Boulevard. (Sponsored by Councilperson McLaughlin by request of Service Director)

Councilwoman Scarniench moved for passage, Councilwoman Jones seconded.

Director Bock – We did advertise the project for bid. Terrace was the lowest of six bidders on the project and this is to make that award for that contract.

Councilman Langman moved to close debate, Councilman O'Hare seconded. Yeas: Unanimous.

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

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Holzheimer Gail.
Passed.

Ord. -2012 (142-12) Purchase 22305 Lake Shore Blvd., for WWT Expansion

An emergency ordinance authorizing the Mayor of the City of Euclid to enter into a purchase agreement and to execute all other documents necessary to acquire property from 36097 Westminister Road, LLC, located at 22305 Lakeshore Boulevard, Euclid, Ohio, Permanent Parcel No. 642-10-047, at a cost of Nine Hundred Thousand Dollars (\$900,000.00) for the public purpose of expansion and renovation of the municipal Wastewater Treatment Plant as part of the Consent Decree required by the US EPA and Ohio EPA to meet the treatment standards established through the Clean Water Act. (Sponsored by Mayor Cervenik)

Councilman McLaughlin moved for passage, Councilman O'Hare seconded.

Director Frey – I know Director Bock has been actively involved in the discussions with the US EPA and can address the status of our ongoing negotiations with EPA and I believe has provided city council with a copy of an email from the US EPA dated July 31st of this year.

To address the issue with the value on this. I know this is a matter that we can address in Executive Session if Council so chooses in that it is the purchase of real property. We did commission an appraisal for this property and two price points were given to us. There was a price point of \$715,000 which was established by the appraiser as the current market value of that property, so it is not terribly far off from what the speaker identified earlier on. The purchaser Westminister Road, LLC had both carrying costs and significant demolition costs on that site. That accounts for a large portion of that difference between its initial purchase price and the value of that property as raw land.

We commissioned the appraisal to determine that market value of the raw land. We were obviously cognizant of the fact that there was a potential real, not potential, there was a real estate agreement, the lease was not executed for a fast food restaurant on that site. Under Ohio law you also have to look at the value of the use of that property. So the appraiser took a second look, not just as the value of the raw land undeveloped, but in the present value of that lease and came to the conclusion, initially that price was set at somewhere in excess a little over a million dollars in his final review of that established value of that lease at \$900,000.

We have retained outside counsel, in my opinion pre-eminent land use firm in the greater Cleveland area to represent the City of Euclid on this matter. We have had active negotiations with the property owner. We have agreed in principle, subject to an approval by this City Council, subject to approving our long term control plan by US EPA and subject to a negotiated purchase agreement on a price of \$900,000 for that parcel.

This is not, at this point an eminent domain case. In the eminent domain case, if we were to use 70% of that parcel, we would have to offer the other 30% back to the property owner. As a condition of this negotiated purchase price, the property owner would relinquish any right of repurchase for any portion of the land that's unused, which gives the city control over the subsequent development of that Lake Shore Blvd. frontage. There is an additional benefit to the city.

Absolutely this is going to part of what we include in the rate structure. It is absolutely necessary. We will be installing initially a 15 million gallon equalization tank underground at that site. Both that site and the city owned property to the west. We believe this is both a fair price. Both sides have been represented. Not only have I been involved in the discussions, I have apprised the Mayor and the Service Director of where we've been. We use the services of a well regarded professional appraiser who does a good deal of work for the State of Ohio. Again, we engaged, in what my opinion is the best land use firm in town to represent us. I am very confident that we have achieved a fair balance between that private property's owners interest in developing that parcel and our public need for that property so that we can get moving with compliance with the Consent Decree. I'd be happy to answer questions, perhaps before that Director Bock might want to talk about where we are with the Consent Decree because I know that was an issue that members of council had expressed concern about us going further without that approval.

Director Bock – I passed out a brief email that we received July 31st from the US EPA, which is to memorialize the agreement in principle reached with the EPA and the City of Euclid concerning our Consent Decree. Basic approval of the alternative to a swirl concentrators out in the system, the SSO elimination projects, our Waste Water Treatment Plant upgrades, no feasible alternative plan. So we have received a go ahead to start the work on our projects.

Also on the Alexander's property I would like to bring up that part of our head works will go on this site in addition which is also a need to do that. That's one of the things we did receive permission from Council with the SSO's, the head works and the sludge force main to proceed with that engineering work and get that work started. That will take place on the former Alexander's site, so that's another reason we need to move a little quicker on this and get this passed and get this started. We need to get started with this work.

Many phone calls and meetings with CT, the Law Director, the EPA, both State and Federal did come up with an agreement which we have to do the legal writing of yet. We do have that agreement to go forward.

Councilman Langman – I guess I'll start first with Law Director Frey and Director Bock feel free to jump in. I know several years ago we had something similar on lakefront where we were doing sewer work, needed a lakefront parcel for the outfall and it wound up we purchased all the parcels that were not already controlled by the city. Which I agreed with and I agree with controlling the parcel today.

My point is that I believe we saw the appraisal of the properties in question. Can we see the appraisal of this particular parcel?

Director Frey – Yes, I will provide that. This is the copy I have here is marked as the draft copy but we do have the final copy and I will have that scanned and emailed to Council.

Councilman Langman – I would feel more comfortable voting on this after reviewing the appraisal and whatever questions came out of that because invariably there will be.

Law Director Frey, you mentioned about the demolition costs of the old Alexander's restaurant. Was that undertaken by this Westminister Rd. LLC?

Director Frey – Yes, after they purchased the property from franchise USA, the BP site operator owned that property.

Councilman Langman – The BP franchisee was Franchise Inc.?

Director Frey – USA, I believe Inc. I'm sure we got the full name in here, but yes. They owned that parcel. They bought the BP station and the Alexander site as a single package purchase when BP decided it was no longer going to own and operate gas stations. This company bought it as a package. They had no intention to use, as it turns out, to use that property. BP had intentions to use it that we were not necessarily in agreement with. This company didn't have the intention to use it so they were looking to sell it off to a developer.

Councilman Langman – What was the condition of the Alexander's property during these transactions? I'm under the assumption that the building was in bad shape and had to come down anyway.

Director Frey – That's not true. It could have been rehabilitated if it was going to continue to serve as say a restaurant. But, it would have required a substantial amount of work I suspect. It was an old building and would have required work from a code compliance and so forth. It was a functional building. We had made numerous efforts through the Development Dept. to attract restaurant operators to that site.

Councilman Langman – What I'm trying to get at Law Director Frey is, did we encourage the Westminister to demolish a building knowing we would need it? Or what that an independent decision by Westminister?

Director Frey – Absolutely it was an independent decision. They acquired that property, sought out a development project for that site. For that development project to go forward, they had to provide a clean site. They undertook that process, that retail establishment and the owner of the property approached the city for its review of the site plan and site lay out and coordination with the city for access to the site. At which point we said, hold up, because we are likely to need this site for Waste Water project.

Councilman Langman – Did I understand correctly that the current owner wants us to reimburse the demolition costs of the building?

Director Frey – No. There's two prices that were established through the appraisal process. One was for the clean site. The second was for the value of the lease. There was a lease that was drawn up for the ultimate use of that site. That lease was brought to a present value determination to establish essentially what the owner of that site would have received if he was to get a lump sum payment today for that lease term. Under Ohio law, that is an appropriate consideration for the value of the property. There were two price considerations; the value of the lease in the present value sense and then the value of just raw cleared land.

Councilman Langman – I want to make sure that I'm clear that I don't want to reimburse Westminister for a decision they made through their private business dealings to demolish that building.

Director Frey – If we went forward with an eminent domain action, there is no question that there is a public purpose for the acquisition of this property. The discussion, the jury trial would be over the value of the property. Our appraiser gave us those two values for what we had to provide a copy of the appraiser, that's part of the State law. We had to provide that to the land owner. We negotiated for a considerable period of time back and forth moving between the starting point of the raw land and certainly well in excess of the price that we landed on, the present value of the lease. We said we would not go beyond that point, the present value of the lease.

Councilman Langman – Law Director Frey, who makes up this Westminister Road, LLC?

Director Frey – I will tell you that I know a principle in this is Miles Carter who owns Shore Center, I don't know under what corporate entity owns the Shore Center Shopping Center, but it is the same principle in that property as is in the this property. Most real estate transactions with developers, they will create these LLC's for each project.

Councilman Langman – Sure we went through that with Crestline Development on lakefront.

Director Frey – Coastline. Same principles as own the apartment buildings. I do want to point out there is a second piece of legislation and I apologize that was added on certainly within the need for the 24 hour notice. But one of the points of this as you can see in this legislation we indicated that the funds to make this purchase would come from the Waste Water Treatment fund and the waterline fund on a temporary basis pending loan approval from the Ohio Water Development Authority. If we have this legislation approved tonight, we will make that application to the OWDA and we will have it calendared for their August meeting, which is pretty exceptional. We might be able to not have to make any internal fund transfers if we're quick on our timing. If we can get our approval done tonight, if council is desirous of this and then passes this second piece that authorizes the borrowing from the Ohio Water Development Authority, we will have that packet to them by the middle of next week. They will have it calendared for their August meeting. We would be able to draw on those funds and not have to make any internal fund transfers. There is a benefit to us if we can move forward. If we don't get council's approval then obviously we would be delayed in making that application. They meet on a monthly basis.

Councilwoman Jones – Law Director Frey, did I understand you to say that in the purchase of this property, there would be a portion of it that would not be used for the Waste Water Treatment process and that would be saved or secured for other development on Lake Shore Blvd. Do we know which part of the property would not be used?

Director Frey – We have asked the engineering firm CT Consultants to cite the head works and the underground equalization, the 15 million gallon equalization tank as far north from Lake Shore as can fit on the site. So the area closest to Lake Shore would be available for future use. You can put parking over the equalization tank. You can put parking over the head works building, but you cannot put a structure over those. Well you could but as Councilman McLaughlin will tell you the cost of that is pretty substantial. It would allow us to develop at some point the frontage with a developer for some additional commercial purpose and be able to use the above tank area as the parking for that.

Councilwoman Jones – Do we know if its like 50% of it that will be used; 25%; 75%?

Director Frey – It is in excess of 50% but I couldn't tell you an exact percentage.

Councilwoman Jones – You mentioned that, it is probably undetermined as far as the timeframe that it would take to do the installation of the 15 million gallon equalizer tank. Is that a year process, multiple year, 3-4 year process or?

Director Frey – There's a construction schedule, a project schedule that has been developed. I didn't bring that information with me tonight. The equalization and the head works building would both be pretty early in this development process, in the project process. In part because we will be taking some of the capacity of the existing plant off-line while we switch over to the membranes. We will be using that equalization tank to capture flow until it can be treated. That's a fairly early part of the process and the head works building is imperative before we do the sludge line and we have a large sanitary sewer overflow point that also fits into that head works project so that those will all be done pretty early in the project timeline.

Councilwoman Jones – I know this is considered an emergency ordinance. All the things you just talked about with a schedule and the different other things needs to be done. I would like to hear more information as far as what is that process that still needs to be done and this property is going to be used for and going forward, if part of that property will be used for other lakefront development. I know we bought the St. Robert's property, we purchased that as a potential on a developer coming in to develop something. My question, concern is, that part of the property that won't be used, how long are we going to be holding onto that before we actually see some reinvestment into it?

Director Frey – I suspect that we would be holding onto it for a period of time. The project at the Waste Water Treatment Plant will be, a six year timeline for those pieces of that project to be completed. I would imagine for six years at least we will be sitting on that property as park land until the project work at the plant is to the point where we could seriously consider new development there. It is not a short term issue.

We've been apprising members of Council at this council's request, we've been keeping Council committee and Council President apprised of where we are with the US EPA Consent Decree development. We're not keeping it a secret. As Director Bock indicated, we've received written consent to move forward with the project. This is a piece that we need to get in place to get going with that.

Director Bock – In due respect to the Law Director, I think we're going to be holding onto that land much longer than six years. The initial projects and the equalization and the head works will be done within the first six. But I think we have to monitor our other improvements within the system to show that we don't need the additional underground storage. Until we've established that through our monitoring and everything else, there's always that chance that other tank has to go in and it is going to require further property. We hope its not involving that piece of property, but we won't know that. I would expect at least we're getting into the ten year range, maybe to the end of it at 15 years before we actually know where we're at. That piece of property is, in my opinion, not going to be developed any time soon with the balance that isn't used and we don't know what else is going to go in there.

As far as the emergency ordinance and needing this passed, the loan application to cover the cost of the purchase of the property, that was not in the initial list of DEFA applications that we put in I don't know maybe a year ago. We need to get it on their list. If we don't get it on this August list, it delays everything, backs everything up and that's the reason for the emergency portion of it. We need to get that loan program, start working and also the loan applications that we have in to cover the SSO's and other things, need to move forward also. It is all one kind of ties into the other. We need to get this engineering work started and that's why we've asked for the emergency legislation.

Councilman McLaughlin – In addition to that space in front, I'm already envisioning very large fences up for many, many years. I hope we put some thought into how that is going to look because there's going to be a lot of equipment, a lot of stuff going in and out of there.

We did have a meeting and I'm sorry I haven't shared that information. CT gave us a folder that contains all the projects and timelines with it. I didn't update you on that, I wanted to wait until we got approval because nothing can go forward until we had approval from EPA. One thing that is not mentioned in here is that I believe the Ohio EPA has said that we should move forward with our loan applications for the head works and the SSO's. Is that contingent, those approvals of those loans on gaining this property?

Director Bock – The acquiring of the property, in order yes, we have to have the property. We have to show that in order to get the loan money and make the purchases. One ties into the other.

Councilman McLaughlin – We're going to be getting with engineering so I don't know the timing when I look at those timing, we're not going to be start breaking ground for many, many months. I'm just trying to put that in my head. If council is not ready to vote on this, what that actually does as far as our whole scheme.

Director Bock – I believe the loan applications, if we don't make this August deadline, I believe they're every three months. It would be at least three months down the road before we can apply again and get it on the list in order to get funding. This is all cyclical.

Councilman McLaughlin – Funding for the head works and the other loans we're going for, not this parcel.

Director Bock – This parcel, we need to get on already. We've applied for the other loan apps, they're there. Their next meeting, if it comes up in September, we can ask for them to move forward on those applications. This application for this has not been filed to date. We need to file this and get that on board otherwise it is going to be three months down the road before we can re-file for this one, is my understanding of it.

Councilman McLaughlin – I thought the Director said they met monthly.

Director Frey – It is monthly. Council, I just also want to point out that we've negotiated the purchase price and it doesn't compel city council to act. But, certainly it does not guaranty that we continue negotiations and are able to stay at this price because the private property owner is going to have carrying costs for that parcel. I think it behooves us to move forward on it. If Council is opposed to doing that then certainly that's your prerogative to do. I would encourage, based on the negotiated resolution and certainly there's a substantial savings to the city in not having to go through the eminent domain process, that this would be to our advantage to approve this. Certainly your call.

Councilman McLaughlin – You've had the appraisal done by a reputable firm. You've looked on it on behalf of the city and council.

Director Frey – We've looked at it. Our outside counsel has looked at it. We have gone through it carefully yes. Again, the appraiser is an individual who does commercial properties for the State of Ohio on a large scale basis. That's why we selected him for this project.

Councilwoman Scarniench – First I want to make sure everybody understands, I'm not a realtor, I'm not an engineer, and I'm not a lawyer. I'm just a lady who sits at home and looks at the bills that come into my house and listens to my constituents on the bills that come into their house. So if you'll humor me.

Back in 1990 the Alexander property was purchased for \$475,000. December 2007, BP bought the property for \$730,000, great profit. They quit claimed that deed in June 2009, to the franchise which was going to be the BP owner for \$300,000. Why we didn't buy this then, I don't know. Then in December 2010, a year and half ago, \$600,000 to Carter. Now you want me to say yes to \$900,000. So you're giving him one and a half times what he paid.

Right now everybody is looking at their evaluations and how they can't do work on their houses because their houses are worth less than their evaluation. They've got more money into it. I don't get this. We're talking about one acre of property.

We've gone down 30%, but this is just going up so I don't understand how commercial property can make money when everyone of our residents is losing money. People who can't do anything, they can't move, they can't do remodeling, because they can't get the loans because their evaluation is less than what they have in their property right now. I don't understand.

I cannot vote for this. I would love to put this in Executive Session and hash it out. I would have loved to have had that appraisal in my mind so I could look at it and at least kind of understand it. To me it is like shoving this down my throat and I can't do that, I won't do that because my residents expect something else. I will vote no on it.

On the current Auditor's website, it says the building value which isn't even there, is \$94,6000. That doesn't even exist anymore. The land value according to that site was only \$212,200. But you want me to buy this for \$900,000. Can't do it. Thank you.

Director Frey – If I could respond. First of all, we did use an appraiser. This is a commercial property. The property owner reached a development deal with a national restaurant chain. The present value of that lease is \$900,000. If this case goes through the Probate Court in the eminent domain process, there is no doubt that two values are going to be discussed. The \$715,000 that was appraised as the raw land and the \$900,000 that's the present value of the lease. It is unrealistic, all due respect, it is unrealistic to think that those aren't the prices that are going to be discussed and presented to a jury and a jury is going to make that decision. We will have substantial additional costs if we go that route.

This is not residential property. It is commercial property. It is not valued the same as residential property. Commercial property, the County Fiscal Officer indicated to us today, he expects little change in the valuation of commercial property. It is not the same animal. Again, with all due respect, it is not the same. We can rely on the appraiser. We can rely on our outside counsel, or not to make that decision. I will be happy to send you the final version of the appraisal. Not one member of City Council asked for that before tonight. This legislation went out on Thursday. No one asked for a copy of the appraisal before tonight. I will admit, that would have been a good thing to get to you. I certainly would have preferred somebody ask me for it ahead of tonight and I would have had it to you.

President Holzheimer Gail – It seems to me rather than belabor this tonight, it seems like there's enough questions Council would prefer to see that report. I don't know whether waiting three weeks, I understand that we're on the timeline to get the grant application. I would suggest applying with a note saying it is going to be on our September 4th council meeting.

Director Frey – We have to provide the executed legislation as part of the loan application.

President Holzheimer Gail – A 15-16 year project, I think waiting a month, I want to make sure Council has the information they need. It appears to me Council is not prepared to make that decision tonight.

Councilman Langman – When does the application for the loan have to be down to Columbus or wherever it is going?

Director Frey – August 15th, next Wednesday.

Councilman Langman – Can this be the first reading, we come back on Monday and we should have time to review whatever the appraisal says, whatever questions. I don't see why we can't do that.

Director Frey – It would have to be an emergency piece on Monday.

President Holzheimer Gail – It would have to be another Special Council Meeting. We could potentially go into Executive Session if Council desired.

Director Frey – I would ask our outside counsel, or a member of his firm can be here on Monday evening. I will not be here, I will be out of town next week.

President Holzheimer Gail – Would an action on Monday evening provide enough time to send this down OWDA?

Director Frey – I would hope so. I will talk to John Tigue from CT who has putting the loan application together for us.

Councilman Langman – I did have one comment about what the Law Director said. Law Director Frey, we've served up here together for a long time. You know that I ask for a lot of things, just like I asked for the appraisals for the lakefront stuff. I think to say that somehow, we're at fault for not asking, if the administration wants this type of legislation passed quickly, then it behooves you to provide us with more information, not less. You shouldn't be waiting for us to ask. I think it is logical with the intelligence up here, questions about the appraisal would have come up.

Director Frey – And I've answered those councilman.

Councilman Langman – I don't want to get into an argument with you but to say that nobody asked so we didn't pass along is an excuse, it just doesn't cut it.

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Director Frey – I will gladly respond. Again we sent the legislation out on Thursday to give Council an opportunity to review that legislation in time for us to try to provide feedback. It is a two way street, I absolutely agree with you. I think the appraisal would have been a valuable piece of information to have in council's hands ahead of time.

Councilman Langman – Or at least a narrative.

Director Frey – I've represented, I'm holding the draft copy in front of me. I'm looking at the page that has the \$900,000 present value of the lease. If you choose to say well until I see I'm not going to believe that's the case, that's all right, it is okay. I'll get the appraisal out by electronic form to you tomorrow.

Councilman Langman – It has nothing to do with believing or not, okay. I want to make that very clear. It is simply a matter of courtesy to get us more information rather than less. We have other items on the agenda where we received narratives from Director Bock, Director Pietravoia who does a very good job. It just bothers me that you're waiting for us to ask the right question all the time when quite frankly for a piece of legislation like this buying property like that, you should know better.

Director Frey – I will take your comments under advisement; it is a two way street councilman.

Councilman McLaughlin – To be honest with you after reading that appraisal I'll probably come up with the same numbers that the Director just quoted. From that point I don't know what our recourse would be. To me I think they've presented a decent argument. I saw this legislation. I didn't think to ask for the assessment and I will not be here next Monday.

Councilwoman Jones – I have one question. I do agree with going into Monday for this. But let's say for instance this didn't pass, would we still go ahead with whatever loan process is to do work would that be? It would be the 15 million gallon equalizer tank, but what would that include?

Director Frey – We won't go forward with any of the loan application, we can't until we have approved legislation. There's no loan application. At this point we would have CT, we'll ask them if we have approval Monday evening if they're able to process the loan application so that it is down to the State by Wednesday, whether that's possible or not. But there is no loan application for this land purchase with the State until we have approved legislation.

Councilwoman Jones – But there's other work, other than the work on this property.

Director Frey – There are other loan and grant applications that we have outstanding with the State on component pieces of the project. The SSO project, the head work projects, the sludge line and so forth. Those we won't be able to move forward on any of those until we secure this property. Those loan applications are still out there. The approvals are still out there. We can't go forward with the work until we have the site on which to do that work. All of that will wait, there's a lot of engineering work to be done on those. That won't go forward until we have the site on which that engineering work and the final construction project is going to go.

Councilwoman Scarniench – Director Frey, how long before we actually have a bottom line number?

Director Frey – We have an estimate right now of a bottom line number.

Councilwoman Scarniench – Of what it is going to cost our residents?

Director Frey – Rate structure?

Councilwoman Scarniench – Yes.

Director Frey – We don't have a rate structure yet. We have a project cost for the entire project.

Councilwoman Scarniench – How long will it be before we actually have that rate structure?

Director Frey – I would anticipate we will be before Council in either second meeting in September or first meeting in October with new rates. Our rate analyst has got to go through and put that together. We'll have significant input in that process in wanting to look at whether we want to front load or rear load or how we spread that rate structure out. We passed a significant rate increase that's effective for the second quarter of this year and there will be additional rate increases over a prolonged period of time. We have to get that finalized and then we would have to present it by way of Council action.

Councilwoman Scarniench – Could we meet on Friday if people have a problem with Monday? If we get the information, it doesn't matter what time, if this would be the only thing on the agenda.

President Holzheimer Gail – Councilman McLaughlin is still gone Friday and Director Frey is gone Friday correct?

Director Frey – I'll make myself available this Friday if that's the case. Yes, I'm planning to be gone. If that's the case, I'm not leaving until Saturday morning.

President Holzheimer Gail – I think Friday is going to be, either way Friday or Monday won't make a difference. Chances of getting outside counsel, we'd have to do it in the evening Friday which becomes a little tricky. Outside counsel would be more likely to be able to come Monday evening. You will have to see, that may not be a possibility either.

Director Frey – I will check first thing in the morning to see if we can get our outside counsel.

President Holzheimer Gail – Are other council members available Monday evening? We can't have a Special Council meeting without five. Councilman Lynch will be gone, Councilman McLaughlin. I don't know about Councilman Van Ho. Everyone else here would be available Monday?

Councilwoman Caviness – With my newness, I have to just get some clarity on some things if you don't mind, just bear with me for a moment. Director Frey and to whomever else could answer this. First of all we understand that the EPA sent us a Decree, decrees that we have to have these standards in place for clean water, is that correct?

Director Frey – We have to comply with the Clean Water Act yes.

Councilwoman Caviness – That is to the benefit of all the residents. I just in my opinion, even looking at your appraisal information, if you send it to me tomorrow, I don't think I would have any other opinion about it than I do tonight. I don't know if it would change anything for me. In terms of the location, was that the best location you can find for this particular project?

Director Frey – Our consultants looked at equalization at various points outside of the immediate downtown area, the cost increases as we try to go further away from the plant. It is in my opinion, unfortunate that our Waste Water Treatment Plant is situated where it is, but it is where it is. So sure we could put equalization in smaller parts, we looked at or asked them to look at. Instead of a large equalization for regional equalization tanks, all of that adds to the cost so the cost keeps going up. There is continuing ongoing maintenance cost. As we split these out into smaller parts, our maintenance cost going forward would also have increased. It was both a construction cost and an operating cost would have been higher.

Councilwoman Caviness – When we looked at the resolution that goes along with this, what interest rate are we looking at when we take out this loan?

Director Frey – Director Malone can answer that.

Director Malone – Current market rate for the Ohio Water Development Authority is 3.86% for 20-25-30 years. My recommendation is split the middle, go 25, there's a small .35 percent fee which would capitalize the mid loan agreement. It is a loan agreement, it does not go against our debt limitations which is another chapter in our financing book which we'll be talking about. That's the current rate.

Councilman McLaughlin – I know it's a numbers game and I know every dollar counts. I understand that. Suppose we go down and we say we want you guys to take \$100,000 off that property or we're not going to buy it or authorize it. On a scope of a magnitude of this project that adds up to .1% of the whole project value. I just wanted you to keep that in your minds. Thank you.

Mayor Cervenik – I think this has been done once or twice before. Even though this is an emergency ordinance, I have 7 days before I have to sign the legislation, before it becomes effective. It would be a matter of trust, but if you voted in a positive way tonight, I give you my word I will not sign until you've read and give us your opinions on the lease itself. That would save us all a meeting. That would save us the expense of the outside counsel. It would quicken the process so we can get the loan application down to the State. That's strictly up to you. I'm stating publicly that I won't sign anything until I have five council persons that read the lease and say okay, the appraisal, I'm sorry.

Councilman O'Hare – It is evenings like that that you earn that lofty pay differential for Council President. I see you looking around a little earlier on. Earlier I was going to say I don't know what the damage would be, our individual, collective reputations for going ahead and taking a vote, there's now seven of us here. If we disagree, we disagree. If we vote against it we do. It is really not a whole lot different than if we wait. I would be inclined to take a vote on this, this evening.

Councilman O'Hare moved to close debate, Councilman McLaughlin seconded. Yeas: Unanimous.

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

Roll Call: Yeas: Caviness, McLaughlin, O'Hare, Holzheimer Gail
Nays: Scarniench, Jones, Langman

Passed 4 to 3.

President Holzheimer Gail – Because it is an emergency, it doesn't reach the emergency level so it fails. Advice at this point?

Director Frey – It passes. It passes.

President Holzheimer Gail – Not as an emergency.

Director Frey – Right, it is not effective for 30 days. It is passed but not effective for 30 days.

Res. 121-2012 (144-12) OWDA Loan

A resolution authorizing the Mayor to prepare and file a loan application and enter into a cooperative loan agreement with the Ohio Water Development Authority necessary for land acquisition for wastewater facilities projects and declaring an emergency. (Sponsored by Mayor Cervenik)

Councilman McLaughlin moved for passage, Councilman O'Hare seconded.

President Holzheimer Gail – This just authorizes the administration to file that application.

Director Bock – As the Council President stated, this is for us to file the application with the OWDA in order to purchase the property, the former Alexander's.

Director Frey – I just want to make sure. We would actually be borrowing more than the \$900,000 because into the loan amount we would include the appraisal fee, closing cost, any title work that was necessary. The legislation as you see it, allows up to apply for a million dollars in a loan. It might actually be just under that based on the current calculations of those costs, \$999,000. We would be rolling in from a financing point of view and Director Malone can address that. We would be loading in all of those costs associated with the purchase.

Councilwoman Jones – Director Frey, since the prior legislation didn't pass as an emergency, does that mean that this one is not an emergency also?

Director Frey – This is a resolution, so a simple majority is adequate if that's obtained.

Councilwoman Jones – But the loan process still would not start until after the 30 days?

Director Frey – We'll discuss that with the consultant with CT to see whether or not the approval to purchase as a non-emergency will satisfy the loan process. I don't know if it will, we would have to ask that question.

Councilman Langman moved to close debate, Councilman O'Hare seconded. Yeas: Unanimous.

Roll Call: Yeas: Caviness, Scarniench, Jones, McLaughlin, O'Hare, Langman, Holzheimer Gail.
Passed.

President Holzheimer Gail – That completes our Special Meeting. As a Special Meeting we do not have councilmen comments or public comments. With that I'll take a motion to adjourn.

ADJOURNMENT

Councilwoman Scarniench moved to adjourn, Councilwoman Jones seconded. Yeas: Unanimous.

Attest:

Clerk of Council

President of Council