

**CITY OF INDEPENDENCE
REGULAR COUNCIL MEETING MINUTES
JUNE 12, 2007 7:00 P.M.
COUNCIL CHAMBERS**

CAUCUS:

Vice Mayor Kurtz called the meeting to order at 5:13 p.m. Present were Mayor Ramos, Council Members Blaze, Cichocki, Crooks, Grendel, Klepacz and Wisnieski. Also present were Finance Director Veres, Asst. Law Director Adam Cornett (arrived 5:23 p.m.), Engineer Elewski, Service Director Snyderburn, Tech Services Director Tom Avsec, Police Chief Nicastro, IT Coordinator Gibbs and Executive Assistant White.

Also present was Beth Fulton from TranSystems, Neal Hess from the West Creek Preservation Committee, Dave Vasarhelyi from the Trust for Public Land, Fr. Karam from St. Maron's Church, Atty. Tom Coyne and resident Tom Luvison.

Vice Mayor Kurtz stated, Beth Fulton is here tonight regarding a piece of legislation that is on the agenda regarding the I-77 Bridge. We've already unofficially approved this.

Beth Fulton replied, there are two pieces.

We submitted a proposal in the ODOT format for that work in the amount of \$19,797. The hours, labor rates and the overhead documentation was submitted for that.

This is regarding the I-77 Add Lane Project. The I-77 Bridge over Rockside Road in the plans as they stand right now is a regular highway bridge. I believed it was in the City's interest to add some aesthetic details to make it look nice.

Vice Mayor Kurtz asked, and the \$20,000 is for that engineering?

Beth Fulton replied, yes, the engineering to revise the plans from their current status, which is plain to adding aesthetic details and submitting them to ODOT so they can incorporate them into the rest of the plans that they already have on file. In about six weeks they need to send all the plans down to the Central Office to prepare them for bidding.

Vice Mayor Kurtz asked, I think I read in Ron White's narrative that it would be similar to the 615 bridge over I-90, correct? If that's the case, I support that.

Ron White replied, similar to those features on the Fleet Avenue Bridge and the 615 Bridge in Mentor.

Beth Fulton added, we're taking some direction from the Architectural Board of Review as far as the specific patterns to be used.

Councilman Cichocki asked, so it's \$20,000 for the engineering, how much is the upgrade going to cost us?

Ron White replied, most of this is incorporated within the project. The only part that we will contribute to is when we do separately outside of the project about three years later the landscaping of the interchange. That will be at our cost.

Councilman Cichocki asked, so ODOT pays for the light posts?

Several people speaking at once.

Ron White stated, this is a bridge that is on an interstate over a secondary, as opposed to all the examples that we're looking at are secondaries over interstates. So for them to compromise and allow us to put any features on it is a milestone. Lighting is not one of them, but it will have the fencing treatment you see on Chagrin, Cedar, Fleet, 615, that style of fencing. It's not the traditional fencing. It's sort of a small hole fencing with sort of a square design in it, crosses on it. It's as decorative as you're going to make a fence on an interstate bridge.

Vice Mayor Kurtz commented, if it like 615, I have no problem.

Ron White stated, the pilasters on the parapet are those features that look like bricks that you see on the Fleet Bridge. It will be consistent with our Gateway sign and the wall at Summit One. It's that same kind of design flavor. Then there will be the inset in the parapet which is sort of a feature that is pretty normal kind of thing and then the landscaping.

Mayor Ramos commented, we have proposed other things but ODOT just wants to standardize most of the things. We were trying to incorporate some things into the walls and sound barriers.

Councilman Cichocki commented, I hope our sound barriers hold up better than the ones on I-90. They're crumbling apart.

Councilman Blaze added, they're not parallel to the road anymore. They're deteriorating and discoloring.

There were no further questions regarding Resolution 2007-84.

Beth Fulton stated, there is also Resolution 2007-86, the Resolution of Intent to Appropriate temporary right-of-way, that's at the Crown Center Building. Basically what we need is to rebuild a portion of the driveway. When we widen the road we put in a new apron. We have to rebuild a little bit more of the driveway to give them a property grade. So it's about 1,400 square feet of a temporary right-of-way take.

We've had several meetings with Brock Milstein and at those meetings he requested we come up with some other alternatives for rebuilding his driveway. The way the plans are now is that the driveway would be closed for about four weeks with the alternative access off of West Creek

being the main access into and out of the property while the lanes on Rockside across the driveway and the driveway itself were being reconstructed.

He said the tenants couldn't have that kind of a closure so we asked the contractor to look at some alternatives. The contractor did put a little narrative and a price together for taking the duration down from four weeks to two weeks, which would incorporate some night and weekend work, the use of MF concrete, some hand work instead of machine work and things like that. The increased cost to do that instead of what was in the base contract was around \$70,000.

The other option that Mr. Milstein asked for was what if his driveway was never closed at all, meaning all of the work would be done at night and they would come in and take everything out and put stone back in so come the next morning people could drive on it. We would pour the concrete over the weekend and be opened back up by Monday morning. It would take a series of weekends, at least two, to accomplish that while you're maintaining traffic uninhibited all throughout the week. The additional cost to do that is about \$122,000.

Councilman Cichocki asked, this is the just the driveway, not West Creek?

Beth Fulton replied, this is the driveway on to Rockside Road. In order to keep it open, as you're paving along Rockside you have to stop, jump over that portion of the road and keep going. It's not the driveway itself but a couple of lanes on Rockside would have to be done out of sequence in a different fashion.

Councilman Cichocki asked, are we closing West Creek at some point?

Beth Fulton replied, we likely will and detour the traffic over to Oak Tree Boulevard.

Councilman Cichocki asked, but not at the same time as this driveway?

Beth Fulton replied, no.

Councilman Cichocki stated, I don't see the driveway as. . .

Beth Fulton stated, there was an appraisal that was done for what that value was. The Law Department was being very generous compared to the way the appraisal came back. The appraiser valued a four week closure of that driveway at \$650.

In his meeting he was very emphatic that his tenants would be very upset. They don't want to be inconvenienced so he went as far as indicating maybe someone would ask him for a rent credit or something like that.

Vice Mayor Kurtz asked, what about temporary paving and then a temporary access into the parking area with cones? Pave the first section where the parking lot is up to the road, and then do a temporary asphalt section into the parking lot and then use three or four parking stalls to get into the road so there was a bypass, make the improvement and then open it up and vacate the temporary bypass?

Beth Fulton replied, doing anything other than what is in the plan now, the contractor wants to come through and pour two lanes with his machines from here to there. He gets that entire piece all in one.

Vice Mayor Kurtz asked, can you identify specifically where he knew that he wasn't going to have access to that building?

Beth Fulton replied, yes. That driveway is clearly not shown because there are alternative routes. It's really no different than the way that a lot of other properties have been done.

For instance the VFW, we gave them a temporary rear entrance while we were working on their driveway and in front because they had no other way in. Alpha, for instance, didn't have that situation. They have an access off of Oak Tree. So when it was closed off they had a secondary entrance.

The way the plan was put together here is that property (inaudible) Cleveland Clinic is an alternative access off of West Creek. So the plan was put together that for a duration of time the Rockside driveway would be closed while they work in front of it and then the driveway itself was reconstructed.

Vice Mayor Kurtz asked, are you recommending \$70,000?

Beth Fulton replied, no.

Mayor Ramos replied, we're not recommending it.

Beth Fulton replied, we're literally following through with Mr. Milstein's request to ask the contractor for thinking outside the box.

Mayor Ramos stated, if Mr. Milstein wants to pay for that, he's certainly welcome to.

Councilwoman Wisnieski stated, I know it's hard to get out of West Creek as it is, even with that access open. You might have to wait two or three lights to get out.

Beth Fulton replied, hopefully what will happen is, and actually if there was a way that we could (inaudible) sequence it. Right now Summit is closed and there is extra time at West Creek just for that purpose. We're rebuilding Oak Tree. If we're rebuilding Oak Tree, why are we closing Summit? We closed Summit because it's catty-corner from Oak Tree. Then you're forcing people to take Patriot's Way and Liberty Way to get to the other side of the intersection. So you can make each one of those signals a three phase signal instead of a four phase signal. The green time that you don't have to spend at Summit, now returns to West Creek. So we're sort of purposely doing those kinds of things. So what we would likely do is recommend to the property owners that when that driveway is closed to not only use West Creek, but to go around and use Oak Tree as well and have them use Patriot's Way.

Councilwoman Wisnieski commented, perhaps we could offer to put some additional safety forces just to help the traffic flow if they run into any problems.

Beth Fulton stated, from that driveway on Rockside itself, people really should turn left at West Creek. If they go any farther, it's very difficult to turn left into that driveway on Rockside. You're crossing all of that traffic and it's going to be even more difficult with the construction. So a left turn into that driveway right now isn't the greatest idea. In fact, it's probably prohibited but not being enforced, so they shouldn't be doing it now. They shouldn't be turning left out of there. That's a posted "no left" from that driveway out to Rockside. So really the turn movement is right turn in, which can freely be made with no problem. Instead of turning right into the driveway they would turn right on to West Creek. It would be a free flowing movement. Then I think you probably have the majority of your traffic as they're leaving that facility to get to the interstate are probably already going out, they're forced now to go out on to West Creek to the light because they can't turn left out of the driveway. So I don't think from an exiting, going toward the highway viewpoint it's going to be that much worse than it is right now. The few people that want to turn right out to go back to Seven Hills should go out West Creek and take Patriot's Way or Lombardo.

Mike Savioli is really good about going out there when there is a new traffic pattern and making observations about how it's operating and then making suggestions and tweaking it – adding additional stop signs or whatever.

I think the contractor that is working out there now will likely be done before the four weeks.

There were no further questions for Beth Fulton. Beth Fulton left the meeting.

Vice Mayor Kurtz stated, we have ordinance 2007-23.

Councilman Klepacz stated, I'm one of the sponsors of this legislation. Councilman Blaze asked at the last Public Hearing on May 29th that he would like to have a Workshop to discuss the issue in detail. The two dates that he suggested were two dates that I cannot make. However, I did suggest alternative days which would be the day following each of those dates. It would have been June 20th or June 27th. If that would be agreeable to Council, we can set one of those dates for a Workshop so Councilman Blaze can fully discuss this issue as requested, I would be happy to do that.

Councilman Crooks asked, those are Wednesdays?

Councilman Blaze replied, I'm in class on Monday and Wednesday evening.

Vice Mayor Kurtz commented, it might take a couple of sessions.

Councilman Klepacz replied, I don't know about that. I would also suggest a Thursday Workshop.

Councilman Blaze commented, I thought the majority of us could make the 19th. If everyone can make a Thursday, I'm fine with that too. I can only meet on Tuesday and Thursday until July.

Councilman Cichocki replied, I have no problem with a Thursday.

Councilman Grendel replied, I have no problem with a Thursday either.

Councilwoman Wisnieski replied, I can make any of those days, Tuesday, Wednesday or Thursday.

Councilman Crooks replied, I have a Zoning Board meeting on Thursday the 21st. We caucus at 6:30.

Discussion ensued regarding the time of the Workshop.

Councilman Blaze commented, we're also going to be talking about other related pieces of legislation, not just Ordinance 2007-23. One, this does not look like the version that the Planning Commission referred back to us. Then I see that the Mayor has another Ordinance 2007-33 on here that is similar – dealing with the same issue.

Councilman Klepacz replied, I would assume that we will discuss all of them.

Vice Mayor Kurtz stated, I'm going to weigh in as I mentioned in my memo, which I'm assuming everyone received, I have information that the Clerk is putting in the packet right now. That will also be up for discussion. I did not put a number on it and introduce it as legislation because I thought it would be more efficient to have it at the Workshop. Then I can introduce it.

Councilman Blaze asked, so what time are we meeting on Thursday the 21st?

Vice Mayor Kurtz replied, 4:30 would be good because I have a 6 o'clock appointment.

Councilman Blaze asked, what about 4 o'clock?

Vice Mayor Kurtz replied, 4 o'clock is even better. I'll be leaving at 5:45 p.m.

Councilwoman Wisnieski asked, is that enough time to discuss all of those issues?

Vice Mayor Kurtz replied, if not, then we'll have to keep doing it until we do it right as far as I'm concerned.

Councilman Klepacz commented, my concern is that I want to discuss, I did want to give Councilman Blaze per his request an opportunity to discuss this. I'm really concerned with Ordinance 2007-23. That's my emphasis – as long as we do that first.

Councilwoman Wisnieski asked, and the other piece too?

Councilman Klepacz replied, I would go in sequence. That would be my suggestion.

The Clerk asked, so June 21st at 4 o'clock?

It was agreed to schedule a Council Workshop for Thursday, June 21st at 4 o'clock.

Vice Mayor Kurtz stated, June 21st at 4 o'clock. In other words, we are not having the Workshop on the 19th. We are going to move that Workshop and discuss senior housing on the 21st at 4 o'clock.

Everyone was in agreement.

Vice Mayor Kurtz stated, I ask that the information that I just submitted to the Clerk, my colleagues and the Mayor also be put on the agenda.

Councilman Blaze commented, Ordinance 2007-33 also which deals with this issue.

Vice Mayor Kurtz asked, 2007-33 is which one? Does the Mayor have any objection to putting Ordinance 2007-33 on the Workshop agenda?

Mayor Ramos replied, I don't have a problem putting it on the agenda but it has to be referred to the Planning Commission and a public hearing set.

Vice Mayor Kurtz asked, a public hearing before the Planning Commission or before Council?

Mayor Ramos replied, it would have to be set before Council.

Vice Mayor asked, so you're asking that the Planning Commission set a public hearing?

Mayor Ramos replied, no. I'm asking that Ordinance 2007-33 be referred over to the Planning Commission and that Council schedule a public hearing prior to the next Council Meeting. Once again, depending upon what happens at the Workshop, all this might be moot. In order for this to be timely for August, that's pretty much the procedure. That could change when we talk about it at the Workshop.

Vice Mayor Kurtz replied, anything we resolve next week there is a possibility we could take action to create the public hearing for it at that point.

Mayor Ramos replied, I believe it's 25 days notice. I don't know how that falls.

Asst. Law Director Cornett replied, I think it's 30 days.

Vice Mayor Kurtz responded, so we don't have time for the next 30-day cycle now anyway.

Councilman Blaze asked, the public hearing has to be 30 days after it's introduced?

Mayor Ramos replied, no – 30 days notice.

Councilman Blaze responded, so a 30-day notice for the public hearing?

Mayor Ramos replied, yes. With all due respect, I don't think it's 30 days. I think it's 20-some days from talking to Law Director O'Brien.

Vice Mayor Kurtz responded, whatever we have to do, we have to do then. To recap, for the Workshop on the 21st at 4 o'clock, we're going to discuss Ordinance 2007-23. Did we say something about the Planning Commission recommendation version? Let's talk about Ordinance 2007-23 and Ordinance 2007-23 as recommended by the Planning Commission, the information that I just supplied to Council and the Mayor's Office and Ordinance 2007-33. Are there any objections to that?

There were no objections noted.

Councilman Cichocki commented, just to be clear, when we're talking about Ordinance 2007-23, we're talking about Revision 5 that does not contain any language regarding referral to the polls. I was under the impression based on conversation with Law Director O'Brien that if there should be another version of that calling for a vote of the people, it would be a different ordinance.

Vice Mayor Kurtz replied, I guess we have a misunderstanding then. I'm under the impression that it doesn't matter. Whatever the law says or does, right?

Councilman Cichocki responded, there was an e-mail sent to me, forwarded to me and it was actually addressed to Councilman Klepacz. It said, *please allow this e-mail to serve as a response to a request for clarification regarding how many votes it would take to send the senior housing legislation to the ballot for a vote of the people. Currently there are two enacting ordinance associated with the Active Adult Residential Development District – 2007-23 was introduced at the March, 2007, Council Meeting and then referred to the Planning Commission. This ordinance does not mention sending the active adult housing zoning ordinance to the ballot for a vote of the people. As a result, the Planning Commission did not recommend this ordinance for passage by Council. Therefore, if Council wishes to pass this first ordinance, which would send the active adult zoning amendments to the ballot for the vote of the people, it would require five votes.*

The second enacting ordinance that would send the active adult housing zoning ordinance to the ballot for the vote of the people and this enacting ordinance was recommended to Council by the Planning Commission, as a result, if Council wishes to pass this ordinance sending an active adult housing ordinance to the ballot for a vote of the people, it would require four votes.

So based on that, nobody ever introduced the second ordinance, but it's two separate ordinances.

Vice Mayor Kurtz replied, I called to understand because serving on the Planning Commission I saw the agenda and I asked where the legislation is. What I just don't know is if you voted no, can you still introduce legislation? I don't know. I have to find out legally how that works.

Councilman Grendel asked, so you only need four to send it the voters?

Councilman Cichocki replied, that's what Law Director O'Brien said.

Councilman Grendel responded, because the legislation that was e-mailed said five.

Vice Mayor Kurtz responded, four on the recommended version.

Councilwoman Wisnieski added, if they don't recommend you need five.

Councilman Klepacz stated, to summarize, right now on Ordinance 2007-23 we need five votes to pass that. There is no other legislation currently pending that would require the four votes.

Councilman Blaze asked, so what is the procedure then if the Planning Commission recommends a piece of legislation to Council to get it on the Council agenda? Isn't there some legal mechanism? Do we have the option to not even consider legislation that the Planning Commission referred to us?

Asst. Law Director Cornett replied, in this situation and the recommendation by the Planning Commission to essentially put it to the vote of the people, is arguably outside the bounds in our legal opinion. It's outside the bounds of the Planning Commission's authority based on the fact that it is not (inaudible) and the recommendation regarding where potentially buildings should be, what type of housing (inaudible) the area to be zoned etc.

There are two different ways to do that. It is my understanding that a councilperson can introduce that, put it on legislation. Or, the legal department can also refer Ordinance 2007-23 as it was referred earlier, back to the Planning Commission with essentially a legal opinion which states that the Planning Commission cannot endorse certain recommendations or stipulations to Council legislation based on their duties in the Charter, etc.

This is a situation where if there wants to be an additional stipulation to Ordinance 2007-23, it would be a new ordinance which would allow to have it submitted by some councilperson to allow it to go to the vote of the people, which would be different than the Mayor's. The Mayor's is a different ordinance all together.

Councilman Grendel responded, the Mayor's is exactly what was voted upon last November.

Councilman Crooks asked, so there is no recommended version from the Planning Commission?

Vice Mayor Kurtz replied, right. So if a member of the Planning Commission puts their name on it, then it goes on the Council agenda?

Asst. Law Director Cornett replied, no, that's not correct.

Vice Mayor Kurtz asked, you're going to have to show me legally what authority the Planning Commission has in terms of recommendations.

Asst. Law Director Cornett replied, it's according to the Charter.

Vice Mayor Kurtz stated, I know. I read the Charter differently than you.

Asst. Law Director Cornett responded, basically what the situation is, it's the opinion of the Law Department that based on the duties and the requirements, the power that's laid out for the Planning Commission in the Charter it deals with certain areas such as zoning etc., etc. What that does, what we feel in terms of the Law Department is adding this provision and stipulation to Council's legislation which was referred to them is usurpation of Council's power. It forces the Council to amend what they had done, not dealing with zoning, not dealing with anything, simply then a requirement to put it to the vote of the people, which is something that I think Council and the legal department would require Council to modify because this is simply outside the scope and the duties of the Planning Commission.

Vice Mayor Kurtz responded, that's your opinion. That's good because it opens for a good debate. The buck stops at the legal department. What you're saying is that the Planning Commission has very strict boundaries.

Asst. Law Director Cornett replied, that's correct – toward what their duties and what their powers are.

Vice Mayor Kurtz asked, so it's not to be interpreted that if the Planning Commission said for a subdivision, Council says you make a recommendation and the Planning Commission says, okay, we want to pave the streets in blue.

Asst. Law Director Cornett replied, it's not a requirement. They can. . .

Vice Mayor Kurtz commented, it's way outside the scope or the responsibility of the Planning Commission.

Asst. Law Director Cornett responded, that's not necessarily true because what that deals with, whether they want to pave the streets in blue or not is dealing with maybe beautification or aesthetic version. It does not modify and force Council to send it to the vote of the people, which is dealing with what Council's authority in terms of legislative (inaudible).

Vice Mayor Kurtz asked, so you're saying if that's the case, it would come back with the recommendation and then to override that recommendation it would need a super majority of Council?

Asst. Law Director Cornett replied, that's correct, or Council can act on that recommendation. Theoretically, that would be within their scope and duties for an aesthetic version of what a subdivision may look like or a subdivision may not look like, what use can be used in a certain building or within that subdivision etc. Forcing Council to say we want this subdivision to be painted blue and then we also want to add a stipulation on that it goes to the vote of the people, would be overstepping Planning Commission's powers.

Vice Mayor Kurtz asked, so you say it still take five votes, or it takes four votes?

Asst. Law Director Cornett replied, it takes five votes.

Vice Mayor Kurtz responded, it still takes five votes for me to recommend it? So the conclusion is the same?

Asst. Law Director Cornett replied, that's correct.

Councilwoman Wisnieski asked, so you're saying the Planning Commission did not recommend Ordinance 2007-23?

Councilman Crooks replied, correct.

Councilwoman Wisnieski asked, did they revise it?

Councilman Cichocki replied, they revised it by adding a clause that we have to put it to a vote.

Councilwoman Wisnieski asked, which is different than Ordinance 2007-33?

Several people speaking at once.

Councilman Klepacz stated, 33 is a totally separate issue.

Councilwoman Wisnieski asked Mayor Ramos, so that's the resurrection of what we took to the people?

Mayor Ramos replied, yes.

Vice Mayor Kurtz asked, there's no difference between last year's ordinance and this year?

Councilman Cichocki replied, the location.

Vice Mayor Kurtz replied, no. Last year we did Concordia.

Councilman Grendel replied, we took the middle school out last year.

Mayor Ramos replied, it includes the entire Kemper plan on the Concordia and Technology Center site. It includes congregate living, clusters as well as the single family homes.

Councilman Klepacz commented, the issue which failed by 300 and some votes as opposed to the issue that failed by 1,000.

Mayor Ramos replied, that one was on the middle school property.

Councilman Klepacz responded, I just wanted to clarify that.

Vice Mayor Kurtz commented, the only thing that has happened between last year and this year is it failed in between.

Councilman Klepacz replied, yes.

Councilwoman Wisnieski stated, walk me through why the Planning Commission decided to put this on the ballot instead of recommend what Council sent to them.

Mayor Ramos replied, I think what happened is I think the Planning Commission felt that it should go up to a vote of the people because they felt uncomfortable and they thought they were circumventing the vote of the people by just limiting it to single-family homes.

Vice Mayor Kurtz added, I voted no. I didn't know if I could still introduce it with a no vote or not. I'm not sure.

Asst. Law Director Cornett replied, you can introduce any type of legislation that you like in terms of Council. I don't think there's a restriction against that within the Charter, not that I've seen. Theoretically, you can introduce any type of legislation you'd like at a Council meeting.

Vice Mayor Kurtz stated, so Ordinance 2007-23 is going to stay on Second Reading and talked about at the Workshop.

Councilman Grendel replied, that's correct.

Vice Mayor Kurtz stated, next is Resolution 2007-26, amending the Council Rules to include public prayer at the commencement of every Regular Council meeting.

Councilman Crooks stated, it's my intention to move forward with this legislation and I've explained several times that what I'd like to see happen here is simply amending the Rules of how the Regular Council meeting unfolds. The roll would be taken and then have a public prayer and then we'd have the Pledge of Allegiance.

Vice Mayor Kurtz responded, tell me the implementation process you see.

Councilman Klepacz stated, I'd like to make a request, and I know we put it off, but we have those two other Thursdays and I really request that we discuss this at a Workshop. Because of the time element here, as you know I sent you an e-mail on March 5th and told you that I'm strongly apposed to this for various reasons.

My remarks that I have tonight would be a minimum of 45 minutes and we have a time constraint here. We have a lot of things here that are time sensitive.

You expressed an opinion and you wanted a spirited debate. We really don't have time for a spirited debate. I would be happy to set a Workshop on that other Thursday, June 27th and discuss it fully.

Also, I offer you another compromise tonight, which is, in my e-mail to you of March 5th I told you among other things my reasons that I was apposed to it. At that time I did say to you that I would agree to a moment of silent contemplation at the beginning of the meeting as a compromise because that's what politics is, compromise. I offer that to you again. If you would agree to that, we could change those rules tonight, assuming that the rest of my Council colleagues would want to go along with that.

Vice Mayor Kurtz asked, any immediate response?

Mayor Ramos commented, with all due respect to Councilman Crooks, when it was first introduced I did include my name on it. I don't have a problem as far as a moment of silence, a moment of medication, a moment of reflection. Once again, religion is a very, very private thing and everyone has their own way and beliefs. Consequently, I feel comfortable with a moment of silence and reflection or meditation.

Councilman Crooks replied, I want to respond to that right now and I want to be very clear about this. My legislation calls for public prayer, and in my opinion, a moment of silence is exactly what we've been doing all along. We've been silent. I don't see it as a prayer and will not support it. It's Council's pleasure to do whatever they want tonight. I will not support a moment of silence.

Councilwoman Wisnieski asked, do you have additional information that can be submitted with this legislation defining what you mean by public prayer and how that would be facilitated and whether we have local clergy or community leaders come and do this prayer, and in the event that they're not available, how it is facilitated?

Councilman Crooks replied, I believe I provided that already in March. I provided more than 100 examples of prayers that have been delivered before legislative bodies at the state level and the local level, but I'm willing to continue working here so we can make this a reality.

Councilwoman Wisnieski asked, is there a way that can be included in the legislation where it is fully defined?

Councilman Crooks responded, you want it fully defined what the prayer would be?

Councilwoman Wisnieski replied, what the process is. In the event that someone doesn't show up that day, would we read a standard prayer? How will that work?

Councilman Crooks replied, my thought is simple. We could invite members of the clergy to provide or deliver this prayer. In the event that they're not able to participate, this would be Council legislation so it could be a Council Member, the Mayor or someone from the audience who would deliver it. I'll take responsibility.

Councilwoman Wisnieski asked, so whose duty or responsibility would it be to set that up on a monthly basis? Would it be the Mayor's Office or Council Office?

Councilman Crooks replied, in my opinion, as a piece of Council legislation I would say it would be a Council Member that can be confirmed through the Clerk's office.

Vice Mayor Kurtz asked, are you volunteering?

Councilwoman Wisnieski replied, no. I'm just asking for clarification. So we pass this and then what? Who then knows that they're responsible for that?

Everyone speaking at once.

Councilman Crooks stated, I don't have a problem with adding an implementation process.

Vice Mayor Kurtz asked, does anybody else want to weigh in on it?

Councilman Cichocki replied, I sent out a three-page memo back in March to everybody. My views have not changed much. I think that we, as a public body, have a duty to include all residents, not only our Christian brethren, but people of all faiths. My concern is that we're going to lose control what happens in our Council Chambers. I can envision a priest or minister coming up and saying "Lord" or "Christ" or "Father," which are all Christian terms. Then at that point what do we do? Do we sanction that person? Do we control their content? Do we ask them not to come back? Do we ask them next time not to use those terms?

Although public prayer is legal, it's supposed to be non-secular. I'm trying to find some prayer that doesn't offend one of the religious groups. It's a difficult task. I said when this was first introduced, it's a very slippery slope we're heading out on. I also proposed like Councilman Klepacz, like the Mayor, a moment of silence, and if people choose to pray at that time, if they choose to have private thoughts at that time, that's all well and good, but we should not be imposing religion on people who don't want it, and I can't support the legislation.

Councilman Blaze asked, Mayor, if you support the moment of silence instead of public prayer, are you still going to remain on as introducer then the way it's written?

Mayor Ramos replied, I'm hoping that somehow we reach a compromise as far as a moment of reflection. Once again, I feel comfortable with a moment of reflection. But if it's moving forward, I don't have a problem leaving my name on there. I would rather have Council amend the resolution and refer to it as a moment of reflection to include all those other beliefs. I guess my name would remain on it. I don't have a problem with it. I just thought it would be a compromise that everybody would feel comfortable with.

Councilman Klepacz stated, I would really like to move our agenda forward, and I really do have a lot to say on this particular piece of legislation. I don't want to get started unless I have my 45 minutes so I prefer that if you wanted vigorous debate that you, in fact, ask that we refer it to a Workshop.

Councilman Crooks replied, if I remember correctly, and I'd have to see the public record to make sure, I don't have a problem with a spirited debate. If you said that you e-mailed me on March 5th, I do recall receiving your e-mail and reading it. This is three months later. I opened an invitation to you to discuss this outside of Council Chambers and then come back and discuss it here. I haven't heard. . .

Councilman Klepacz responded, conversely I haven't heard from you, but that's not the issue. The issue is, do you want to move this forward? Do you want to have a spirited debate? That's the issue. I offered you a time that we could do that and where the entire Council can attend. It's obvious that we are not all on the same page and there are many, many reasons why I appose this.

Vice Mayor Kurtz stated to Councilman Crooks, it's your legislation. Do you want it on the agenda tonight or refer it to something? Tell us what you want to do.

Councilman Crooks replied, I think the legislation needs to be amended to further define the intention.

Councilman Blaze asked, the intention? I wrote down implementation process.

Vice Mayor Kurtz asked, are you saying you want to amend your legislation to define the implementation process?

Councilman Crooks replied, yes.

Vice Mayor Kurtz responded, implementation process simply defined would be to have a member of Council, or the Clerk be responsible for having someone be at the meeting at 7 o'clock?

Councilman Crooks replied, correct.

Vice Mayor Kurtz asked, you're just talking about the Regular Council meeting?

Councilman Crooks replied, just the Regular Council meeting.

Vice Mayor Kurtz asked, so if we do a Special or a Workshop or something you're not talking about that? So are you making a motion to amend to create the implementation process that a member of Council or the Clerk be responsible for inviting the clergy?

Councilwoman Wisnieski added, just to be clear, I don't think it should be the Clerk of Council's responsibility.

Vice Mayor Kurtz responded, it would be the Mayor's Office.

Councilwoman Wisnieski responded, it could be the Mayor's Office. It could be whoever Council designates. It might have to define their term.

Vice Mayor Kurtz responded, it could be on an annual basis or just as long as they serve.

Mayor Ramos responded, really it should be the Mayor's responsibility since he is running the meeting.

Councilwoman Wisnieski responded, that's a great idea. The Mayor can do it.

Everyone speaking at once.

Councilman Crooks stated, with the help of a designated Councilperson that's fine.

Vice Mayor Kurtz stated, is that in the form of an amendment?

Councilman Klepacz asked, are you planning on introducing that amendment and voting on this legislation tonight?

Councilman Crooks replied, that's correct.

Councilwoman Wisnieski asked, and in the event that a clergy person does not show up then what is the procedure?

Councilman Crooks replied, in the event that the clergy does not show up. . .

Councilman Klepacz asked, you want to play that game. . .

Councilman Crooks replied, I'm not trying to play games Councilman Klepacz. Let's just be clear. I heard that. I'm trying to vote up or down on a piece of legislation and I'm prepared to debate with you.

Councilman Klepacz responded, however you are not (inaudible) the mechanism.

Councilman Crooks replied, I have provided several mechanisms – a Workshop on two occasions.

Councilman Blaze commented, in all fairness to Councilman Crooks, this resolution was on the agenda for discussion by Council as a body a number of times in the past and it always got to the point where it was put off to another time.

Councilman Klepacz responded, you'll notice in your later e-mail in which you responded, I believe it was March 12th, in which your e-mail said, I'm going to have it at the next available Workshop but for whatever reason, you chose not to have it at the next available Workshop, or the next available Workshop. What I'm requesting is, that we have the debate so that we can discuss it fully, it's 6:05 right now. I've offered you a date and I've offered you a time. If there is another date or another time that you would be available to discuss it with the entire Council, I'm happy to accept that at the Workshop as you originally requested.

Vice Mayor Kurtz asked, is there a motion to amend on the floor?

Moved by Wisnieski, seconded by Crooks, to amend Resolution 2007-26 that the Mayor's Office will be responsible for inviting a member of the clergy or someone to say the prayer at the Regular Council Meeting only.

Mayor Ramos responded, I expect that I'm just going to call up Reverend Hendrix and say, Reverend Hendrix, please come over and say a prayer. I'm not going to say, don't use the word "God," don't use the word "Jesus," . . .

Vice Mayor Kurtz responded, just like any of our events, right, they make a blessing or a prayer?

Mayor Ramos replied, yes, right. I don't mind lining somebody up.

Council polled: 4 yes/3 no (Cichocki, Grendel, Klepacz); motion carried.

Councilman Grendel commented, you can just see from the conversation we have here, and we've had that many years and we've never had any problem. We're just adding one more layer of possible controversy. I'm looking down the road with all the diverse population coming in. There may be a Buddhist. You can have this detract from what we're voted in for. We're voted in here to make laws to govern the City and our religious faith personally guides us each individually, but you might have a fiasco before the Council Meeting even starts.

Mayor Ramos asked, do I invite a Rabbi?

Councilman Grendel added, a Rabbi, a Buddhist, a Muslim? It detracts – we're being elected to govern. The religious aspect is to me a personal freedom that each one of us. . . I get strength from a certain prayer or contemplation. The Mayor gets a different one. Everyone gets a different strength. . . There are atheists that get their strength from another source or that that they believe in, but I think you're asking, when you talk about slippery slope, you're asking for something that is detracting from what this body is elected to do. We have a lot of pressing issues that we need to discuss on a monthly basis, and its so difficult for us to get together just for senior housing. That's been going on and all these other issues. I think you're asking for problems that don't need to be, bringing controversy into the City, into the governing body that don't need to be brought in. Religion to me is a very personal matter. I don't try to impose my religion on my neighbor or anyone else except my children, my family. I try to live my life, the people if they want to see how to live a Christian life, that's the example I give, but I don't beat somebody over the head because I'm not perfect. To me, it's asking for a lot of problems that we don't need to have the public go through, and each of us individually go through because it could lead to a lot. There is a lot of prejudice with religion too. We have enough prejudice as it is, but to introduce that into the equation here in Independence. . .

Vice Mayor Kurtz asked Councilman Crooks, do you want it on the agenda tonight or any other action – like meetings, a Workshop or something like that.

Councilman Klepacz asked Councilman Crooks, so what was your decision tonight?

Councilman Crooks replied, my decision was to move forward with this as amended.

Moved by Klepacz, seconded by Cichocki, to remove prayer and to start the meeting with a moment of reflective silence and meditation.

Vice Mayor Kurtz asked, you're asking to amend again?

Councilman Klepacz replied, that's correct.

Councilwoman Wisnieski asked, the Rules of Order for Council?

Vice Mayor Kurtz replied, no, this resolution.

Councilwoman Wisnieski asked, to amend this legislation?

Vice Mayor Kurtz replied, a second amendment to the legislation. That would be to remove any reference to bringing in someone to speak and to make it a moment of silence. Is that correct?

Councilman Klepacz replied, that is correct, a moment of reflection and meditation, and removing any references to divine guidance, etc, etc.

Council polled: 3 yes/4 no (Blaze, Crooks, Kurtz, Wisnieski); motion to amend failed.

Councilman Klepacz stated, I see Mr. Luvison, the president of the Holy Name Society at St. Michael's. I believe he did have a comment on this particular legislation. I request permission for him to speak.

Vice Mayor Kurtz asked Mr. Luvison if he wanted to speak now or before the Council Meeting. We'll only vote after you speak at the Council Meeting.

Mr. Luvison asked, is this First Reading?

Vice Mayor Kurtz replied, no. If you're going to speak out there, save your comments because we'd hear the same thing twice.

Mr. Luvison asked, is this on First Reading?

Councilman Cichocki replied, it's not on First Reading. It's going to be voted on this evening.

Vice Mayor Kurtz stated to Mr. Luvison, we're not going to vote on it before you have a chance to speak is what I'm saying.

Councilwoman Wisnieski commented, I have to say that I'm disappointed that we didn't ask the members of the audience to participate, or to give their comments because I think before we voted it would have been good to have any additional information that they might have provided.

Vice Mayor Kurtz replied, we haven't really voted yet. We don't vote in here.

Councilwoman Wisnieski stated, we can always amend it.

Vice Mayor Kurtz responded, we can always amend it on the floor too.

Councilman Klepacz added, we can always table it and discuss it at a Workshop and invite other public (inaudible) too.

Mr. Luvison commented, I know that Councilman Crooks is well intentioned and I know that everybody here is well intentioned and wants to do the right thing. I never really gave this much thought but you're going to find if you do some research on it, there is a lot of issues here and I'm not going to vote pro or con, but you really need to look at this real closely.

I think I agree with Councilman Grendel about the problems which can occur. I just offer this one suggestion. If you look at what is going on in the Ohio State House of Representative right now, it's a real serious issue on this matter.

Vice Mayor Kurtz asked, is there anyone else?

Councilman Klepacz replied, I have lots of comments as long as we're going to try and do this without discussing. I guess I'll discuss it.

I'm sorry I'm making people feel uncomfortable, and I'm sorry we're going to delay this meeting to whenever, but there are a lot of issues here that, unfortunately, have not been considered in our legislation.

To paraphrase Elizabeth Barrett Browning's poem, which goes, "How do I love thee? Let me count the ways." Why is this legislation ill advised and should not be adopted? Let me count the ways.

It's impractical, it's unworkable, it's irrelevant to the function and purpose of the City Council, it creates a religious qualification for Council Members, misreads historical precedent and puts into the public sphere that which should be private. It allows Council Members to avoid taking responsibilities for their actions. It wastes taxpayers' money. It introduces partisanship issues into our nonpartisan Council, and it sets the stage to create additional divisions in our community. And most importantly, it erodes the wall of separate between church and state.

I am going to elaborate on all of these points. I won't take 45 minutes, but I will take some time.

At this point I am forced to make my disclaimers, which is sad in and of itself. I'm not against God, nor am I against prayer. In fact, I have participated in organizations, notably the Kiwanis of Independence in which we begin with the Pledge of Allegiance. We sing God Bless America and we have a benediction. Of course, I bow my head when prayers are said at public gatherings and funerals. But all the functions are voluntary affairs in which no public business is transacted – and that's what makes all the difference.

The arguments that have been used to justify this legislation essentially boil down to this: because we can say a prayer because of the “Marsh v Chambers” decision we should say a prayer. That, of course, is not a logical conclusion.

The premise on which our country was founded and which makes our nation great is the idea of inclusiveness. All should be welcomed and encouraged to participate in public affairs. In fact, Alec DeToqueville, who wrote a classic political piece on his observations of America in the 1830’s commented extensively on how all members of the several communities he observed felt that not only was it their right, but their duty to speak out, regardless of their social or economic class. This, of course, was quite different from his European experiences.

This legislation in fact creates an environment of exclusiveness and creates, de facto, a religious qualification for holding office here in Independence. The Constitution of the United States in Article VI, Clause III, states. . . , but no religious test shall ever be required as a qualification to any office of public trust under the United States. If this legislation is adopted, a candidate for office here in Independence who does not believe that they need “divine guidance” to perform their duties, for whatever reason, is excluded. We already saw the practical effect at our Council Caucus when this legislation was first introduced. We had a competition here to see who could be holier. Several members mentioned their religious qualifications and how often they pray and what they do. After all, who could be against God?

As far as being nondenominational and not trying to advance any particular faith, that’s a practical impossibility. It has been suggested that local ministers come in to say the prayer. This is a Christian community and only Christian ministers would be available even if they would be willing to perform this task on a volunteer basis. Are other faiths going to be represented? Are we going to have a Rabbi? How about a Wiccan? Native Americans? Any Imams?

Councilman Cichocki commented, Hari Krishnas?

Councilman Klepacz continued, and the history of supposed nondenominational prayers have been filled with examples of ministers who have strayed from the nondenominational text.

I am going to read you a prayer that was used to open the session of the Nebraska Legislature.

For those of you who don’t know, Marsh vs. Chambers is a case that took place in Nebraska and the Supreme Court in its wisdom, or lack thereof, did that.

This was an opening prayer. What they do in Nebraska is invite members of the clergy to come in. Various members of the state legislature ask members of the clergy to come in and read the prayer. This, by the way, is the same procedure which is followed in the Ohio General Assembly. This prayer is somewhat lengthy but let me read what could happen, and has in fact happened recently in our Ohio legislature:

Almighty God, we come humbly into your presence this morning seeking your (inaudible). I thank you God that in the great State of Nebraska we do have a legislature that does not deny God, but who rather seeks your favor and guidance. I do ask, Lord, that you guide these leaders

of our people. I ask that you give each of them a new sense of conscience, of convictions and courage to do what is right.

I do also (inaudible) this morning come with a heavy heart. I ask your forgiveness on our people, a people who have killed 47 million of my fellow Americans since the year I was born. We have aborted 47 million babies made in your image.

God forgive us. Forgive us our complacency. We go to work and school and come home and watch television while genocide and feticide and homicide is being committed on our children. Open their eyes Lord. Open our eyes to your morality. When you said, Thou Shalt not Murder you meant even the most innocent.

Open their eyes to other aspects of the 33 year long bloody nightmare. Open our eyes to see that we've killed 47 million young Americans, taxpayers and indeed, Social Security is in crisis. Open our eyes to see that 47 million of our countrymen are gone – doctors, lawyers, inventors, authors, musicians and dentists. Forgive us our God and open our eyes, change our paths. Confront the mothers and fathers who (inaudible). . .

But that wasn't it. You would think that would be enough, but no it wasn't:

Forgive us also Lord for the teaching of the religion of evolution to our young citizens, religion that tells us that we are only here by chance. We are here for no reason and a human life means nothing more than any other life. They will never face a judgment day and we put our children into the same category as other mammals. . .

This has occurred. As Mr. Luvison referred earlier, a very similar incident occurred in the Ohio General Assembly just two weeks ago in which a minister came in and mentioned Jesus several times. His name happened to be Reverend Keith Hamblin, Pastor of Calvary Bible Church in Lima, Ohio.

At the request of the Speaker of the House, this is a republican by the way, Clemens, she is the House Clerk, Laura Clemens, said she would enforce existing guidelines. The existing guidelines require approval of prayers prior to the State House sessions. Prayers must be submitted in writing to the Clerk's office 72 hours before they're delivered. Ministers who do not comply, will not be allowed. If clergy digresses from the approved text, their prayer will not be included in the official prayer book and they will not be invited back. Clemens added in a memo, *I would hate to have to eliminate this program but will find it necessary to do so if this trend continues.*

As one continues to read the story, we find that what has occurred is that several members have objected. And if you'll notice, the other issue that is very dangerous here is the fact that we have a Clerk of the House of Representatives of the State of Ohio being paid with taxpayer money to modify, to change and to supervise this program, which again, is one of the other things that we have here. In all of our particular court decisions, because what the First Amendment of the Constitution of the United States say, *Congress shall make no law respecting an establishment or a religion*, meaning that the government cannot be involved in using taxpayers' money to

support any religion. Yes, I realize it's the First Amendment and it's Congress, and most of the first ten amendments do apply to the state, especially the First Amendment.

There are other points that I will not go into. However, we can read the relevant points in many of the decisions. I would like to read some of them.

In the Marsh case, which basically tells you any prayer, by any definition, is a religious act. A prayer by any definition is a religious act, and that's what we're doing here.

Our purpose here is to deal with the issues that affect the residents of Independence. We do not debate significant moral issues with the possible exception of senior housing. If we just look at the items here on tonight's agenda, do we need divine guidance to decide whether we accept the bid for concrete work, spend money for a wireless communication, accept an easement for road projects? That's ludicrous. And to suggest that we are incapable of making decisions without God's intervention is equally ludicrous and, in fact, insulting to this body. No prayers have been said at this City Council since its inception. It appears to me that the City is functioning quite well without a public display of our piety.

In the Declaration of Independence they talk about nature's God. That particular issue was a product of enlightenment in which humans were encouraged to use intelligence to change the government and to create a new one using that intelligence. They did not seek God's intervention, but chose to use their human abilities.

I am going to bring this rather lengthy discussion to a brief conclusion although I have omitted several other issues.

One more issue, I happen to have an e-mail from Jeff Mitchell, who is a trustee at the Independence United Methodist Church and whose daughter happens to attend a Catholic school. Jeff was unable to make it tonight and his e-mail reads, *I believe in prayer. True, honest and meaningful prayer is done in private. Our city leaders individually and privately should ask for guidance before each Council Meeting rather than legislate prayer during a meeting.*

Currently the City of Independence and its local churches have a unique relationship. Legislating prayer could begin a cascade of events that could lead to unwanted changes in our city (for instance the Christmas Nativity display). The cities of Medina and Stow are examples where unwanted changes occurred because small religious and government issues were not separate.

Please leave prayer personal and concentrate on the many important issues this fine city has at hand. . .

Finally, in the case of Heinrich vs. Bosa, which is November of 2005, in which the Sixth Circuit Court of Appeals turned down specific acts of the Indiana legislature, specific prayers there. They said, *The Founders recognized that we are people of many strong, vigorous faiths. They acted to protect the liberty to practice those faiths. The Founders also knew centuries of history in which religious conflicts had caused war and oppression. They recognized that even the best*

intentions of people of faith can lead to division, exclusion and worse. And they recognized that a majority who sees its faith as true and benign can be tempted in a democratic republic to try to use the power and prestige of government to advance that faith in ways that would actually divide and exclude.

Another issue - going back to our religious qualifications, what Mr. Marsh has done for the last 20-some years in the Nebraska legislature, he consciously protested by walking out, not coming in, coming in late and so on.

This is actually what happened in the Ohio General Assembly the other day to two of the members when the tirade was going on from the minister. They felt that they had to walk out. Is that the choice that you're giving anybody who chooses not to say that prayer? Clearly I would be rather uncomfortable about (inaudible).

Let me conclude with a reading from my revised standard edition Bible here, and I think this is really relevant and I think this is what we have decided to do. I think we will pay a price for it.

I'm reading from the gospel of St. Matthew Chapter 6, beware of practicing your piety before men in order to be seen by them for then you will have no reward from your Father who is in heaven. . . When you pray you must not be like the hypocrites for they love to stand and pray in the synagogues and at the street corners so that they may be seen by men. Truly I say to you they have received their reward. But when you pray go to your room and shut the door and pray to your Father in secret and your Father who sees in secret will reward you.

Thank you for listening.

Councilman Cichocki stated, I would also like to comment. I'll make more of my comments at the time of our meeting.

I haven't read my three page memo aloud for public record. I will do that in Council Chambers just to make sure it's part of the record.

I just feel that there is a personal agenda being promoted here by one Councilperson, and it's divisive. And you can see it's divisive by the remarks that have been made here by the Council people present, by some residents who contributed their remarks and those in attendance here tonight.

As Councilman Grendel said, we're distracting from our work at hand here by creating an issue and being divisive among us. And if we make any resident uncomfortable by starting the meeting off with a prayer, we're doing a disservice to our residents.

Councilman Crooks responded, I would like to comment to the two previous comments by offering a word of thanks for the time and effort that you put into creating your arguments. I've read your e-mails, we've talked, I've heard your debates and I respectfully disagree, and I'll leave it at that.

Vice Mayor Kurtz asked, is there anyone else?

Councilman Blaze replied, you can add my name as introducer of this legislation.

Vice Mayor Kurtz added, you can put my name on it too.

Vice Mayor Kurtz stated, next on Second Reading is Resolution 2007-72 regarding the cemetery engineering fees of \$16,000.

Councilman Cichocki asked, has this work already been done at this point?

Engineer Elewski replied, quite a bit of it has.

Councilman Cichocki asked, is there a breakdown at all, or an itemization of how these fees are? Or is it just a number thrown against the wall?

Engineer Elewski replied, we have a breakdown to the Mayor.

Councilman Cichocki asked, could we be provided with a copy of the breakdown of this piece of legislation?

Mayor Ramos replied, yes.

Councilwoman Wisnieski asked, do we have an entire cost summary for the cemetery? Have we been given that?

Several people speaking at once.

Councilwoman Wisnieski stated, I would like to know what the total cost is.

Vice Mayor Kurtz replied, it's \$106,500 or something like that.

Councilwoman Wisnieski asked, we purchased the land for \$275,000?

Mayor Ramos replied, yes.

Councilwoman Wisnieski asked, so \$428,000 is what it's costing us to do the addition to the cemetery?

Finance Director Veres replied, yes. We rounded it up to \$450,000.

Councilman Blaze stated to Finance Director Veres, I didn't see on the Legislative Review that this was budgeted for.

Finance Director Veres replied, it's almost impossible with this type of work.

Vice Mayor Kurtz asked, are there any other questions on Resolution 2007-72?

Councilman Blaze responded, I assume it has been appropriated at least.

Finance Director Veres replied, it fits within the Cavs TIF budget.

Councilwoman Wisnieski asked, most of the work has been done?

Finance Director Veres replied, most of it has.

Vice Mayor Kurtz added, the engineering work has been done but the actual physical improvement has not been done.

Mayor Ramos commented, it was reported that it was ready to start the following day after the May 29th meeting, so I anticipate that it's going to start very, very soon.

Engineer Elewski replied, the money isn't appropriated yet.

Mayor Ramos replied, it's already appropriated. It's ready to go. Let's do the work – tomorrow. Let's start the work. Okay?

Engineer Elewski replied, yes.

Vice Mayor Kurtz stated, next is Resolution 2007-79 the development agreement with Duke Realty.

Asst. Law Director Cornett stated, there has actually been a modification to this resolution. It clarifies a little bit more regarding the further negotiations that we (inaudible). The modifications clarify that Exhibit A is not the actual development agreement. It will be further negotiated. That's why it states in a form similar and also approved by the law director.

Vice Mayor Kurtz stated, in my conversation with the law director, this approval was contingent upon a package deal with the new potential office building, an existing office building and then the retail being the central component of the overlay. If my memory serves me correctly, on page three it's open in terms of square footage that will be allowed for retail.

Asst. Law Director Cornett replied, that's correct as of right now. That is to be further negotiated.

Vice Mayor Kurtz responded, if in fact the law department, just for the record, doesn't feel comfortable when you're done negotiating the final agreement and it doesn't meet the criteria established by the Planning Commission, then you will not approve it and it will come back to Council for reconsideration?

Asst. Law Director Cornett replied, that's correct. That's something that Greg O'Brien can have further discussion (inaudible).

Councilman Cichocki asked, why are we passing it without. . .
Several people speaking at once.

Vice Mayor Kurtz stated, according to Law Director O'Brien he's comfortable with us passing it and moving forward. He just wants to make sure that we are aware that he has got to look over the documents and finalize everything.

Councilman Blaze asked, did the Planning Commission give some outside guidelines as to what that percentage should be?

Vice Mayor Kurtz replied, the only guidelines were that the only area that would be allowed to be retail would be the area that is undeveloped between east of the existing office building and to the north of the proposed new office building site. That was the only area designated for retail. It's probably about one third, 33%, of the aggregate property. There's an office in the front on Oak Tree, the new opportunity created because of the frontage road and then behind that new retail opportunity would be another office building.

Originally it was zoned for office building because the property access was on to Oak Tree between two office buildings. When we put in the marginal road, it was a new opportunity for that area with the frontage road.

I would say a maximum of one third of the property. I can't tell you the specific number but it's around one third.

Mayor Ramos stated, I do have concerns. At the time that this was sent out of Planning and referred over to Council we were talking to one property owner, one developer. That property owner/developer has left. Consequently, a lot of the issues and a lot of the comfort level and everything else has gone by the wayside now and I guess I have some concerns because I don't want them selling off individual lots. I don't want them breaking this up and I would also like to know who the City is dealing with before we approve a planned unit development. That's basically what this is, a planned unit development with a master plan, kind of a PUD for an entire area. I would rather know who I'm dealing with before I set this out and rezone this property. What I'm saying is that the rules changed from when the Planning Commission looked at this. I'm very, very cautious.

I don't have a problem if it was one property owner and I knew what property owner we're dealing with. I don't want them to do the odd lots and break it up. I don't know if that's included in there.

Vice Mayor Kurtz replied, they can't subdivide or utilize that in any other capacity. Just to make sure that you're aware of it, that existing building becomes part of this property. If they try to subdivide this existing property off from the undeveloped property in order to, as the Mayor is suggesting, that they are just trying to do the quick retail, that's not within the approval of the Planning Commission. The Planning Commission made it clear that this was a combined deal with the existing office building, one new office building and the retail in the corner. So

however we have to frame that, if the fact of the matter becomes that they are not able to have somebody buy that entire property, then there is no deal as far as I'm concerned. It only kicks in when they sell that property with the existing office building as one parcel.

Councilman Grendel asked, is the donation of the property tied in with this?

Vice Mayor Kurtz replied, I think that's the reason why the law director wanted to keep this going, because there is a donation of right-of-way as part of our approval process, so he wants to button that up too.

Councilwoman Wisnieski asked, should we attach this map to the legislation then?

Vice Mayor Kurtz replied, you should attach that.

Councilwoman Wisnieski stated, I know on the north side of Rockside and Oak Tree we actually have an entire development plan, a plan for the entire area. Is that the only future development we'll see on that side of the street? Shouldn't we be tying that in with the entire area?

Vice Mayor Kurtz replied, this is the only remaining acreage that abuts the new marginal road for access directly to Rockside. This is the remaining acreage – the existing building. The existing building is on the right side and then there is the middle section which is the retail and then new future proposed office building is on the far left. This is what was approved by the Planning Commission. That's one parcel. So Duke has to take the existing building and subdivide as part of this parcel or there is no deal.

Mayor Ramos commented, it's very important. We have to be dealing with one property owner and not breaking this up where one guy does the retail, another does the office building and another does the restaurant. I'm not trying to create an odd lot situation.

Vice Mayor Kurtz responded, that was exactly what the Planning Commission determined. This existing office building has to be part of that to anchor the proposed use, the proposed overlay.

Mayor Ramos commented, if I'm not mistaken, the construction of that second office building was a condition of the other approval, because what he was trying to do is these were the amenities for the people in those buildings.

Vice Mayor Kurtz stated to Asst. Law Director Cornett, maybe get the copy of the agreement, the framed agreement to Council, leave it on Second Reading. Let's get this so everyone has a good flavor, a good understanding and comfort level for the entire property, confirm everything that we're saying to be accurate, and then match it up to the approval process as determined by the Planning Commission. I think what we don't want to do is give up in order to get that right-of-way as a donation. We're trying to button this all up together. I think that's the intent.

Why don't you get that together? If Council gets that information and we do have a meeting and it becomes a time sensitive issue, is there any problem with putting it on our agenda to pass since we're all understanding and comfortable with the procedure?

Vice Mayor Kurtz asked is there any problem with that? You just inform us when it's all ready to go with the conditions that the Mayor and Planning Commission stipulated.

We'll leave this on Second Reading then and no additional action will be taken on Resolution 2007-79. Revision 1 will be the new cover and the map will be attached to the back.

Vice Mayor Kurtz stated, on First Reading we have Ordinance 2007-29, the amended appropriation. Finance Director Veres attached a memo.

Finance Director Veres stated, the changes to the estimated resources are fourfold. Municipal income tax I bumped up \$200,000 based on the collections. We thought May's collections were similar to last June's collections but collections to date, we should be over \$2 million for June as well this year and close to, if not exceeding last June. The collections are strong. We might be up \$900,000 to \$1 million for the first six months of the year, but I'm not increasing it by that much.

Councilman Grendel asked, and then the Cavs will kick in?

Finance Director Veres replied, they want to be in in August, so hopefully it will kick in in September.

Councilman Grendel asked, same thing for the Podiatric College?

Mayor Ramos replied, the Podiatric College as well and then Farmers Insurance.

Finance Director Veres continued, and then for Funds 410, 420 and 430, the short-term borrowings, initially we were going to apply \$600,000 all to one piece and we decided that because of the age of the older pieces, we need to apply a little bit to each piece so I needed to change that original re-borrowing of the money based upon how we applied our principal payments.

Funds 550, 555, 560 and 566, the four TIF Funds that we've received money for, we received \$350,000 in May. That was well above what we had anticipated. As a result, I was able to reduce the advances to those funds.

We had to increase the advance to the Cavs TIF Fund because of the additional cemetery road costs.

Those were the changes to estimated resources.

Fund 110 on the appropriation side, the General Fund changed not in total but from one group to another for the Wi-Fi purchase. The Library is allowing us to tie into their wireless system.

Fund 210, I mentioned the decrease in the advances. Also, I was made aware by the Law Department that the job retention agreement with Linde Gas kicks in this year. Ron and I

thought there was a stipulation that it would kick in in 2008 based upon a certain number of full-time employees at 12/31/2007, but depending on how you read that sentence, if they reach 200 full-time employees before that date they're eligible.

Councilman Grendel asked, have they met that?

Finance Director Veres replied, that's another issue – how to determine full time employees. You can't determine that from a W-2. We need to verify the numbers. We're working on it but just in case we need to make that payment. . .

Mayor Ramos asked, how much did they bring in in 2006?

Finance Director Veres replied, they're total payroll was over \$21 million. In the event that they would leave within seven years, they would owe us the money back.

By being able to reduce those advances to the TIF Funds I was able to actually move some money from one fund to another to help pay debt service this year.

Vice Mayor Kurtz asked, is this First Reading?

Finance Director Veres replied, I would like it passed.

There were no objections noted to passing Ordinance 2007-29.

Vice Mayor Kurtz stated, Ordinance 2007-30, repealing Ordinance 1975-65.

Mayor Ramos stated, there has been a little bit of confusion. People have been asking about these little tents at the gas stations. By registering they're allowed to do so. Consequently, we're making sure that this doesn't happen in the future.

There are contrary provisions in our code. They did apply for a permit and were given a temporary permit. I just want to make sure that this is the first and last time this happens.

Vice Mayor Kurtz asked, do you want that adopted?

Mayor Ramos replied, unless somebody has any questions about it.

Vice Mayor Kurtz asked, are there any objections?

Councilwoman Wisnieski stated, I understood that the police department issued the permits. So this will eliminate that portion that permits them to do so?

Mayor Ramos replied, yes. This allows anybody to set up a tent. It doesn't look good. I don't like it. I'm sure that many of Council received some calls.

Councilman Grendel commented, these tents are all over Ohio.

Councilwoman Wisnieski asked, so if someone wants to come in, it will be processed by the Building Department?

Mayor Ramos replied, they have to go through the process of coming to the Building Department. Right now, they can go to the police department, ask for a permit and the police have no choice.

Councilwoman Wisnieski asked, so it's still permitted as long as they follow the process?

Mayor Ramos replied, exactly.

Finance Director Veres added, Ron White and I had them fill in a W-9, which has them state their Federal ID and they filled in a business registration form for Regional Income Tax.

Councilman Grendel asked, are they selling license products?

Finance Director Veres replied, they're out of Florida I think.

Councilman Grendel asked, are they NBA products?

Several people speaking at once.

Councilwoman Wisnieski stated, you can add my name to this legislation.

Vice Mayor Kurtz stated, next is Ordinance 2007-31, regarding flood damage reduction. It's my understanding this is as a result of FEMA and updating the code. I think we'll put it on First Reading and then we'll have a chance in the next 30 days to look at it or would Councilwoman Wisnieski like it in her committee.

Councilwoman Wisnieski replied, the only comment is, if we're updating the code it doesn't seem to have any underlining as to what items are changed.

Several people speaking at once.

Councilman Cichocki stated, the only line is through part of the title.

Councilwoman Wisnieski asked, is that the only amendment to this legislation, the title?

Vice Mayor Kurtz replied, this is coming down from the federal guidelines.

Vice Mayor Kurtz asked Engineer Elewski if that was correct?

Engineer Elewski replied, yes.

Vice Mayor Kurtz stated, look at it. If you have any issues, bring them to the Law Department or the Engineer between now and next month. We'll plan on passing it next month.

Councilman Cichocki asked, do we already have an ordinance like this that we're changing or are we adopting this in full?

Asst. Law Director Cornett replied, yes you do.

Councilman Blaze commented, the Utilities Committee a couple years back did a pretty significant (inaudible).

Vice Mayor Kurtz commented, I think this is coming down from the federal level.

Vice Mayor Kurtz asked Engineer Elewski or the Law Department to get clarification.

Mayor Ramos asked Councilwoman Wisnieski, does this go in your committee?

Councilwoman Wisnieski replied, yes. I'll take it.

Vice Mayor Kurtz stated, Ordinance 2007-31 is referred to the Utilities Committee.

Vice Mayor Kurtz stated, next is Ordinance 2007-32 regarding a rental occupancy permit.

Mayor Ramos asked, can this be placed on First Reading and referred to Rules & Ordinances?

Councilwoman Wisnieski asked, is this different than the legislation that was introduced a couple of times in the past?

Councilman Klepacz replied, right.

Several people speaking at once.

Councilman Cichocki commented, the reason for the legislation is now apparent. It wasn't last year.

Vice Mayor Kurtz stated, Ordinance 2007-33, senior citizen residential district will be going to the Workshop.

Mayor Ramos responded, this also has to be referred over to Planning.

Vice Mayor Kurtz stated, Ordinance 2007-34, increasing the change fund from \$100 to \$200 at the pool. Are there any objections to adoption?

There were no objections noted to passing Ordinance 2007-34.

Vice Mayor Kurtz stated, next is Resolution 2007-80, the expansion of the courtyard in an amount not to exceed \$85,900. The only challenge I have with that is that back in January the Service Director. . . He told us in January it was replacing everything – stamped concrete, everything \$60,000.

Director Snyderburn replied, I didn't include the hydronics and the heating system. I told you that. I had some issues with the caps on the walls. Norm spec'd sandstone caps on the walls. Those caps on the walls are \$12,000.

Vice Mayor Kurtz asked, was that part of your original \$60,000?

Director Snyderburn replied, my screw up. I never thought that those caps. . .

Mayor Ramos added, the caps were much thinner but Norm recommended that if we do the thinner caps, it won't look right.

Councilman Blaze asked, do the minutes reflect that they were going to come back to Council for approval?

Vice Mayor Kurtz replied, that Director Snyderburn was going to come back.

Director Snyderburn stated, the hydronics was \$14,000.

Councilwoman Wisnieski asked, what is hydronics?

Vice Mayor Kurtz commented, Tech Services did that.

Director Snyderburn replied, that's hot water heat but you still have to pay for everything.

Vice Mayor Kurtz stated, Tech Services installed the heating. You put it in the middle only?

Director Snyderburn replied, it's under everything – the concrete walk and everything.

Vice Mayor Kurtz stated, and it says, we're not going to do anything with respect to the courtyard until the property committee has discussed it.

Mayor Ramos responded, I didn't receive one call about the courtyard. Everybody knew what was going on. Nobody ever called or ever said anything. We had the brick samples out there.

Several people speaking at once.

Councilwoman Wisnieski stated, I sent an e-mail through the Clerk when you sent out the e-mail about the courtyard that said I wanted a breakdown of the cost.

Mayor Ramos asked, did I provide it for you?

Councilwoman Wisnieski replied, no.

Mayor Ramos asked the Clerk if he received the e-mail.

The Clerk responded that she'd have to look.

Mayor Ramos stated, I don't recall receiving an e-mail.

Vice Mayor Kurtz commented, it says Director Snyderburn is going to put together all the numbers and come back to us. This was on May 8th.

Director Snyderburn responded, it's at bid price. There is 4,000 SF of concrete stamped concrete out there at \$15 a yard is \$60,000. I'll give you the unit prices.

Vice Mayor Kurtz responded, I don't think anyone is objecting to the – it's that there was supposed to be a process to go through – Public Lands & Buildings. Everybody has asked for information. I know you're busy.

Director Snyderburn replied, it isn't that.

Are there any other objections to passing Resolution 2007-80?

Vice Mayor Kurtz stated, I just object to the price. I don't object to the issue because I haven't followed it that closely.

What is Council's pleasure on Resolution 2007-80? First Reading?

Finance Director Veres commented, every amount there is budgeted for either in this year or last year or the year before. It's not an addition to the budget.

Councilman Klepacz asked, that's \$80,000 and we're going to pass that tonight?

Vice Mayor Kurtz replied, yes, if that's Council's pleasure.

Councilwoman Wisnieski asked, this breakdown is above and beyond what we planned for?

Finance Director Veres replied, no, are you talking about the changing room?

Vice Mayor Kurtz added, you're on the next one.

Vice Mayor Kurtz stated, next is Resolution 2007-81 regarding the funds for the family changing room project. That's \$35,000. We did better on that.

Finance Director Veres commented, it's \$32,000 and I rounded it up to \$35,000.

Vice Mayor Kurtz asked, does everybody understand the budget on that?

Councilwoman Wisnieski asked, this attachment is for the additional \$35,000?

Vice Mayor Kurtz replied, that's a summary of the \$35,000. That's total cost.

Finance Director Veres stated, \$30,000 was budgeted in 2006 as planned capital. We were going to budget \$30,000 this year as the second phase of the planned capital and the Director Avsec gave me the \$32,000 and I rounded it up to \$35,000. You know how some of these projects work. If we don't use all of the additional then. . .

Councilwoman Wisnieski asked, so the additional cost from what we planned in planned capital is what?

Finance Director Veres replied, it's less. We had anticipated a total of \$60,000.

Councilwoman Wisnieski replied, then I don't have any problem with that.

There were no objections noted to passing Resolution 2007-82.

Vice Mayor Kurtz stated, Resolution 2007-82, \$41,875 for the police department. As Finance Director Veres indicated, that is within what was approved.

There were no objections noted to adopting Resolution 2007-82.

Vice Mayor Kurtz stated, Resolution 2007-83 would be the purchase to provide wireless for public lands. I asked that the title reflect that it's for the Civic Center and Elmwood Park because I had to read into it to know that it's for that specific area.

Councilman Crooks asked, when we say Elmwood Park, where are we referring to?

Jim Gibbs passed out a rough map indicating the coverage area. There was a proximity to the Library issue. We had to attach somehow to the Civic Center building, but then also we covered what we felt were the majority of the public meeting areas during the summertime – the outdoor pool, the Liberty Playground, Kiwanis Pavilion. As you head north toward the pressbox, there will be some bleed over. It's not a hard line so you probably will get it also at the bleachers.

Vice Mayor Kurtz commented, they shouldn't be on their computer anyway when they're on the ball field.

Several people speaking at once.

Councilman Klepacz asked, this includes the Civic Center?

Jim Gibbs replied, this is only an outside coverage. The inside coverage we took care of with the AV upgrade that we're working on now.

Vice Mayor Kurtz stated, this is the proposed you're working on now. The Civic Center is already covered?

Jim Gibbs replied, yes, it's covered in legislation and has been paid for.

Councilman Klepacz asked, when will it be up and running – the Civic Center?

Jim Gibbs replied, they're working on the AV stuff now. I'm expecting anywhere from two to four weeks and the configuration should be finished for the Wi-Fi in the Civic Center.

Councilman Cichocki asked, how about in City Hall? Do we have Wi-Fi here?

Jim Gibbs replied, there's one access point in City Hall right now just for Monica's connection but it's not a public aspect. Once I get the configuration worked out for the Civic Center, it is something I'm going to be able to extend to the other buildings more quickly, more easily. It will be a matter of roughly \$3,000 if we wanted to cover all of City Hall – roughly. You would have public access inside the building then.

Councilman Blaze asked, is the \$11,000 plus a one-time expenditure of funds or is there going to be other expenditures necessary, either for additional equipment, additional maintenance?

Councilman Cichocki asked, technology advances?

Jim Gibbs replied, there is no number we can put on technology advances of course, but we feel it will be sufficient for five plus years. As far as maintenance, the Library has actually been very generous and is taking on all the reoccurring maintenance of any hardware and things like that. I believe it's in the documentation submitted with the legislation.

Councilman Blaze commented, I guess I'm a little challenged by this. As much as I know this is the future and having the wireless access available in a lot of public areas is very convenient, but the area delineated in red with the majority of that being the parking lot for the Civic Center, the center field and right field of the one of the ball diamonds, the soccer field, parents shouldn't be taking a laptop when they're going to the playground with their kids. You go to a picnic at the Kiwanis Pavilion and I don't see taking a laptop there to be surfing the Web when you're at a picnic and the pool. We wouldn't even get 90 days use of that ability a year. I don't know if an \$11,000 expenditure is commensurate with the usage that we would get in this area delineated on this map. If there is no time sensitivity to this, I'd be a proponent of putting this on First Reading and just seeing if there's any further discussion.

Vice Mayor Kurtz responded, First Reading and then maybe Jim can give us more information on the benefits.

Jim Gibbs replied, absolutely. Also included in the documentation was beyond the normal Wi-Fi you also have this as an extension of the Library. They paid for extra, additional services that the average person would not have at home. So it will be as if you were sitting in the Library. There are some online encyclopedias, some Rosetta Stone language software that you would have to subscribe to on the Internet that would be provided in this as well.

Vice Mayor Kurtz asked, because of the proximity to the Library?

Jim Gibbs replied, because we're using the Library's connection. It's basically as if we were sitting inside the Library.

Vice Mayor Kurtz stated, we'll put this on First Reading. If there is any additional information Jim Gibbs can get to us between now and next month, that would be great.

Councilwoman Wisnieski commented, I want to commend Jim. He's very involved with the Swift Reach Programs, implementing them in the school systems. He just finished St. Michael's. He went above and beyond getting all that information gathered. I just want to commend him. It's very much appreciated.

Jim Gibbs asked, are there any areas in particular you may be looking to expand it, or any other uses you'd like to see out of it?

Several people speaking at once.

Jim Gibbs stated, it's not necessarily a hard line on the map. We would get some additional reception, but if you like, we can put it in the guaranteed area. I don't think it's a huge increase in cost.

Vice Mayor Kurtz replied, give us our options then.

Councilman Cichocki commented, it is a little disappointing. Without the map I thought the whole park was going to have coverage and now it's narrowed down to a small area.

Ron White commented, it's a first step.

Several people speaking at once.

Mayor Ramos commented, the entire Park can be covered. It's a matter of cost. If you want to do the entire Park. . .

Jim Gibbs added, we can do that. We submitted a number of \$70,000 or \$80,000 in capital improvements this year. That was covering every square inch with a very robust network.

Mayor Ramos added, that covered the entire campus. Consequently, what we're trying to do is start on a trial basis this area. We're trying it out. If Council wishes a price on the entire campus, that's not a problem.

Councilwoman Wisnieski asked, what is missing other than the Old Rec that would be included?

Mayor Ramos replied, this building.

Councilman Blaze commented, the entire park area – the other pavilions, tennis courts.

Jim Gibbs commented, these are outdoor areas only. I want to stress that. It's not the type of thing that's going to penetrate through the walls very well.

Councilman Blaze asked, is there any way to set it up where it's not functioning all year to reduce the cost? Realistically, within this, the line on the map, from November 1st to April 1st you're not using the pool. You're not using the baseball field. The Kiwanis Pavilion is not used during the winter. Liberty Playground is not used during the winter. I can't see somebody going in February and sitting in the Civic Center parking lot to get free wireless.

Jim Gibbs replied, I haven't heard of many rental agreements when it comes to the access points that provide the "cloud." Again, we're not paying for the connection. It's completely on the Library. It's not something we can turn off. The hardware is a one time cost and we own it. They have been very flexible in the agreement that even though they're going to maintain it, if we want to sever the agreement and use it in some other manner or fashion, it's ours.

Feel free to e-mail me any further questions and I'll try to provide anything else I can.

Vice Mayor Kurtz stated, Resolution 2007-85 is entering into an agreement with the Trust for Public Lands and West Creek Preservation Committee to acquire in fee or in scenic easement the property where the old Value City building is. Our maximum exposure is \$650,000. First Reading?

Councilwoman Wisnieski responded, I want to mention that I will not support this piece of legislation. I think if we're going to spend \$650,000 and invest in an area, I wouldn't choose this area as my first choice.

Councilman Grendel commented, there are going to be improvements.

Mayor Ramos asked, is this time sensitive?

Vice Mayor Kurtz asked, is there anybody else objecting to this?

Councilman Grendel commented, this is something that falls within our master plan.

Vice Mayor Kurtz asked, is there anybody else objecting?

Councilman Crooks replied, I have some problems with it – just with the uncertainty of being reimbursed. I think Councilwoman Wisnieski makes a good point. The uncertainty of reimbursement makes me uncomfortable with it.

Councilman Blaze asked, I thought that the money was needed by the end of June. The Trust for Public Lands is doing the loan, so we wouldn't need the money until 2008.

Councilman Grendel replied, March of 2008. By that time hopefully we'll hear on some of the grants in order to mitigate that. This is part of our master plan.

Vice Mayor Kurtz added, and that would only be a maximum of \$650,000 if we don't get any of the grants.

Councilman Grendel asked, what is the chance of that happening?

Dave Vasarhelyi replied, we think we have a very good chance of recouping at least some of the funding. If one of the grants comes in, it can be up to \$1.1 million so you will recoup it all.

Councilman Grendel commented, this is in our master plan that we approved. This deals with flooding and other issues there. We have a chance to get millions of dollars in return from other entities which doesn't happen very often.

We have the grant for the All Purpose Trail and we have to spend a boat load of money to get that funding. I see nothing wrong with this. This is something that I think is benefiting the community. It doesn't have the glamour or the political clout that the Trail has but I think it's every bit as important. This isn't going to take six or seven years like the Trail and who knows how much money we'll spend during that time. I think this every bit as important.

Councilwoman Wisnieski commented, for me it's a matter of choices. Here we are a year later from the June flooding of last year and we have not set aside any funds to rectify the flooding conditions.

Councilman Grendel replied, we're getting money from the federal government – the Corps of Engineers. That's a regional thing. Even if Independence works like crazy to help with the flooding, if other communities don't do anything about it then we're still going to be having problems.

Mayor Ramos commented, we have spent a substantial amount of money since the June flood – probably in the area of \$300,000 as far as trying to remediate some of these areas.

Also, in regards to this project here, this is one of our flood areas. Several of the businesses there are flooded whenever the river overflows. One of the big reasons why I even supported this, and Dave Vasarhelyi and Neal Hess will confirm this, is that I said it's important that we address the flooding concerns of that area. That's part of this project. Consequently, it is addressing one of our flood areas. Also, it's in compliance with the master plan that was adopted two or three years ago.

The maximum exposure we have is \$650,000. We feel very confident that we're going to end up reducing that amount. We have been very, very successful as far as getting different types of appropriations and grants over the past several years, and we feel very confident with this. I think that I can almost be rest assured that we're going to receive at least \$200,000 of that \$650,000. Is it 100% guaranteed? No it's not, but I'll tell you it's a darn good chance that we're going to get that money so our exposure is going to be substantially less than \$650,000.

Councilman Crooks asked, when will we know on some of the grants?

Dave Vasarhelyi replied, the earliest is scheduled for the first part of October if the federal budget comes through. Most of them are federal opportunities. There's a Department of Transportation, Federal Highways Grant. There is also a National (inaudible) Administration Grant. These are tied to the cycle of the federal budget so whenever Congress approves the federal budget, if those projects are included in the budget, then we'll know.

The time issue isn't so much when the money is available. As the Mayor said, we don't need it until 2008. The time issue is that our option expires on June 30th. So we need to commit to the property. The Trust for Public Lands is actually going to provide the \$650,000 for the next year, until March of 2008 as a loan to West Creek Preservation Committee. Then that's going to give a year to recoup. Our hope is that enough comes in by March 2008 so there isn't any exposure to the City but we need to know that there is a backup in place.

Mayor Ramos added, once again, a couple of years ago we talked about land preservation, wetland preservation and things like that. This is what we're trying to do here. We're trying to keep the green space. We're trying to fix an area that, unfortunately, due to age and lack of utility has gone down. Consequently, we're trying to make this into a recreational area to tie into the canal, to tie into the Towpath, to tie into the railroad. At the same time, and I'm not saying that this is going to resolve all the water problems down there, but we have Ace Copy that has incurred substantial damage since June and continues to do so. Able Truck Parts also has issues. They are businesses that have incurred some water damage.

This is a twofold approach and I feel very confident. Is there a 100% guarantee? No there is not. I appreciate what Councilwoman Wisnieski said about establishing priorities. You only have so many resources and you have to pick and choose of what is your priority. All I'm saying that this is not just a recreational type of thing. We are addressing an area that has had flooding in the past and has a long history of flooding and from a planning aspect we really need to address. Unfortunately, it is a tired part of town that we would like to step up.

Councilman Grendel added, the Sewer District has committed to \$3 million.

Neal Hess added, that's the restoration fund. The City has committed to leveraging a tremendous amount of investment in this project.

Vice Mayor Kurtz asked, is that encumbered for next year then?

Finance Director Veres replied, it would be in next year's budget. If there was a need to borrow, if you're going to borrow, there is the potential to get paid back. Plus, it's a portion of a larger project that's going to benefit the City \$4 million total.

Vice Mayor Kurtz responded, \$4 million is the benefit. We'll have to consider that for next year then?

Finance Director Veres replied, yes.

Councilwoman Wisnieski asked, so you're more or less saying that we're going to borrow money to pay for it?

Finance Director Veres replied, I'm not saying that we would have to borrow just for this, no.

Vice Mayor Kurtz asked, are there anymore questions?

There were none noted.

Vice Mayor Kurtz stated, next is Resolution 2007-86, the temporary right-of-way that we talked about earlier.

There were not objections noted to adopting Resolution 2007-86

Vice Mayor Kurtz stated, next is Resolution 2007-87 a resolution to appropriate the Sisters of Good Shepard land. I did talk to former Mayor Coyne and I would just ask that we go slow, put it on First Reading and don't even refer it to Committee. Next month we can refer it to Committee. Let this thing settle out for awhile. That's my recommendation – First Reading and not even refer it.

Former Mayor Coyne stated, I talked to Father and it appears that clearly they want to locate in Independence and I think you want them. There are issues out there that I think can lead to discussion. The Mayor has made suggestions about alternative areas. I think we may be willing to do that.

Vice Mayor Kurtz commented, for the benefit of my colleagues, sometimes when you wear several hats you forget that everybody doesn't know everybody.

Fr. Peter from St. Maron's introduced himself. His parish is on Carnegie Avenue in the City of Cleveland. We have a contract to purchase the Marycrest property from the Sisters of the Good Shepard. We have been appearing before the Planning Commission since September or October.

Councilwoman Wisnieski asked, what is the plan here? We're going to leave it on First Reading and then what?

Vice Mayor Kurtz replied, next month we can refer it to a committee.

Councilwoman Wisnieski asked, you don't want to refer it to committee this month?

Vice Mayor Kurtz replied, not tonight. It will be on First Reading if there is no objection. Next month we can determine how we want to proceed.

Resolution 2007-88 would be the Road Maintenance and Repair contract with Allega Cement. That would be based on the \$65,000 that was discussed at the Streets & Sidewalks Committee. We talked about it and had four votes there so we assumed it would be approved. This was to get the cemetery done.

Councilwoman Wisnieski asked, is that included in the \$450,000 that we proposed for the cemetery?

Finance Director Veres replied, yes. This is the cemetery portion.

Vice Mayor Kurtz stated, we also talked at the meeting, and I don't see it on here, we talked about extending some of the contracts to the end of the year. Did anyone get with the Law Department and if the contractor is willing to extend the contract to the end of the year, we'll do all our maintenance contracts at the same time?

Councilwoman Wisnieski asked, so you're looking to extend which one?

Vice Mayor Kurtz replied, Anthony Allega, the Road Maintenance contract. Resolution 2007-88 is Anthony Allega, the road maintenance. The cemetery is coming out of that.

We discussed that if they're willing to hold their prices to the state index price, and we can craft that legislation and extend that contract to the end of the year, and they'll adopt those terms, bring it to us next month. If they won't, then don't do it.

Councilwoman Wisnieski asked, is that different from what they bid?

Vice Mayor Kurtz replied, yes.

Councilwoman Wisnieski asked, is it more than what they bid?

Vice Mayor Kurtz replied, it goes up or down because of the index. We would follow the state index with our bid process.

It's my understanding of how that works is, if you follow the state guidelines and you bid the job and you exceed your amount, you follow the guidelines established by ODOT for any increases or decreases in the cost of material. If the price goes up, the index goes up and you pay more. If it goes down, you pay less. So you're protected in terms of the contract cost. They can't just arbitrarily tell you what they want to charge. It's based on a formula that ODOT adopts.

Councilwoman Wisnieski replied, I won't support that. That's not fair to the other bidders.

Vice Mayor Kurtz responded, if we don't do that, then we just bid it and the season will be over by the time we get done.

Engineer Elewski commented, the contract is up August 11th.

Vice Mayor Kurtz responded, find out if they'll agree to the index and if not, just tell us so we can prepare the bid specs.

Engineer Elewski replied, yes.

Vice Mayor Kurtz added, let us know as soon as possible and then we'll call a meeting and authorize the bid. If they're going to accept the index you can craft legislation – I don't care either way.

Finance Director Veres asked, are you just talking asphalt prices on that?

Vice Mayor Kurtz replied, concrete or asphalt. Both are indexed.

Councilman Blaze commented, their contract expires August 11th. Would having the concrete contract, sanitary sewer and creek maintenance contracts on a calendar year basis simplify things?

Director Snyderburn replied, you just said the other contract is up August 11th. I don't know if you're going to add money to it this year but we have to do our cracksealing now – in June and July.

This is what happens every year. You wait for that guy to get some money to crackseal. I can't stripe my streets until you crackseal.

Councilwoman Wisnieski asked, what contract does that come out of?

Vice Mayor Kurtz replied, road maintenance.

Councilwoman Wisnieski stated, we're increasing that \$65,000.

Director Snyderburn replied, that's for the cemetery road.

Councilwoman Wisnieski asked, what are we going to crackseal this year?

Engineer Elewski replied, \$30,000.

Director Snyderburn responded, we don't have anything.

Engineer Elewski responded, we'll have to increase it.

Councilwoman Wisnieski asked, so we bid with cracksealing included but we didn't do any cracksealing?

Engineer Elewski replied, no.

Vice Mayor Kurtz stated, there is a line item. We have a number of line items in our bid, whether it be concrete maintenance, sidewalk maintenance, we have line items. It depends on what the engineer and Service Director want to do.

Councilman Blaze stated, so if we want to do the cracksealing this year, we'll going to have to amend this contract another time.

Director Snyderburn replied, you were waiting for new contracts.

Vice Mayor Kurtz stated to Director Snyderburn, you were finishing up the road summary with Don Elewski and then get with us to tell what needed it. Whenever you're ready to tell us I'll call a meeting.

Engineer Elewski commented, we could use \$30,000. There's enough roads to crackseal.

Councilwoman Wisnieski asked, what do we normally use?

Vice Mayor Kurtz replied, it depends on the season and how far along. It could be \$10,000, sometimes \$20,000, sometimes \$50,000.

Director Snyderburn commented, it's expensive to crackseal.

Finance Director Veres stated, I did send an e-mail to our engineer's office to that affect, to having it end at the end of the year for road maintenance and the miscellaneous concrete and I got lambasted with a voicemail that it was ridiculous and absurd.

Vice Mayor Kurtz commented, the problem is that it makes sense from a practical standpoint but from a functional standpoint you really want to have your bids in place just before the weather breaks. That's when you get the best price. Your season is limited.

Councilman Blaze responded, you're bidding these for 12 months anyway. These are one year contracts. I'm saying that it makes more sense and makes it easier on the Finance Director Veres' office and everybody so we know what we're talking about, to have it run on a calendar year basis. Bid them out in the fall for January 1st through December 31st. The reality is all the work would be done between April 1st and November 1st anyway.

Councilwoman Wisnieski commented, it could be part of your budgeting process.

Vice Mayor Kurtz commented, we can try that.

Director Snyderburn stated, this is the exact reason why the \$25,000 in Resolution 2007-89 is in place. We have repairs to make and they're mostly water repairs that I have no knowledge of. I can't repair those – the steel plates on Route 21 and Rockside Road until I get more money, and the contract is up.

Councilwoman Wisnieski asked, aren't those emergencies though – the steel plates?

Vice Mayor Kurtz commented, Pleasant Valley was an emergency.

Director Snyderburn replied, that was an emergency but the steel plates on Route 21 weren't emergencies. The Water Department comes at 2 o'clock in the morning, repairs it and you have a big hole.

Councilwoman Wisnieski asked, isn't that an emergency?

Director Snyderburn replied, you could drive over a steel plate for a year if you wanted to.

Councilwoman Wisnieski asked, they're not required to return it back to what it was? They can just leave it?

Director Snyderburn replied, no. We are responsible for the repairs.

Finance Director Veres added, they reimburse up to \$25 a square foot.

Director Snyderburn added, which is nothing.

Councilman Blaze asked Finance Director Veres, would it help to simplify things for you from a budgeting standpoint, a bookkeeping standpoint, keeping these contracts in some type of better order if your talks with Greg O'Brien and there is legislation that needs to be introduced to facilitate that, I give you my authority to have them draft that legislation with me as the introducer and we'll throw it in Committee if we have to and discuss it and see if it's something worth pursuing?

Finance Director Veres replied, right. The employee from Elewski's office who discussed it over the phone with me should probably be at that meeting as well to give us his point of view.

Councilman Blaze responded, I'm just a layman.

Finance Director Veres stated, it makes sense to me to have it by calendar year.

Vice Mayor Kurtz commented, there is some truth to the process.

Councilman Blaze stated, Anthony Allega says the fall is his busiest time of the year. That's when he's bidding all his work for the next calendar year. It makes sense for us too. We're running these contracts on a 12-month basis as it is.

Vice Mayor Kurtz responded, okay. We'll look at it.

Mayor Ramos commented, we still have a lot of cracksealing to do. I've asked Engineer Elewski to give me a list of at \$30,000 worth of cracksealing so we can do it under the present contract.

If you recall, this was an out of balance contract. Cracksealing was bid extremely below cost. For us not to take advantage of that price, I think is ridiculous. And the fact that this contract is going on its 10th or 11th month and we have not done any cracksealing at all, is just puzzling. Consequently, I'd like to ask the Finance Committee or the Streets & Sidewalks Committee to allocate at least \$30,000 to \$40,000 for cracksealing to take advantage of that price.

Vice Mayor Kurtz replied, in all fairness to the Service Director, at the last meeting he was putting together a list. I think he and the engineer were putting together that list. We said, when you get that list we'll call a meeting and we'll advance that concept. There's no problem here.

Director Snyderburn asked, when do you want to call a meeting?

Vice Mayor Kurtz asked, when will you have the list?

Director Snyderburn replied, I can have it at the end of this week.

Mayor Ramos stated, we had that list about a year ago.

Engineer Elewski added, we had a list from last year.

Director Snyderburn commented, he's talking about a new list.

Vice Mayor Kurtz responded, you said there were problems from the winter that you need to have addressed.

Director Snyderburn replied, yes.

Vice Mayor Kurtz responded, at the last meeting you said you were going to give us a list and then we would agree on what you were going to get done and then you would get it done.

Director Snyderburn replied, right.

Councilwoman Wisnieski commented, but there's no funds left in the contract.

Vice Mayor Kurtz responded, as soon as he gets the list we can go through it, come up with the amount.

Councilwoman Wisnieski responded, but that's a change order. I don't understand why we didn't reserve the funds. If you were going to crackseal, why wouldn't you reserve those funds to get the cracksealing done?

Director Snyderburn replied, there was only so much in the Road Maintenance budget.

Councilwoman Wisnieski responded, well \$30,000 was to be set aside or at least earmarked for cracksealing. So we've used the entire contract? What were you going to use?

Director Snyderburn replied, I think the Mayor just asked to have \$30,000 to \$40,000 set aside. This is money that you've been using since last year. We didn't use any more than what was appropriated.

Councilwoman Wisnieski replied, you will though.

Director Snyderburn replied, well I have to.

Councilwoman Wisnieski responded, that's what I'm saying.

Director Snyderburn replied, we're going to have to. We blew the whole budget on Midland/Highland/Parkland last year. You spent \$150,000 on those three roads. They needed to be done. They were the worst roads in the City that we could do under that contract. We have to do Buskirk. You did Stone Road. These were badly needed items.

When you're looking at a road that is so bad and you ask, should we do that or should we do the cracksealing?

Mayor Ramos commented, once again, I don't have a problem with any of those projects that we did. I am very, very thankful that Council authorized those things. All I'm saying is that we have a below cost contract on cracksealing and we have done no cracksealing. Of all the things that we should be doing, we should be doing cracksealing. Let's take advantage of whatever that is. It's below cost. Why haven't we cracksealed something?

As far as this list, okay, so what if we do the fourth priority instead of the first. Let's do something.

Director Snyderburn responded, part of the reason why we haven't cracksealed yet is because six weeks ago we had 14 inches of snow, so now is the time to start cracksealing. We did those roads very late last year. We did Stone Road and it was snowing. That's part of the reason. We can crackseal but you need more money. I'll give you a list of roads.

Mayor Ramos responded, I think Dalebrook needs cracksealing. Does anybody have any problem with cracksealing Dalebrook?

Engineer Elewski commented, Route 21 needs cracksealing.

Mayor Ramos responded, or Route 21.

Mayor Ramos stated, what's going to happen is it's going to be July and it's going to be 95 degrees and then they're going to start cracksealing and it's going to be too hot. Then I'm going to hear all this stuff is all over my car.

Vice Mayor Kurtz commented, we have time. The fall is the best time to do it.

Mayor Ramos replied, we can't because the contract expires.

Vice Mayor Kurtz replied, not if we extend it.

Mayor Ramos responded, the problem is that I don't know if we're authorized legally to extend that contract.

Vice Mayor Kurtz responded, that's what they're going to check. If they'll follow the state index. If they won't, let us know and we can rebid.

Vice Mayor Kurtz stated, next is Resolution 2007-89, the emergency \$25,000 change order for Pleasant Valley. Was the entire \$25,000 for Pleasant Valley?

Director Snyderburn replied, Pleasant Valley plus some water repairs. Pleasant Valley was \$5590.

Finance Director Veres added, and then we're in a situation where the new contract doesn't start until July 1st.

Director Snyderburn added, we just needed to bridge that gap. The budget doesn't have to be amended for the \$25,000. That doesn't mean that I have to use all that.

Finance Director Veres commented, it's just in case something comes up between now and July 1st.

Several people speaking at once.

Finance Director Veres stated, due to the heaving and to bridge the gap.

There were no objections noted to passing Resolution 2007-89.

Vice Mayor Kurtz stated, Resolution 2007-90, the unit price of F.P. Allega.

Councilman Cichocki stated, we have \$150,000 in a 6-month contract. This runs through December 31, 2007. Should it be \$75,000 then? Then if you look at the total contract price last year and the previous piece of legislation, \$360,000. Then for my famous question – only one person bid on a \$350,000 contract? What is going on? These people get together and assign themselves territories or what? That's ridiculous. It's not like this is any particularly specialized service here.

Vice Mayor Kurtz asked, are you suggesting making it \$75,000?

Councilman Cichocki replied, it doesn't much matter because we add up adding to it anyway. We paid the contractor \$360,000 last year.

Vice Mayor Kurtz replied, we only had one bidder but it does show three people took out bids.

Finance Director Veres commented, if you look at the work performed, it's performed May through October. We typically don't have much to carry over into next year. That's the point of ending it at the end of the year as well.

Councilman Cichocki asked, how come we only got one bidder?

Councilman Blaze replied, I asked that question when we bid on Rockside. Beth Fulton said a million dollar contract doesn't attract a lot of bidders these days. You need \$5 million, \$10 million and higher evidently.

Director Snyderburn commented, there were others that took out the bid. You can't make them bid on it. I don't know that answer.

Councilman Blaze commented, if this runs through December 31st, we can bid this out in the fall for calendar year 2008.

Finance Director Veres replied, I'll put that on the schedule to bid that out.

There were no objections noted to passing Resolution 2007-90.

Vice Mayor Kurtz stated, next is Resolution 2007-91, \$15,955.23 for a truck through the State Cooperative Purchasing Program.

There were no objections noted to passing Resolution 2007-91.

Vice Mayor Kurtz stated, Resolution 2007-92, State Purchasing of furniture for the police department.

There were no objections noted to passing Resolution 2007-92.

Vice Mayor Kurt stated, next is Resolution 2007-93, purchase of police vehicle equipment.

There were not objections noted to passing Resolution 2007-93.

Vice Mayor Kurtz stated, Resolution 2007-94 would be Independence Communications for installation of the police vehicle equipment.

There were no objections noted to passing Resolution 2007-94.

Councilman Blaze stated, going back to Resolutions 2007-92 and 2007-93, the comment is that it fits within the budget. I just wanted to confirm that it means we actually did budget for those and these are not additional items – Resolution 2007-91 also.

Councilman Grendel replied, on Resolution 2007-91 for the changing room, Finance Director Veres mentioned that we saved.

Finance Director Veres stated, Resolution 2007-90 was a vehicle that was not on the list but their vehicle blew a transmission this year. Resolution 2007-92 and 2007-93 were budgeted for. In the future should I just say, originally budgeted for?

Councilman Blaze replied, that would be good. Then I know that we originally budgeted for it.

Vice Mayor Kurtz stated, next is Resolution 2007-95, the donation agreement with Independence Hotel Partners.

Asst. Law Director Cornett passed out a map associated with Resolution 2007-95.

Vice Mayor Kurtz asked, looking at this map, what happened to that little triangle? I thought that was part of the deal. First of all, we're not going to create a different separate parcel number for that. I was under the impression it was everything north of the south side of the new right-of-way. If you take the south side of the red line, everything from there north would become the City of Independence's, and they have the right to that sign, wherever they were going to put their sign.

Asst. Law Director Cornett replied, that's something I'll have to verify with Greg O'Brien.

Vice Mayor Kurtz responded, confirm with Greg O'Brien because if not, you have a landlocked piece of property and it would need a separate permanent parcel number and it's of no value to the hotel.

Do we want to place this on First Reading? It's not time sensitive. We're working there. Or is it?

Mayor Ramos replied, I don't think it is.

Vice Mayor Kurtz asked, so First Reading and the question can be answered. Asst. Law Director Cornett can get back to us with the revised map showing the entire piece.

Asst. Law Director Cornett replied, yes, if that's the case.

Vice Mayor Kurtz stated, Resolution 2007-96 is the Spotlight. First Reading and refer to. . .

Councilman Grendel asked, doesn't this start July 1st though? We should probably approve it this month.

Mayor Ramos replied, yes.

Vice Mayor Kurtz responded, I'll vote to put this on First Reading. There needs to be a correction. The address is wrong. The second point I have, and it's not germane to Adsource, it's just the process. I was hoping this would be on First Reading and we could talk about it.

Councilman Blaze stated, Adsource is Resolution 2007-97.

Vice Mayor Kurtz responded, I'm speaking about both but I'm more concerned about Resolution 2007-97. What happens are the calls I get, and this is not germane to Adsource, I say that again. I'm informed because I receive it in our packet, but receive it in my home copy for May on May 22nd. We either need to do something separate to get information that needs to be on a timely basis out to the general public and use the Newsletter as our normal business transaction

newsletter where we tell about what is going on, the awards, the history and the summary of passed legislation. We need to have something that talks about the important dates, the special meetings, how we're performing our government. I had the same issue. When we couldn't get the Newsletter out people would call and complain about when they got their Newsletter. It was after a Public Hearing or it was after an event. I'm using this as a vehicle to say, you know what, we have to do something differently – at least have a discussion about it. I was hoping we'd put these on First Reading and we'd have the time to discuss the overall strategy of the general Newsletter and then we have to maybe do something different for a time sensitive information piece that goes out to the general public.

Mayor Ramos asked, why are you bringing this up now after we bid these out? Wouldn't it have been more appropriate to bring this up before they went out for bids?

Vice Mayor Kurtz replied, with all due respect, I didn't follow when we were bidding these things. Bids come up and they go out.

I'm just saying that it's the right form. And again, it's not germane to the bidders. It's the process.

Mayor Ramos asked, you don't have a problem with the Community Spotlight?

Vice Mayor Kurtz replied, I don't have a problem with either one of them. What I'm saying is that I was hoping we'd have a chance to create some. . .

Mayor Ramos asked, a third publication?

Vice Mayor Kurtz replied, it's possible, if necessary, to do something. I'm trying to create a dialogue to discuss among all the people making this decision. I think we need to do something that is timely for important information events because when we get the Newsletter on the 22nd or the 15th, we've already passed the public hearing. We're doing ourselves an injustice.

Mayor Ramos replied, it sounds like you're talking about a third publication.

Vice Mayor Kurtz replied, that's one idea. I don't know if there's a way with new technology to create a more efficient system. Maybe people shouldn't expect current information in the newsletters. I don't have any answer. I'm just saying that all of us get in trouble because we talk about a public meeting, like the senior housing public meeting, the meeting is already gone. If people depend on their Newsletter for their information source, they can't be at the meeting if the meeting has already taken place.

Mayor Ramos replied, we've already taken steps to let people know about the public hearings and senior housing. The problem is that it is hard because we're at the mercy of the Post Office to deliver. They're all mailed together. There are exceptions where some people do not receive it until a week later but they're all mailed at the same time.

We use the PSA, we use the bulletin board, we use First Class mail on the more serious things. I'm open to dialogue but it sounds like we're going to probably need a third publication which would have to go out first class mail. Otherwise we're going to be subject to the same problem – or e-mails or something like that.

Vice Mayor Kurtz responded, there may be some electronic method or some other way.

I voiced that because as stuff comes past on the radar screen it's a chance to create a dialogue.

Councilman Crooks asked, as far as the contract itself on Resolution 2007-97, we discussed it briefly in Community Services last year. I don't think it's anything that a brief conversation wouldn't handle, but I thought we approved the contract for Adsource for the time they're going to spend putting together the Newsletter. This breakdown has 43 hours worth of layout production services each month. I just wanted to clarify. I thought we approved the time for them to do that already.

Vice Mayor Kurtz replied, the only other contract we have with Adsource is for the public relations.

Councilman Crooks responded, for the total services for the year – the total marketing communications. I thought that part of that contract was for the Newsletter layout and design.

Councilman Grendel replied, that was probably for the Dynamics. That's a different publication for businesses.

Vice Mayor Kurtz asked the Clerk to give a copy of the Resolution to Councilman Crooks for his review.

Everyone speaking at once.

Councilman Klepacz stated, I'll vote to adopt this tonight rather than delay it.

Councilman Cichocki stated, if there are issues we can address them at a later time.

Are we meeting in Executive Session to discuss land acquisition tonight?

Councilwoman Wisnieski added, it was in the paper. I thought may we were going to talk about taking land by eminent domain.

Everyone speaking at once.

Moved by Blaze, seconded by Grendel, to set a public hearing for the 2008 Tax Budget on Tuesday, July 10th at 6:50 p.m. Council polled: 7 yes/0 no; motion carried.

COUNCIL MEETING:

Mayor Fred Ramos called the meeting to order at 7:58 p.m. Present were Council Members Blaze, Cichocki, Crooks, Grendel, Klepacz, Kurtz and Wisnieski. Also present were Finance Director Veres, Asst. Law Director Cornett, Engineer Elewski, Community Services Director Buc, Technical Services Director Avsec, Service Director Snyderburn, Fire Chief Nelson and Police Chief Nicasro. Absent were Recreation Director Kostyack and Building Commissioner Opatrny.

The Pledge of Allegiance followed.

AUDIENCE PARTICIPATION:

Resident John Bodner stated, I would like to talk about the Cornerstone of Hope. I have attended many Planning Commission meetings and Council Meetings regarding the development and the planning for the Cornerstone of Hope. A lot of issues were discussed with the neighbors and other people. It was agreed to put mounding in between the properties that borders with the adjoining neighbors.

Several weeks ago I came home from work and was surprised to see that fence posts had been erected on the border of the property. I called the Mayor's Office and as always he has been very responsive and has always had his door open to the residents' comments. He said he would have someone from the Building Department go down and talk to them. He called me later to tell me that someone from the Building Department had gone down there and informed them that they had no permits or plans for the fence on the property, and that they were to stop work on construction of the fence.

Things were quiet for a week and I thought the matter was resolved. Again, I came home from work one day to find that the fence had been completed. The fencing was put up and the caps were put on the posts.

Again I called the Mayor's Office and he was surprised and said he would look into it. At that point he said that efforts were going to be made to have them remove the fence.

On my last visit to the Mayor's Office he informed me that they had received a letter from the property owners and that at this point he was referring the matter to the Law Director.

City Council had originally approved the plans for the Cornerstone of Hope and subsequently they approved the plans for the expansion of the Cornerstone of Hope. At this point I would hope that in addition to the Mayor's efforts that City Council could do something to control what is going on down at the Cornerstone of Hope. At this point I'm standing before you, the governing body of the City, and it appears to me that Mr. DiGeronimo is telling you what to do instead of the other way around. Thank you.

Mayor Ramos responded, this matter has been referred over to our legal department because the fence has been erected. They will make a recommendation regarding our next recourse as far as the fence is concerned. We will try and keep you informed.

Resident Pat Woodrick stated, I understand the concerns of the Brookside residents with regard to the church buying the Marycrest property. But, I look at it this way. What about the residents on Hillside, Dora, Elmerge, Archwood, Filip and Vineyard. They put up with delivery trucks to the schools, practice to the two schools, field house, library, park, Civic Center, City trucks, tree trimmers and all the cars and trucks that use these facilities, plus the Seven Hills' residents who use the area as a shortcut to Brecksville Road. We all have to contend with that on Vineyard because that's the most direct route. Too bad Archwood never went through.

The school buses stop at every other driveway instead of stopping at the corner of each street like they used to. You listen to their squeaking brakes. Fortunately the schools are in summer recess.

We get the noise from the loudspeakers at the school. We get the boomboxes. We get the noise from the loudspeakers at the park. We get school buses from every district that comes for all the programs there. And, when the 4th of July comes fortunately we have a police department that knows how to handle the traffic. We expect 2500 cars or more.

We've asked time and time again to have Vineyard become a one-way street, the same as Filip is. We have 13 homes on Vineyard. Seven are rentals and six are owner occupied. Obviously, the people are fed up with this traffic and their selling or renting. They don't want to contend with it anymore. We have to contend with it and it's a crying shame.

The Sisters of the Good Shepard were good residents and they kept a lovely place where many residents of Independence attended mass and even offered their services to help the nuns. The State of Ohio put them in a very bad position by not paying them on time and they had to close the facility.

What makes any other resident in Independence any different than the people who live in the Filipowitz development? Do we not have any say about what is going on in our neighborhood? Obviously the people on Brookside have gotten together and I applaud them for that, but I don't think they're any different than we are. I have lived here for over 60 years and I've watched it go from a township to a village to a city. At what cost progress? We no longer have the beautiful trees or the green space where is field house is now. I-77 is now more noisy because of it.

Last year the City of Brecksville had senior housing on the ballot for the very first time. They were pretty smart because they had senior housing, elder care and assisted living. The very first time it was put on the ballot it passed.

If this Administration were to purchase Marycrest when it was first listed for sale and put in the same facilities as Brecksville, maybe senior housing would have been here by now. A lot of our residents feel that this is the place where senior housing should have gone because they want a quiet, serene place, nothing on Route 21.

The City of Independence has buses and vehicles that pick up the seniors and take them here and there and it would be no problem for them to do that.

As for eminent domain, I pray to God that you people aren't considering that for Marycrest. Eminent domain was used right here and now we have City Hall which is beautiful, the Building Department, Service Department, the park and what have you. As Mr. Troyan said, the rich get richer and the poor get poorer. But, the Sisters do not get any money from the Diocese and I pray to God that you do not take that property by eminent domain. Why would the City even consider putting a park on this property? A park would bring (inaudible) residents, just as much noise and maybe a lot of other things that they would not consider desirable. So until the City stops spending some of this money foolishly and takes care of the flooding problem on Brookside, which has existed forever and ever, I think this is the biggest concern that these people have.

Resident Tom Luvison stated, I'm going to do something I don't usually do. I don't like to read when I'm up here, and I don't come up here that often, but I wanted to state these words correctly and I don't want to make any mistakes because I think this is an important issue.

I'm speaking on a proposed ordinance that will require that prayer be said before each Regular Council Meeting. I'm a member of St. Michael's Parish. At this time I'm the president of the Holy Name Society and a retired social studies teacher, but I'm not here in any of those capacities, but I think you should know that I do those things. I'm here as a resident.

I believe in prayer and I pray in my Christian way. I would hope that each council member prays in their own way – pray alone, pray with others and pray at their house of worship. However, prayer at secular governmental meetings is risky because it flies in the face of the First Amendment of the United States Constitution, and yes, Independence is part of the United States.

What prayer will meet every resident's belief? What prayer will not offend?

I believe that each member of council acts in the community's best interest based on their personal value system, which probably has been derived from parental guidance from their religious beliefs and from prayer. I cannot believe that prayer given by the clergy at the beginning of a council meeting will do that and make for better government.

One of my extracurricular activities now that I'm retired from as a teacher is on the legislative liaison for the Cleveland Teachers Union Retired Chapter of the American Federation of Teachers, and I've come to understand that there is a problem right now in the Ohio State legislature. They have allowed prayer for many years, but there has been an increase in prophesizing by certain clergy trying to affect legislation, and it's created a problem. This is a bipartisan problem. The Speaker of the House, John Husted is a republican and I know there are democrats that are upset. It's to the point where now they have to submit their prayer 72 hours before they say it. If they deviate from it, they're never going to be allowed to come back. That's not good.

It's sort of ironic that Councilman Klepacz quoted from the Bible earlier at the Caucus but I had the same passage. I'm going to read it again. It's Matthew, Chapter 6, Verse 5-8.

And when you pray you must be like hypocrites for they love to stand and pray in the synagogues and at the street corners that they may be seen by men. Truly I say to you, they have received

their reward. Though when you pray go into your room and shut the door and pray to your Father who is in secret and your Father who sees in secret will reward you. And in praying, do not keep up empty faith phrases as the gentiles do, for they think they will be heard for their many words.

This progresses into Christ giving the apostles the Our Father. Verses 9 through 14 he recites the perfect prayer for the apostles, which they are to supposed to say in private.

I know this is a well meaning piece of legislation. I know the people that are sponsoring it are well meaning, but it's like playing with fire. Who are you going to ask to say the prayer? Is it going to be the clergy from this City? What if we have a Muslim family or a Buddhist family? Are you going to start looking for Rabbis or Emmons? It just gets very messy.

If the Mayor is going to say the prayer, what prayer are you going to say that's not sectarian?

If the president of council is going to be saying the prayer if you're not here because if you're not here, he'll have to do it, what prayer are you going to say, because you can't pray according to decisions made by the U.S. Supreme Court. You cannot pray unless it's nonsectarian. Define that to me. It's creating a lot of problems, and there are other cases like this.

I really think you should reconsider it, and I will leave you with this final thought. This piece of legislation I predict is going to either pass by a 4-3 margin or it's going to be defeated by a 4-3 margin. It's not about roads. It's not about the budget. It's not about anything that has to do with government, yet look how divisive it is – 4-3. That's just a sign of what is coming.

APPROVAL OF MINUTES:

Moved by Grendel, seconded by Blaze, to approve the minutes of the Council Workshop of May 1, 2007. Council polled: 5 yes/0 no/2 abstain (Crooks, Klepacz); motion carried.

Moved by Cichocki, seconded by Grendel, to approve the minutes of the Regular Council Meeting of May 8, 2007. Council polled: 7 yes/0 no; motion carried.

Moved by Klepacz, seconded by Blaze, to approve the minutes of the Public Hearing of May 29, 2007. Council polled: 7 yes/0 no; motion carried.

MAYOR'S REPORT:

Mayor Ramos stated, I would like to address a couple of issues that happened since the last Council Meeting, and also some of the legislation that is before us.

First and probably most importantly, I wish all fathers a Very Happy Fathers Day. I had the pleasure and honor of having my dad for 80 years and I don't think there is a single day that goes by that I don't think of him. One of the things I regret is that I never had an opportunity to say goodbye and to thank him. So my message to you is if your dad is around, take the time, especially on Sunday, to thank him.

This second issue is, in Saturday's paper there was an announcement that the communities abutting the Cuyahoga River, as well as the Chagrin River, received a grant, or an appropriation from the congress for purposes of the Army Corps of Engineers doing a study in relation to some of our storm water and trying to come up with some resolutions.

We certainly appreciate Congressman Kucinich as well as Senators Voinovich and Brown for speaking up for us. The City of Independence received approximately \$100,000 which will be utilized in this area. We are very, very elated about this because this is a step to do a comprehensive plan to address some of our concerns and some of our water problems, especially in the lower part of our area, including the Brookside Road area and the Old Rockside Road area.

We hired a hydrologist and we identified hot areas. This funding will help us address and come up with some solutions in regards to dealing with our storm water along with Valley View, Walton Hills, Brecksville and Broadview Heights. Cuyahoga County received approximately \$542,000. They're also going to be studying parts of the National Park because of erosion and what has been occurring down there also needs to be looked at.

We are very excited about this but once again, it's going to take a long process in order to address each one of these concerns, but I am happy that we received this money to at least have the Army Corps of Engineers look at this to come up with a comprehensive plan, whether it's the dredging of the river, whether it's straightening the river out or whatever the case may be.

I would like to thank everyone involved with that process.

One of the more controversial pieces of legislation that is on the agenda today is eminent domain in respect to the Marycrest site. I don't know if many of you know, but St. Maron's Church has an interest in purchasing the Marycrest property for purposes of relocating their church and social center.

We have had several public hearings and the folks on Brookside, as well as Dania, have been very concerned about storm water runoff, traffic and noise, and rightly so. If I resided in this area, I would be expressing the same concerns.

It was suggested at the last Planning Commission meeting that we used eminent domain for the City to purchase that property. Even though I think it's probably the most politically expedient thing in the sense that it takes us off the hook, I don't know if it's the right solution. The reason being, when you take a property by eminent domain you have to come up with a public purpose. The public purpose that has been alluded to is storm water retention, a park or a cemetery, which are all public purposes, but you often have to balance that out with the cost. My understanding is that there has been two offers on the property between \$2 million and \$3 million. That does not include the renovation, the demolition of the buildings and the asbestos resolution, which I'm sure is around \$500,000, plus the attorney fees that might be involved. So you're really looking between \$2.5 and \$3.5 million for purposes of taking that property.

When you take property by eminent domain you can't just sell it to somebody else. You have to use it for a public purpose, so we're restricted as far as how we utilize the property. I'm not certain and I really have some strong concerns regarding taking this property by eminent domain but I would like to propose this.

I would like to discuss the possibility of working with the church and the possibility of the City buying the Marycrest property, or at least considering buying the property – not by eminent domain but by buying the property. If we buy it, then we have control of it. If we have control over it, then the City we can pretty much dictate what happens with that property. By that I mean that if we want to sell it to a residential developer, sell it to someone who wants to do senior housing or something like that, then we can do it.

We had the nursing home interested in Marycrest and we relocated them. Now we have the church and someone else is going to come down the pike, so I think it's important that we take control of this property.

I talked to the church on Friday about the possibility of doing some type of land swap in the sense of exchanging the Marycrest site for the middle school site. They have made a commitment, and I'm sure they have to check with their church trustees or their church board that they would preserve the façade of the school which is very important to our community, and they would also let us utilize the football field and baseball field.

I'm not saying that this is the solution. I'm not saying that we could do this, but I'm glad that Council is going to be placing this eminent domain legislation on First Reading because I think that this is something for us to consider and something to think about.

My first commitment is the protection and best interests of the entire City of Independence. That includes the Brookside Road residents, but we need to come up with something that is not going to tie the City's hands in investing in a \$3 million project for municipal purpose such as a park, cemetery or something like that. I think if we can buy it outright I would like to do that for purposes of control.

I'm anxious to continue the dialogue. I understand that former Mayor Coyne is acting on the church's behalf and I hope that within the next several weeks that we will continue the dialogue and try to keep all the residents, including the Brookside Road residents informed about that because we want to turn this into a win-win situation.

I want everyone to know that I am not really sold on the eminent domain because it literally puts handcuffs on the City as far as what can be done with that property. We can't just buy it and flip it. It doesn't work that way. But if we buy it outright and work out something with the church as far as some type of land swap or exchange, we can take care of the concerns that people have regarding the school and keeping the school there. We can also not lose the football and baseball fields. We'll still have access to those.

This is just in the discussion stages. I just wanted to share that with everyone.

The other issue is senior housing. There are all kinds of ordinances being thrown around now. One thing I do know is everyone thinks we need senior housing. Everyone believes in senior housing. It's just how do we do it?

I read in the paper that Dan Gilbert said it doesn't matter who is right, it's what is right. I just want to put this forward as far as senior housing. I took to heart what Councilman Crooks said when we were talking about single family housing. We talked about whether or not to place it on the ballot.

I don't know if I'm really happy with the single family housing because I don't think it takes care of our seniors. I think we need a more comprehensive plan. I see people who don't want their own single family homes. They want congregate living. They don't want to take care of any property. There are some people that want clusters. There are some people that want smaller homes. There are some people that want congregate living.

Back in 2003 the City spent almost \$65,000 in consulting fees to Betty Kemper, experts, land planners, attorneys, in trying to address some of the concerns and issues that we all had. They came up with a plan, a very good plan. Granted, it was a plan that was introduced for the middle school property and of course there is a big debate about whether or not we should put it on the middle school property and there are a lot of issues with the middle school property.

Last year we moved that type of housing over to the Concordia/Technology Center site. That's a good site. We have done studies. We have done a lot of studies about what is the best place to put senior housing and we had committees, meetings and public hearings. We have kicked this around to death.

We're not going to come up with a plan that everyone is going to be happy with, but I think we can come up with something that people will say is okay. That will work. It might not work for all of us, but it will work. I would like to strive for that. I would want to give our seniors an option. That's all this is about. I'm not telling all the seniors that they have to move out of their house and into these facilities. If you want to stay in your homes, God Bless you. We'll try to do everything we possibly can to help you stay in your home. But there is a substantial number of people who want to move into a small unit. I want to move into congregate living. I don't want to be cooking for myself anymore. I don't want to be watching TV by myself on Sunday nights. I want to be in a social atmosphere. I want to be in congregate living. I want a small unit. I want a maintenance free unit.

All I'm saying is can't we do something to provide them that option? We're not reinventing the wheel. This kind of housing is happening all over. Brecksville passed it by an 80%-20% vote. I look at Brecksville and it's a very, very nice community. It has a lot going for it. If it can happen in Brecksville, I don't understand why it can't happen in Independence.

We're just trying to provide an option for our seniors here. Consequently, even though I did support this single family housing in Ordinance 2007-23, I have introduced Ordinance 2007-33, which is the same issue that was on the ballot about a year ago. It lost by 311 votes. I would like to take this issue back to the people. I would like to address their concerns, address the

issues and try to bring senior housing to Independence so that our seniors at least have an option other than living in their homes.

With regard to the resolution for prayer, my name is on that resolution. The people that know me well know me as a very religious person. I'm very private about my religion. I was in the seminary believe it or not but then I dropped out to become a lawyer. Try to figure that one out.

I support a moment of reflection, a moment of meditation and if that's what Council is comfortable with, I will support that. However, my name still remains on the current resolution here today because it is important that we do take time to reflect and meditate. I certainly don't want to cause anyone to feel uncomfortable because of Christianity versus Hinduism, Judaism or any other religion. It is certainly not my intent to do that, but I do think that we need to take time and ask our creator for guidance and help, not only for council meetings but all of our lives.

OFFICIALS' REPORTS:

ENGINEER:

Engineer Elewski reported, the Filip/Archwood Project has been going on for a long time and is about 99% complete. We have one last walk through and the project will be complete.

We started the paving work on Buskirk today. We asked our contractor to start the cemetery work. We should be going out for bids on the Dalebrook storm outlet project. The plans and specs are done. We're still checking on some of the Commerce Park Oval sewers. We're looking at cracksealing the roads. We'll be selecting the most important ones. We're still doing inspections on Rockside Road. Work will be continuing this weekend in an effort to complete the job.

FINANCE DIRECTOR:

Finance Director Veres reported, we don't have the final income figures for June yet but I'm happy to report that when we do we should be \$900,000 to \$1 million for the first six months of this year compared to last year.

I'm also happy to report that for the month of May four of our Tax Increment Financing districts received \$350,000, which is money that would have gone to the county had these TIF districts not been created in Independence. That money is going toward paying down the debt from Rockside Road. The Cavs TIF will be our tenth, so \$350,000 on four is a pretty good number.

SERVICE DIRECTOR:

Director Snyderburn reported, we're hoping to have the Courtyard done by our 4th of July Celebration, which will be held on July 3rd.

I want to thank Tom and Thad who installed the raised beds over at the Historic Hall. It really does make that area look a lot nicer. They're also responsible for the flowers in the center of town.

I want to thank Tim and Gary who did all the brickwork on Route 21 and they also put in the playground at the field house. Thanks also to resident Jim Garskie who volunteered his time. He sold us the equipment but volunteered his labor to help put in the playground.

We had a blocked 15" main on West Creek. It was overflowing. United Survey and Service Department employees worked on it for two days and were about to give up. They would have to dig eleven feet down in the creek bed. We would have had to dam the creek up and direct it to another course, which would have been a lot of work. Joe Kaczmarczyk, one of my men, said let's try two jet heads in there, which finally broke the blockage loose. Persistence pays off. I have to give them credit.

COMMUNITY SERVICES DIRECTOR:

Director Buc reported that Summer Day Camp starts tomorrow. Thursday evening is our first Community Concert. We have a lineup of good bands. Nonprofit organizations will be selling refreshments. I believe the Kiwanis is going to be doing their Flag Contest on June 28th. We will be having two concerts in July.

This year we will be doing something new, an outdoor movie. The first one will be held on June 22nd at the Square. It should be enjoyable for everyone.

In July we will have the Drive-In Movie at the outdoor pool. In August we'll have our first ever Family Outdoor Movie in the park along with campout, which should be fun.

RECREATION DIRECTOR:

No report.

TECHNICAL SERVICES DIRECTOR:

Director Avsec reported, the shingle portion of the Civic Center roof is out for bid.

The bids are due back on June 19th. The family changing room at the Civic Center is about 50% complete. The rough in plumbing, electrical and HVAC are complete. The tiles, lockers and partitions are on order. We're on schedule for completion at the end of July.

The Police Department front office renovation is also underway. The ceiling has been removed and the new tiles are here. Wallcoverings will be installed in approximately three weeks and carpet soon after that.

BUILDING COMMISSIONER:

No report.

FIRE CHIEF:

Chief Nelson reported, I would like to congratulate our part-time firefighter Tom Cramer and his wife Amy on the birth of their son, Gabriel Thomas. I understand both mom and baby are doing well.

Also, on Tuesday, July 3rd we will be celebrating our 4th of July Celebration with a culmination of fireworks. I ask all parents to please not bring sparklers into Elmwood Park. They will be confiscated. As always, in the State of Ohio fireworks are illegal. Even if properly handled, they can become dangerous.

The City of Independence received almost \$4,000 from Cuyahoga County Emergency Management Agency for reimbursement of training funds expended for weapons of mass destruction to homeland security.

POLICE CHIEF:

Chief Nicastro reported, in April of this year the state introduced some additional probationary license restrictions for anyone who is under age 18. With summer here, I'm still receiving calls from parents who are unsure what the new restrictions are. The restrictions are contained in Section 4507.071, which now requires that sixteen year olds with their drivers license are not permitted to be on the road between midnight and 6 a.m. unless they have a parent or legal guardian with them. At no time are to have more than one non-family member with them in the car. A seventeen year old is not to be on the road between 1 a.m. and 5 a.m. unless they have a parent or legal guardian with them in the car. With sixteen and seventeen year old drivers there is a requirement that everyone must be wearing a seatbelt. There should never be more occupants in the car, either family or otherwise, beyond the number of seatbelts available.

There are exceptions for teens that work late night hours. In order to do it legally and drive during those hours they must have some sort of written documentation from their employer explaining their days and hours of work.

There are a lot more details and a couple of exceptions but if anyone has any questions, please call the police department.

LAW DIRECTOR:

No report.

STANDING COMMITTEE REPORTS:

FINANCE COMMITTEE – (BLAZE):

Councilman Blaze stated, I want to send my compliments out to the Boodjeh family, their company Discount Drug Mart, and the 3,000 associates that are their employees. Crane's Cleveland Business recently named them the 11th largest privately held company in Northeast Ohio, with 2006 sales of \$625 million dollars, which was up 6.64% from \$565 million in 2005. I'd like to commend the Boodjeh family, the company, and their 3,000 associates for this accomplishment. Private sector businesses are the engine of economic development and growth.

Independence can be proud to have at least four members of the Boodjeh family call Independence their home, and to also have the highest grossing Discount Drug Mart store in the entire chain, which is located right here in Independence. My hat is off to Discount Drug Mart, the Boodjeh family, and their 3,000 associates for this achievement.

The list came out in yesterday's Crain's and I only have the page that lists the 29 largest privately held companies. I believe there is a company in the Rockside Road area that also made the list, and I apologize to that company for not having the complete list. I don't believe the owners of that company have family that resides in Independence. But I also commend them on their achievement and thank them too for being located in Independence.

RULES AND ORDINANCES COMMITTEE – (KLEPACZ):

Councilman Klepacz stated, with regard to the Kiwanis Flag Contest. We will be moving it to a different day. I will call the winners and inform them when they should report to pick up their flags. We had over 60 entries this year. Unfortunately, I apparently made the questions a lot harder than I intended to do because we had very few that got them all correct.

With regard to legislation we are dealing with the senior housing issue in Ordinance 2007-23. At the May 29th senior meeting I had every intention of moving forward with that ordinance tonight, but unfortunately the Planning Commission did not recommend our ordinance as we submitted it. Thus, in order for us to pass the ordinance we need five affirmative votes. It was pretty clear from discussion in Caucus and at the May 29th Public Hearing that we did not have five votes.

Councilman Blaze has asked that we schedule a Workshop so that we can discuss the issue further because we really hadn't had time to discuss it at length. So tonight, knowing that we did not have five votes, I asked my colleagues to schedule a Workshop and they agreed to schedule one for June 21st so that we can discuss this particular piece of legislation which would allow an overlay district for individual single-family housing. I'm hoping that after the discussion we will have the five votes to move this forward.

I agree with the Mayor's remarks that the best plan that we had for senior housing was the Betty Kemper plan, which included congregate living on the middle school property as well as individual houses and apartments. There is no question that that is what is needed. However, these plans are not mutually exclusive. There is no reason why as a first step we cannot pass a single-family individual units proposal. Hands that were raised at the May 29th public hearing indicated that many people would prefer to move from their large homes to a smaller individual home.

Unfortunately, we are moving so slowly on this issue that we are losing resident, after resident, after resident to other communities because our seniors cannot stay here. They have lived here 40, 50 or 60 years and have had to move on. We need to get senior housing started by passing Resolution 2007-23 as a first step.

I do want to address Resolution 2007-26, the prayer legislation as well.

One of the reasons we're late tonight is because my colleagues have chosen not to give me the time at a Workshop to give my full presentation on why I oppose this legislation. This was supposed to be discussed at a Workshop. I am very disappointed that I do not have a chance and others do not have a chance to express their views in detail. So I will be giving a very, very brief synopsis of some of the reasons I oppose this legislation. I have specific details to back up every one of these particular points that I'm going to make. I will not go into detail here by repeating everything I said in Caucus.

The prayer legislation is impractical and unworkable. It is irrelevant to the function and purpose of City Council. It creates a religious qualification for Council Members, misreads historical precedent and puts into the public sphere that which should be private – namely prayer. It allows Council Members to avoid taking responsibility for their actions because they have been divinely inspired so, therefore, it must be the right thing to do. It wastes taxpayers' money, introduces partisanship issues into our non-partisan Council, sets the stage to create additional divisions in the community and most importantly, erodes the "wall of separation" between church and state.

I will briefly elaborate on these points. However, at this point I am forced to make my disclaimers, which is sad in and of itself. I am not against God, nor am I against prayer. In fact, I participate in organizations, notably the Kiwanis of Independence, in which we begin each meeting with the Pledge of Allegiance (under God), sing God Bless America (hopefully God forgives a group that is tone deaf and can't find the key to any song) and then we have a benediction and, of course, I bow my head when prayers are said at public gatherings and funerals. But all of these functions are voluntary affairs at which no public business is transacted - and that makes all the difference.

The arguments that have been used to justify this legislation by Mr. Crooks essentially boil down to this: because we can say a prayer because of "Marsh v Chambers" decision, we should say a prayer. That, of course, is not a logical conclusion.

The premise on which our country was founded and which makes our nation great is the idea of inclusiveness. All should be welcomed and encouraged to participate in public affairs. However, we have now excluded anybody from participating if they do not agree with saying a prayer for any reason whatsoever. This legislation, in fact, creates an environment of exclusiveness and creates, de facto, a religious qualification for holding office here in Independence.

The Constitution of the United States in Article VI, Clause III, states, *but no religious test shall ever be required as a qualification to any office or public trust under the United States*. The First Amendment to the Constitution not only allows freedom of religion, but it also allows freedom

from religion. If this legislation is adopted, a candidate for office here in Independence who does not believe that they need “divine guidance” to perform their duties, for whatever reason, is excluded. We saw the practical effect at our Council Caucus when the legislation was first introduced. It already created an environment where it became a competition for who could be holier. Several members mentioned their religious qualifications and their piousness. After all, who can be against God?

It has been suggested that local ministers come to say the prayer. This is a Christian community and only Christian ministers would be available even if they would be willing to perform this task on a volunteer basis. Are other faiths to be represented? Will a Rabbi be asked to come? How about a Wiccan? Will Native American religions be requested? Any Imans?

As far as saying a non-denominational prayer and not trying to advance any particular faith, that is a practical impossibility. That particular proviso has been abused over, and over and over again. The history of supposed non-denominational prayer has been filled with examples of ministers who have strayed from their non-denominational text. One could argue that this would not happen here, but in our Ohio General Assembly a similar incident occurred just two weeks ago. Several Assembly members have complained about the content of the prayers. What choice do members have who do not agree with the text? They can walk out, or they can protest by not participating. I cannot believe the members of this Council would want to give such a Hobson’s choice to any current or future member of Council.

You will also note that in the Ohio General Assembly taxpayers’ money is being spent on supervising the submission of prayers. Who is going to do that here? Who will be the prayer Czar? Supreme Court rulings are clear on this issue, taxpayers’ money cannot be spent to support religion.

Our purpose here on City Council is to deal with the issues that affect the residents of the City of Independence. We do not debate significant moral issues with the possible exception of senior housing – we deal with bricks and mortar. Look at tonight’s agenda, most of which is very mundane. To suggest one needs “divine guidance” to decide whether we should accept a bid for concrete work, or spend money for wireless communication, or accept an easement for a road project is ludicrous. And to suggest that we are incapable of making decisions without God’s intervention is equally ludicrous and in fact is quite insulting to this body. No prayers have ever been made by City Council since its inception and it appears to me that this City is functioning quite well without a public display of our piety.

The references in the Declaration of Independence to “nature’s God” are a product of the enlightenment in which humans were encouraged to use their intelligence to change the government and to create a new one using that intelligence. They did not seek God’s intervention, but chose to use their human abilities. As an aside, many of the framers were deists, a belief which refers to a primary starter, who then did not intervene in human affairs. So prayer was irrelevant other than to soothe an individual’s consciousness.

The Founders recognized that we are a people of many strong and vigorous faiths. They acted to protect the liberty to practice those faiths. The Founders also knew centuries in history in which religious conflicts had caused war and oppression. They recognized that even the best intentions

of people of faith can lead to division, exclusion, and worse. And they recognized that a majority who sees its faith as true and benign can be tempted in a democratic republic to try to use the power and prestige of government to advance that faith in ways that would actually divide and exclude.

In Council Caucus I offered an amendment to this piece of legislation in which I said it would be perfectly acceptable if we had a moment of silence, reflection or meditation instead of a prayer. This amendment failed by a vote of 3-4. I would like to ask my Council colleagues to reconsider that particular amendment so that we can have a moment of silence instead of a prayer. That would satisfy everyone because we are going down a very dangerous path. I think that a moment of quiet reflection will serve that function quite well. Again, I'm going to ask my colleagues to reconsider that amendment.

I am going to conclude by quoting again as I did in Caucus, from the gospel of St. Matthew Chapter 6 who says, *beware of practicing your piety before men in order to be seen by them for then you will have no reward from your Father who is in heaven. . . You must not be like the hypocrites for they often stand and pray in the synagogues and at the street corners so that they may be seen by men. Truly I say to you they have received their reward. When you pray go to your room and shut the door and pray to your Father in secret and your Father who sees in secret will reward you.*

PUBLIC LANDS AND BUILDINGS – (CROOKS):

Chairman Crooks reported, the Public Lands & Building Committee met last month to discuss the progress of the Mapleshade Cemetery Project, and tonight we have Resolution 2007-72 on the agenda to allow the engineer to continue performing work on the project. I understand that their work is mostly done.

As I understand it, the project is moving along nicely. The land has been cleared and is supposed to be graded to the final pitch. I had a chance to go out and view the land and it will certainly be nice to see the final product.

We also briefly discussed an increase in fees for the future purchase of plots available and looked at what other communities charge (Brecksville, Bainbridge, North Royalton), which also have cemeteries. The Committee asked Dave Snyderburn of the Service Department and City Planner Jeff Markley to develop their thoughts as to what the price increases should be on the plots and then report back to the Committee.

Also on the agenda tonight is Resolution 2007-82, authorizing the expenditure of funds for the Police Department renovation project, including new carpeting.

A group of Council Members had a chance to see firsthand the need for some of these updates last October when the Public Lands & Buildings Committee sponsored a tour of several of our public buildings. Director Avsec mentioned some of the roofing issues on the Civic Center. Hopefully we can do the same thing later on this year. We still have public buildings that are going to be in need of our attention in 2008.

Reporting from the Zoning Board of Appeals, last month the Board considered several variance requests from the Cleveland Cavaliers regarding additional signage on their new practice facility. The Board voted to approve the signs provided that they would not remain lighted past 10 o'clock p.m. The practice facility will have three signs – the north side, the west side and on the south side.

The nice weather has prompted some of our residents to come before the Board with their applications for additional outbuilding structures and fences.

I have sponsored legislation that would change the way our public Council Meetings unfold by including a public prayer before our proceedings. Specifically, the legislation calls for roll call to take place, then a prayer and then the Pledge of Allegiance. I firmly believe that this is an acceptable practice. Other communities such as Parma, Brunswick, City of Cleveland, Ohio General Assembly, United States Supreme Court and House of Representatives all are examples of legislative bodies that commence their public sessions with prayer.

What's more, I was requested by members of Council to uncover examples of various prayers said before other legislative bodies. I did that and provided those to my colleagues in late February of this year. The idea is to invite members of Independence's clergy, but not limited to, to offer a blessing at the opening as long as it doesn't overtly advance one faith over another.

In the opening sessions of legislative and other public bodies prayer is equally imbedded in the history and tradition of this country. From colonial times through the founding and ever since, the practice of legislative prayer has co-existed with the principles of dis-establishment and religious freedom.

I would like to quote Mr. James Madison, the Constitution's architect and our fourth president:

“ the United States entitled to have a Constitution because of the transcendent law of nature and of nature's God which declares that the safety and happiness of society are the objects at which all political institutions aim and to which all such institutions must be sacrificed.”

That is quoted from Federalist No. 43.

The Historical Society will be hosting its Annual Classic Car Festival on Sunday, July 8th in Public Square between 2 p.m. and 4 p.m.

Also, in coordination with the Genealogical Society, specifically Mr. & Mrs. Stoika along with Wes Gaab came up with a concept to compile all of the “Historically Speaking” articles that have run in the Community Newsletter. They are on sale right now for a cost of \$12.00. There is easily more than 100 Historically Speaking articles in there written by Mr. Gaab. I encourage those who are interested in purchasing the publication to call Mr. Stoika at 216-524-2472.

COMMUNITY SERVICES – (CICHOCKI):

Councilman Cichocki stated, we have all the hot topic issues tonight – senior housing, St. Maron’s and a number of people here tonight interested in those issues. Not much is going to happen on those topics tonight. As Councilman Klepacz indicated, we have a Workshop scheduled for Thursday, June 21st at 4 p.m.

Even though the Active Adult Senior Residential District is on Second Reading tonight we’re not going to vote on that.

The Mayor has introduced Ordinance 2007-33 regarding submission to the electorate to provide for a Senior Citizen Residential District.

I am personally disappointed that Ordinance 2007-23 doesn’t seem to be going anywhere. It seems to be somewhat dead in the water. I am one of the sponsors. I was the one that came up with the idea and I still think it’s a good idea. As Councilman Klepacz said, it’s completely compatible and not inconsistent with the Senior Citizen Residential District that was defeated by the voters and the Mayor has introduced again. I fear that it’s not really going to be decided on its merits. It’s more being decided on whose idea or perceived whose idea it was and who can make political hay out of it and that’s how things are lining up. Unfortunately, that’s going to be a disservice to the residents and the seniors of Independence.

I would like to touch briefly on Resolution 2007-87, a resolution of intent to appropriate the property owned by the Sisters of Good Shepard. That is the potential St. Maron’s Church property. I’ve had residents coming up to me making comments about the legislation as if it’s a foregone conclusion that this is going to happen and it’s a slam dunk and finally someone has got the wisdom to save the Brookside Road residents. Unfortunately, when I hear comments about the City or Council deciding to do this, we, as a body, have never, ever discussed these ideas, at least not recently. It’s not like City Council sat down and said I want to do eminent domain with the Marycrest property. There isn’t even a clear cut majority of people up here who want to do that.

Again, it’s an election year and to have a lot of appeal to the people to get them to vote for you and whether or not this is actually going to happen, I wouldn’t put all my marbles in that basket. We’ve been talking about Five Year Plans, Ten Year Budget Plans and the purchase of that property has never come up.

I was also surprised to hear about a land swap with St. Maron’s for the middle school property. Again, this is a topic of discussion which has not yet been discussed by Council. Stay tuned and we’ll see how this all unfolds.

I’m going to spend a great amount of time talking about Resolution 2007-26, a revision to the Rules of Council regarding public prayer at the commencement of the Regular Council Meeting.

Superficially the idea seems simple and likable enough, but I spent a lot of time thinking about this. Bear with me at this time because as Councilman Klepacz indicated, there has really been no other forum to share these remarks. I have previously shared them with other members of Council.

After much contemplation which I believe was guided by a divine being, these are my thoughts on the pending “prayer legislation.”

The issue here is not who among us is the most pious, religious or devout. The issue before us is not whether people should be allowed to practice their religious beliefs. The real issue before us is whether or not these practices should be carried out at a public government meeting.

It is clear that this issue has heightened emotions. Prayer is an intensely personal and important issue, as it honoring an individual’s right to choice, which was one of the basic tenets of the founding of our country.

We, as members of City Council, have a responsibility, within the law, to honor and respect all who are present at our City’s council meetings. Our goal in addressing this issue should be to find a place of respect and common ground where we can be sensitive and inclusive of the desires, beliefs and faiths of all our colleagues on Council, as well as our residents and the community in general.

In his memoirs, former U.S. Supreme Court Chief Justice Earl Warren who seated as Chief Justice when the landmark civil rights and desegregation decisions were made in the 1950’s and 1960’s addressed this issue. The following is an excerpt from this memoirs.

We (the Supreme Court) also were heavily attached by many people, particularly legislators, when we declared compulsory prayers in the public schools to be unconstitutional. I vividly remember one bold newspaper headline saying, “Court outlaws God.” Many religious denominations in this same spirit condemned the Court, although most of them have receded from that position. Scores of Constitutional Amendments and legislative bills were proposed to Congress to circumvent the decision but were later abandoned when the public came to recognize that the ruling was not an irreligious one. Rather it tried to maintain the separation of church and state guaranteed by the First Amendment. . . .The majority of us on the Court were religious people, yet we found it unconstitutional that any state agency should impose a religious exercise on persons who were by law free to practice religion or not without state interference. “The Memoirs of Chief Justice Earl Warren.” Page 315.

Irreligious is not a word commonly utilized in daily discourse. It is defined as “indifferent or hostile to religion.” At the outset, it should be made clear that the issue before us has nothing to do with being indifferent or hostile to religion. Rather, it has everything to do with being sensitive and inclusive of all religions.

Our decision on this issue must be guided by principles of sensitivity and inclusiveness. When we think about sensitivity and inclusiveness, we must understand that our society consists of a Christian majority. This majority position can often lead us to make assumptions and/or to proceed without thoughtful planning as to our impact on others. These majority assumptions play out in every facet of our lives and every day of our lives and, in playing out, be it through “omission” or “commission,” can be extremely hurtful and reflects a lack of respect for those who are “discounted.” In addressing the issues of “majority,” Chief Justice Warren noted:

“. . .it is human nature for the dominant group in a nation to keep pressing for further domination, and unless the Court has the fiber to accord justice to the weakest member of the society, regardless of the pressure brought upon it, we never can achieve our goal in ‘life, liberty and the pursuit of happiness’ for everyone.” The Memoirs of Chief Justice Earl Warren, page 335.

The United States is one of the most religiously diverse nations in the world. Some accounts show that non-Christians number in excess of 20% of the U.S. and that this number is growing each year. Suffice to say, diversity, or pluralism, is a fact of life and one that any dynamic organization such as ours must recognize and address in a proactive and forward thinking manner. However, it is extremely important to understand that religious diversity means that different religions, including non-religious beliefs, coexist and in no way implies that an individual must accept these religions or positions as valid.

Most people in the U.S. and the rest of the world probably take an “exclusive” or “dominant” position: They believe that their religion, and only theirs, is completely true. Many people hold tenaciously to their particular faith, believing it to be God’s revealed wish for all humanity. Some may even view other faith groups, those without a “faith community” or denominations within their own religion to be false. This type of exclusivity can sometimes develop easily into hatred or intolerance of any “other” interpretation or position. Throughout history, religious exclusivity has often been a major cause of much of the world’s civil unrest, civil wars, mass crimes against humanity and genocide. Yet, in balance to many places in the world, the U.S. has enjoyed a high level of religious freedom and a relative absence of religiously motivated conflict, even though exclusivity is probably predominant here. Over time, the American public has developed a heightened regard for human rights, including religious freedom, and is willing to tolerate other religious beliefs, even though they consider them to be inconsistent with their own. Too many times this “toleration” is only given as long as it doesn’t impact them in any way, or ask them to modify their own sense of conduct or expression, even in public settings.

Although the practice of commending a public meeting with prayer may be legal, it doesn’t necessarily make it right. Many of the examples of prayer utilized by other legislative bodies which were provided by one of our colleagues are overtly Christian. Others contain more oblique references to Christianity, including “Lord, a name for God or Christ, and “Father”. By reciting a prayer with references to deities such as “Lord” or “Our Father”, the Christian people in attendance feel welcome and at home. But all those who are not Christian, those who are of different or of no religious conviction, are automatically excluded from this ritual; to them, the prayer is meaningless and does not create a feeling of community. Again, either by omission or commission, words directed and built with Christian phraseology can become unintentionally divisive because they exclude persons of other faiths, or those not expressing a position of faith. Instead, these individuals are left out of an ‘exclusive’ ritual, i.e. Christians only, and are inadvertently made to feel unwelcome. This is unacceptable at a public meeting since all members of the community should be made to feel welcome.

The alternative to prayer at a public meeting is an observance of a moment of silence. A moment of silence would allow for people of all beliefs to recite or not recite whatever prayer they choose and sends a message that all members of the community are equally valued.

I would urge each of you to consider commencing our meetings with a moment of silence rather than prayer.

STREETS AND SIDEWALKS COMMITTEE – (KURTZ):

Vice Mayor Kurtz stated, reporting from the Planning Commission, the request made by St Maron’s Church for a Special Use Permit concerning the Marycrest property on Brookside Road was tabled, pending Council’s outcome on a Resolution of Necessity that is on the agenda on First Reading this evening.

For months, the Planning Commission has heard evidence from local residents and St. Maron’s Church. From all the testimony, comments, and evidence heard by the Planning Commission, several important points became clear. First of all, this property has a storied past with U-3 Special Use Permits dating back to the 1950’s, when what was formerly a residential estate, which drew neighbors to the area, evolved over time and became something quite different via a U-3 Permit.

Secondly, St. Maron’s request has evolved over the past months as well. What started out as a place of worship has evolved and the proposed uses and site layout has grown. Even its pastor has indicated publicly the Church’s vitality depends on its ability to grow and expand programs.

Finally, this property has numerous infrastructure challenges with sanitary sewers and storm water runoff to name a few. Increasing the demand on the already strained system could cause significant problems to local residents and create an additional burden on the City.

For these reasons and more, and to protect the health, safety and welfare of our residents, I proposed that the Planning Commission table St. Maron’s request, pending Council’s decision on a Resolution of Necessity which is on this evening’s agenda. The Planning commission approved my suggestion unanimously.

The Planning Commission also took action on Resolution 2007-23 – the Senior Housing Proposal (which expanded the current limit of two homes per acre to up to six homes per acre), by referring it back to Council with an amendment requiring the legislation to be placed on the ballot for a vote of the people. This motion passed 4 to 1.

The Planning Commission scheduled several public comment sessions on this proposal. There was lively debate on both sides of this issue – as it has been for the past 25 years. Many people spoke in favor of senior housing. And all elected officials support senior housing. Unfortunately, most people disagree on how to define senior housing – even the most ardent supporters have not only disagreed, but changed their opinions over time.

Having gone back some 25 years and looked over the minutes from various public meetings it becomes clear to me that our seniors have a variety of sincere needs. From food, medicine and transportation, to various forms of housing, whether it be condos, townhouses, single-family dwellings, congregate living, assisted living, to the ultimate need – nursing care. The point being, there is a continuum of care needed by seniors, not simply one form of housing.

For these reasons, I announced at the Planning meeting on June 5th that I would discuss comprehensive senior living legislation that would seek to accomplish two broad goals. One, identify what assistance programs are needed by our seniors; and two, which housing options – and how many of each option – are needed by our seniors. Armed with this information, we can develop programs tailored to meet our seniors’ needs, as well as design a senior housing campus that will be tailored to the market demand of our senior population.

My colleague had it right when in 1994 he said; it’s not about senior housing, but senior help. Let’s connect the dots, let’s think comprehensive, and let’s tailor the plan to Independence seniors. And the only way we can tailor the plan to Independence seniors is to take a detailed door-to-door personal survey of our senior population. Then, and only then, can we say we know with some certainty what our seniors really need and want.

Throwing out an arbitrary number of potential units does not give many people confidence that the local demand can meet the supply. We should define our local demand and then design and build accordingly. Do we know how many people want smaller single-family dwellings, and if so, how much they are willing to pay? Under my proposal we will know, and demand will not exceed supply. That way we create waiting lists, a preference for our residents, and protect our people.

Finally, the senior housing campus plan must be put to the people for a vote. Where prior plans failed, I believe my plan that is tailored to Independence senior needs based upon supply and demand, can succeed. As our seniors say, “we are getting close.” I agree, and will help champion the cause.

Earlier this evening I supplied my proposed plan to the Administration and my colleagues for input. It will be further discussed at a Workshop scheduled to June 21, 2007.

Thank you.

SAFETY COMMITTEE – (GRENDL):

Councilman Grendel stated, you can tell it’s an election year. A lot of rhetoric and hot air is coming out of this building tonight. In one of the last conversations I had with my father he said the only senior housing that Independence is going to have is right there at Mapleshade and it’s now 21 years later. Now we’re proposing a cemetery on Brookside and a church in the center of town so that takes care of our redevelopment.

There was no Safety Committee meeting held last month but there will be one as soon as Chief Nelson and Chief Nicaastro have received and reviewed updated pricing from Signal Service Co. regarding traffic signal pre-emption systems throughout the City.

There are two pieces of legislation being sponsored by Safety Committee tonight, Resolution 2007-93 and 2007-94 deal with the equipment for new police vehicles. One piece is for \$32,044 with Fox International for police vehicle equipment. The other is \$5,200 with Independence Communications is for the installation of that equipment.

I was dismayed by the outcome of the June 5th Planning Commission meeting. The legislation proposed by Councilmen Cichocki and Klepacz I thought was one chance that we could do one small step to introduce a form of senior housing. It wasn't the answer to all of our problems but it was a start.

You could paper the walls with surveys we've had over the years. Things aren't going to change. Whenever the result comes out of what we propose, the fear mongers and all the boloney will come out and the result will be the same. Again, it doesn't matter who is sitting up here. It will be the same – we did everything we could but, I'm sorry – and we're going to have another 10, 20 or 30 years' worth of people dying. You're going to have the people up here saying the same thing – I'm sorry.

Now we had a chance for something that doesn't need the vote of the people. It just needs somebody with a little courage that doesn't worry about whether or not they're going to be sitting up here. We just need to get something that can help. Maybe it won't help more than 15 or 20 families in this town, but it's twenty more families than we've helped over the last 30 or 40 years. Those people are in their graves now.

To me, it just takes a little commitment. We talked about development downtown. We had the land available, even the middle school. We went on record saying we want senior housing there, but when we got the people to go along with the joint facility, we, as a body, said we want senior housing at the middle school. Then you forget about those commitments. I think that would help the development of the downtown to have vibrant people over 55 in that area to invest in the town.

We're going to have \$800,000 homes and vacant lots sitting up there for the next 10 or 20 years. Look at Lake Charles – big homes with very few people living in them.

It seems to me like the average person is what made this a great City. All they get is a lot of cheap talk and broken promises, and I feel bad about it. I've lived here my whole life. I'll probably have one of those places in Mapleshade too. It's kind of sad that we didn't get anything done but we made a lot of empty promises. It's just like the politicians in Washington. They make empty promises but fill their pockets.

I do support Resolution 2007-85, entering into an agreement with the Trust for Public Land and the West Creek Preservation Committee. This is a chance for flood control benefits and fits the Master Plan that we approved a number of years ago. This will be a revitalization of our

northern industrial area. This doesn't have the attraction or appeal that you would have like with the bike trail, but it will provide a lot of benefits to the area. We are possibly committing up to \$650,000, and we will receive \$4.5 million in benefits. I think it's very important. That area is even more forgotten than other areas in our town. I hope that my colleagues will approve this.

Regarding Resolution 2007-26, I went to Case Western Reserve University and sat in lunchrooms where we had the Iranians on one side and the Arabs on another. The Muslims and the Gentiles in the middle of the room got along. We all acknowledged and realized that we had our own beliefs but back in mid to late 70's were able to recognize that we all had our differences and support that.

I think that we have enough important issues that we have to handle on a monthly basis that we not be sidetracked by something like this, which potentially down the road could be a distraction and a problem for the City that we really don't need.

I think that the motion that Councilman Klepacz made and supported by Councilman Cichocki and myself also, a moment of reflection, is sufficient. We all in our own way say prayers or say whatever that keeps us mentally strong to handle the tasks for you, the people who have elected us. We have a responsibility and a fiduciary duty to study the issues and come up with what we feel in our hearts is best for the community. A public showing of prayer or having clergy in, in my opinion opens a possibility of controversy and really distracts us from what our main job is – to govern this community.

Happy Fathers Day to all of our fathers.

UTILITIES COMMITTEE – (WISNIESKI):

Chairwoman Wisnieski stated, Independence politics. You can see that everyone is getting ready for elections.

The Utilities Committee is planning to meet next month to continue the discussion regarding a sewer tie-in policy. The last time we met I requested last month that the Mayor get information from the Building Department and Law Department regarding sewer tie-ins.

Mayor Ramos asked, what was that?

Chairwoman Wisnieski replied, we were looking for information regarding the sewer tie-in policy as it relates to the code. That was going to be checked by the Law Department.

Mayor Ramos replied, thank you.

As Engineer Elewski mentioned he prepared all the bid information regarding the Dalebrook storm sewer outlet.

Moved by Wisnieski, seconded by Grendel, to authorize the Clerk of Council to advertise for bids for the Dalebrook Storm Outlet Project. Council polled: 7 yes/0 no; motion carried.

LEGISLATION:

SECOND READING

ORDINANCE 2007-23 AN ORDINANCE AMENDING THE ZONING CODE TO CREATE AN ACTIVE ADULT RESIDENTIAL DEVELOPMENT DISTRICT IN A CERTAIN DESIGNATED AREA OF THE CITY AND DECLARING AN EMERGENCY

Ordinance 2007-23 was referred to the Council Workshop without objection.

RESOLUTION 2007-26 A RESOLUTION AMENDING RESOLUTION NO. 2006-02 PROVIDING FOR THE REVISION OF THE RULES OF ORDER FOR SAYING A PUBLIC PRAYER AT THE COMMENCEMENT OF EVERY REGULAR COUNCIL MEETING AND DECLARING AN EMERGENCY

Moved by Blaze, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Klepacz, seconded by Cichocki to amend Resolution 2007-26 by removing prayer and substituting a moment of silence, reflection and meditation. Council polled: 3 yes/4 no (Blaze, Crooks, Kurtz, Wisnieski); motion failed.

Moved by Blaze, seconded by Crooks, to adopt. Council polled: 4 yes/3 no (Cichocki, Grendel, Klepacz); motion carried.

RESOLUTION 2007-72 A RESOLUTION AUTHORIZING THE RETENTION OF ELEWSKI & ASSOCIATES, INC. FOR PROFESSIONAL ENGINEERING SERVICES FOR MAPLESHADE CEMETERY ROAD EXTENSION AND DECLARING AN EMERGENCY

Moved by Grendel, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Crooks, to adopt.

Discussion: Mayor Ramos stated, I will provide Council with a breakdown of all the associated costs.

Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-79 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH DUKE REALTY OF OHIO (PPN 562-28-008 AND PPN 562-28-014) AND DECLARING AN EMERGENCY

Resolution 2007-79 was left on Second Reading without objection.

FIRST READING

ORDINANCE 2007-29 2007 AMENDED ANNUAL APPROPRIATION ORDINANCE AND DECLARING AN EMERGENCY

Moved by Crooks, seconded by Blaze, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Wisnieski, seconded by Crooks, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Crooks, to adopt. Council polled: 7 yes/0 no; motion carried.

ORDINANCE 2007-30 AN ORDINANCE REPEALING ORDINANCE NO. 1975-65 AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Wisnieski, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to adopt.

Discussion: Mayor Ramos stated, this is so the T-shirts you see being sold at the gas stations will not happen again.

Council polled: 7 yes/0 no; motion carried.

ORDINANCE 2007-31 AN ORDINANCE AMENDING CHAPTER 1377 OF THE CODIFIED ORDINANCES OF THE CITY OF INDEPENDENCE REGARDING FLOOD DAMAGE REDUCTION AND EROSION HAZARD CONTROL AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Ordinance 2007-31 was placed on First Reading and referred to the Utilities Committee without objection.

ORDINANCE 2007-32 AN ORDINANCE ENACTING NEW CHAPTER 1366 OF THE CODIFIED ORDINANCES OF THE CITY OF INDEPENDENCE CREATING A RENTAL OCCUPANCY PERMIT AND DECLARING AN EMERGENCY

Moved by Grendel, seconded by Cichocki, to read by title only. Council polled: 7 yes/0 no; motion carried.

Ordinance 2007-32 was placed on First Reading and referred to the Rules & Ordinances Committee without objection.

ORDINANCE 2007-33 AN ORDINANCE PROVIDING FOR THE SUBMISSION TO THE ELECTORATE OF AN AMENDMENT TO THE ZONING CODE TO PROVIDE FOR A SENIOR CITIZEN RESIDENTIAL DISTRICT IN A CERTAIN DESIGNATED AREA OF THE CITY AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Ordinance 2007-33 was placed on First Reading and referred to the Planning Commission without objection.

ORDINANCE 2007-34 AN ORDINANCE AMENDING SECTION 151.14 OF THE CODIFIED ORDINANCES OF THE CITY OF INDEPENDENCE RELATING TO A CHANGE FUND FOR THE ELMWOOD PARK POOL CONCESSION AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-80 A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE COURTYARD PROJECT AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Cichocki, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to adopt. Council polled: 4 yes/3 no (Blaze, Kurtz, Wisnieski); motion carried.

RESOLUTION 2007-81 A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE FAMILY CHANGING ROOM PROJECT AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-82 A RESOLUTION AUTHORIZING THE EXPENDITURE OF FUNDS FOR THE POLICE DEPARTMENT RENOVATION PROJECT AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Blaze, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-83 A RESOLUTION AUTHORIZING THE PURCHASE AND INSTALLATION OF EQUIPMENT TO PROVIDE WIRELESS INTERNET TO THE GENERAL PUBLIC AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Resolution 2007-83 was placed on First Reading without objection.

RESOLUTION 2007-84 A RESOLUTION AUTHORIZING THE EXPENDITURE TO TRANSYSTEMS CORPORATION FOR THE PLAN CHANGES FOR THE ENHANCEMENTS TO THE I-77 BRIDGE OVER ROCKSIDE ROAD AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Crooks, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-85 A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE TRUST FOR PUBLIC LAND AND WEST CREEK PRESERVATION COMMITTEE REGARDING THE WEST CREEK CONFLUENCE PROJECT AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to adopt.

Vice Mayor Kurtz stated, it has already been confirmed that there is no conflict with the adjoining property which my family owns but I'm going to play it safe and abstain.

Councilman Crooks stated, I'm also going to vote no on this piece of legislation but I want the record to reflect that I don't think it's a reflection of the work that is being done in pursuit of the grants or the presentation that Dave Vasarhelyi and Neal Hess gave at the Workshop. The uncertainty of being able to recruit that money just does not sit well with me.

Council polled: 4 yes/2 no (Crooks, Wisnieski)/1 abstain (Kurtz); motion carried.

RESOLUTION 2007-86 A RESOLUTION OF INTENT TO APPROPRIATE A TEMPORARY RIGHT-OF-WAY OVER A PORTION OF PROPERTY OWNED BY ROCKSIDE-77 PROPERTIES, LP, 5005 ROCKSIDE ROAD (PPNS 561-20-008 AND 561-20-009) FOR THE ROCKSIDE ROAD WIDENING PROJECT AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Blaze, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-87 A RESOLUTION OF INTENT TO APPROPRIATE IN FEE THE PROPERTY OWNED BY THE SISTERS OF GOOD SHEPARD LOCATED AT 7800 BROOKSIDE ROAD (PPN 564-12-025) AND DECLARING AN EMERGENCY

Moved by Grendel, seconded by Cichocki, to read by title only. Council polled: 7 yes/0 no; motion carried.

Resolution 2007-87 was placed on First Reading without objection.

RESOLUTION 2007-88 A RESOLUTION AUTHORIZING CHANGE ORDER NO. 5 TO THE 2006 ROAD MAINTENANCE AND REPAIR CONTRACT BETWEEN THE CITY AND ANTHONY ALLEGA CEMENT CONTRACTOR AND DECLARING AN EMERGENCY

Moved by Blaze, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Blaze, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Crooks, to adopt.

Mayor Ramos asked Engineer Elewski, when will these projects start?

Engineer Elewski replied, the contractor was given the okay to start both projects. He started Buskirk today and he'll be starting the cemetery project immediately.

Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-89 A RESOLUTION AUTHORIZING CHANGE ORDER NO. 5 TO THE MISCELLANEOUS CONCRETE WORK FOR 2006-2007 CONTRACT BETWEEN THE CITY AND F.P. ALLEGA CONCRETE CONSTRUCTION CORP. AND DECLARING AN EMERGENCY

Moved by Grendel, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Cichocki, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Crooks, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-90 A RESOLUTION ACCEPTING THE UNIT PRICE BID OF F.P. ALLEGA CONCRETE CONSTRUCTION CORP. FOR THE PURCHASE OF MISCELLANEOUS CONCRETE WORK FOR 2007 AND DECLARING AN EMERGENCY

Moved by Grendel, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Blaze, to suspend the rule requiring two separate readings. Council polled: 6 yes/1 no (Cichocki); motion carried.

Moved by Grendel, seconded by Blaze, to adopt. Council polled: 6 yes/1 no (Cichocki); motion carried.

RESOLUTION 2007-91 A RESOLUTION AUTHORIZING THE PURCHASE OF A 2007 FORD F-250 TWO WHEEL DRIVE PICKUP TRUCK FOR THE TECHNICAL SERVICE DEPARTMENT THROUGH THE STATE COOPERATIVE PURCHASING PROGRAM AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Blaze, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Crooks, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Crooks, seconded by Wisnieski, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-92 A RESOLUTION AUTHORIZING THE PURCHASE OF FURNITURE FOR THE POLICE DEPARTMENT THROUGH THE STATE COOPERATIVE PURCHASING PROGRAM AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Blaze, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-93 A RESOLUTION AUTHORIZING THE PURCHASE FROM FOX INTERNATIONAL LTD., INC. FOR POLICE VEHICLE EQUIPMENT AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Grendel, seconded by Cichocki, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-94 A RESOLUTION AUTHORIZING THE PURCHASE FROM INDEPENDENCE COMMUNICATIONS FOR INSTALLATION OF POLICE VEHICLE EQUIPMENT AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to adopt.

Discussion: Councilman Crooks stated, I will be abstaining due to the relationship my company has with Independence Communications.

Council polled: 5 yes/0 no/2 abstain (Crooks, Kurtz); motion carried.

RESOLUTION 2007-95 A RESOLUTION ACCEPTING THE TERMS AND CONDITIONS OF THE DONATION AGREEMENT WITH INDEPENDENT HOTEL PARTNERS, LLC (PPNS 562-32-006 AND 007) AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Resolution 2007-95 was placed on First Reading without objection.

RESOLUTION 2007-96 A RESOLUTION ACCEPTING THE BID OF PROFORMA PARK PLACE FOR THE PREPARATION AND PRINTING OF

THE COMMUNITY SPOTLIGHT AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Grendel, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to adopt. Council polled: 7 yes/0 no; motion carried.

RESOLUTION 2007-97 A RESOLUTION ACCEPTING THE BID OF ADSOURCE COMMUNICATIONS, INC. FOR THE PREPARATION AND PRINTING OF THE MUNICIPAL NEWSLETTER AND DECLARING AN EMERGENCY

Moved by Cichocki, seconded by Crooks, to read by title only. Council polled: 7 yes/0 no; motion carried.

Moved by Cichocki, seconded by Grendel, to suspend the rule requiring two separate readings. Council polled: 6 yes/1 no (Kurtz); motion carried.

Moved by Cichocki, seconded by Grendel, to adopt.

Discussion: Vice Mayor Kurtz stated, I thought this was being referred to committee. If it's not being referred to committee, I'll vote no based on comments in Caucus.

Council polled: 6 yes/1 no (Kurtz); motion carried.

Moved by Cichocki, seconded by Grendel, to adjourn the Regular Council Meeting. Council polled: 7 yes/0 no; motion carried.

There being no further business to discuss, the Regular Council Meeting was adjourned at 9:57 p.m.