

**SUMMARY OF CAUCUS DISCUSSION AND MINUTES OF THE STRONGSVILLE CITY COUNCIL
REGULAR MEETING HELD ON, TUESDAY SEPTEMBER 3, 2019.**

The Council of the City of Strongsville met in the Caucus Room at the Mike Kalinich Sr. City Council Chamber, 18688 Royalton Road, on **Tuesday, September 3, 2019 at 6:50 p.m.**

Present: Council Members: Matthew A. Schonhut, Annmarie P. Roff, Matthew P. Patten, Joseph C. DeMio, Kelly A. Kosek, Gordon C. Short and James E. Carbone. **Also Present:** Clerk of Council Aimee Pientka. **Administration:** Mayor Thomas P. Perciak, Law Director Neal M. Jamison, Finance Director Joseph Dubovec, Communications and Technology Director David E. Sems, Service Director Joe Walker, Recreation and Senior Services Director Bryan Bogre, Assistant Building Commissioner Mike Miller, City Engineer Ken Mikula, Public Safety Director Charles Goss, Fire Chief Jack Draves and Police Chief Mark Fender.

Absent: Councilman Human Resource Director Steve Kilo.

Council President DeMio called the caucus to order at 6:53 p.m.

Mayor Perciak arrived at 6:57 p.m.

Economic Development Brent Painter arrived at 7:30 p.m.

The following Council Committees met to review legislation on the agenda:

Planning, Zoning & Engineering Committee: Chairman Schonhut advised Ordinance No. 2019-131 is to enter into a modification to the professional construction management services contract between the City of Strongsville and DLZ Ohio, Inc., in connection with the TLCI implementation project at Pearl Road and Royalton Road. Mr. Schonhut advised this is necessary in order to receive our federal grant dollars for the project. Suspension and adoption was recommended for that legislation. Suspension and adoption was recommended for Ordinance No. 2019-132; an ordinance to approve a change order for an increase in the contract price with Nerone & Sons, Inc., in connection with The Greens of Strongsville emergency culvert repair project. The increase is in the amount of \$3,023.73. Mr. Schonhut advised a driveway apron needed to be replaced. This is without public bidding so all seven votes of council are needed for this legislation to pass. Ordinance No. 2019-133 is to vacate storm sewer easements and to accept a new grant of easement for storm sewer system purposes from Altenheim Properties, Inc. Mr. Schonhut advised this is just to clean up some of the property from all the construction work that was done. The recommendation was to suspend and adopt this legislation. Suspension and adoption was recommended for Resolution No. 2019-134; a resolution authorizing the mayor to advertise for bids for the West 130th and Sprague Road pump station project. Resolution No. 2019-135 is to confirm Planning Commission approval of the final site plan for construction of a rehabilitation and skilled nursing facility at 18936 Pearl Road. Mr. Schonhut advised it was conditioned at Planning on final approval from our engineering department on the storm water drainage program. Mr. Schonhut asked Mr. Mikula if that has been taken care of, Mr. Mikula advised the agreement between the two property owners is still pending; but there is no reason to not proceed from an engineering point of view. Mr. Jamison concurred; he advised he spoke to the attorney for the property owner that abuts 18936 Pearl Road. The attorney advised they have received an agreement from the property owners. Mr. Jamison advised this was between his client and the owners of the other property. Mr. Jamison also spoke to the engineering department and feels everything is okay on the city's end. Mr. Schonhut advised he questioned Lori Daley at the Planning Commission meeting to make sure that whatever drainage from the property at 18936 Pearl Road would be better than it currently is. Ms. Daley advised it would.

The current owner and developer are trying to work with the neighbor to the north; going above and beyond what our city's code requires, to help him with some water issues on his property. Mr. Short advised the residents of Fieldstone are very much in favor of this project.

Public Service & Conservation Committee: Chairwoman Roff recommended suspension and adoption for Ordinance No. 2019-121. This is to authorize the mayor to enter into a contract for emergency repairs at the Westwood Drive pump station. This will be amended this evening to reflect a new contract price of \$236,970.00, approximately a \$4,000.00 increase. Mr. Walker advised when they started looking into this, it was determined they needed two more check valves. Suspension and adoption was recommended for Ordinance No. 2019-136; an ordinance to apply for financial assistance with the Cuyahoga County Planning Commission under the healthy urban tree canopy grant program. This program is to expand the percentage of urban tree canopy throughout the county. Ordinance No. 2019-137 is to amend the agreement with Veolia Water Contract Service USA, LLC for the operation, maintenance and management of the city's wastewater treatment facilities. There is an increase in the fixed rate due to the addition of another pump station, additional requirements mandated by the EPA for testing they have to do; as well requirements on those plants for storm water reporting. Ms. Roff asked Mr. Walker about the yearly 1.5% minimum increase. Mr. Walker advised this is based on the COLA. Mr. Jamison advised the increase can go between 1.5%-3.5%. Suspension and adoption was recommended for Resolution No. 2019-138; a resolution granting permission to repurchase a certificate for burial rights in the Strongsville Municipal Cemetery.

Finance Committee: Chairman Carbone recommended suspension and adoption for Ordinance No. 2019-139; an appropriations ordinance for the annual expenses and other expenditures for the city. Suspension and adoption was recommended for Ordinance No. 2019-140. This is for the issuance and sale of not to exceed \$2,000,000.00 of notes, in anticipation of the issuance of bonds for the purpose of paying costs of improving the city's traffic control system, in cooperation with ODOT by acquiring and installing signals and related equipment and devices to direct and control the flow of vehicular and pedestrian traffic in the city. Mayor Perciak advised this is for just the initial payment. When the contract is completed, the city will determine if we will continue to note it, bond it, etc. Suspension and adoption was recommended for Resolution No. 2019-141; accepting the amounts and rates as determined by the budget commission and authorizing the necessary tax levies and certifying them to the County Fiscal Officer. Suspension and adoption was recommended for Resolution No. 2019-142. This is to certify to the County Fiscal Officer unpaid property maintenance nuisance abatements for levy and collection. Mr. Carbone advised there will be a committee meeting on Tuesday, September 10th at 5:00 p.m. in the mayor's conference room to discuss the proposed 2020 city budget.

Public Safety & Health Committee: Chairman Short recommended suspension and adoption for Ordinance No. 2019-143. This is to accept a grant from Cuyahoga County in reimbursement for last year's training exercise at the mall for active shooters and hazardous materials. The grant is for \$11,572.87. Suspension and adoption was recommended for Ordinance No. 2019-144. This is to apply for financial assistance with the Ohio Attorney General's Office in connection with their law enforcement diversion program relating to the opioid epidemic. This is in the amount of \$50,000.00. Chief Fender advised this is to train all police department personnel pertaining to this. Suspension and adoption was recommended for Ordinance No. 2019-145; to amend Section 250.10 of the codified ordinances regarding fees for use of department facilities by other police departments.

Building & Utilities Committee: Chairman Patten recommended suspension and adoption for Ordinance No. 2019-146. This is to accept financial assistance under the "NOPEC Energized Community Grant" program to implement energy efficiency/energy infrastructure projects. This is in the amount of \$161,764.00.

Recreation & Community Services Committee: Chairwoman Roff recommended suspension and adoption for Ordinance No. 2019-147. This is to receive funding from NOACA through the enhanced mobility for seniors and individuals with disabilities program for the purchase of a vehicle to provide transportation for the senior wheels program.

Committee of the Whole: Mr. DeMio recommended suspension and adoption for Ordinance No. 2019-148; an ordinance approving and adopting mid-year replacement pages to the city's codified ordinances. Suspension and adoption was also recommended for Resolution No. 2019-149; a resolution in support of prostate cancer awareness during the month of September.

Motion made by Mr. Carbone, second by Mr. Schonhut, to approve the Committee of the Whole meeting minutes of July 22, 2019. All members presented voted aye and the motion carried.

Mr. DeMio wanted to go over the process of tonight's public hearing involving council's review of the findings and determinations of the Board of Zoning Appeals granting certain variances concerning the property owned by Development Management Group, LLC, located at 9175 Pearl Road. Mr. Jamison advised he will swear in anyone in the audience who wishes to speak on this subject. The applicant and the owner will have the first opportunity to speak and address council. Anyone else in the audience can then come forward to speak. Finally, the owner or applicant will again have an opportunity to speak to either rebut or give any other additional testimony they believe is relevant. Council will then have the opportunity to ask questions and have discussion amongst themselves. Lastly, a motion will be made either to affirm the BZA's decision or to amend the BZA's decision, subject to any condition the council may want to impose. Ms. Kosek asked if the motion is done all together or is each variance done separately. Mr. Jamison advised the motion is done as one motion. Mr. Schonhut asked why. Mr. Jamison advised he felt it was just cleaner and easier to do that way. For example, if council only wanted to grant 3 of the 4 variances, the motion could be to allow the 3, but reject the 4th variance. The decision is being reviewed in total, not individually. Mr. Schonhut disagreed with that. Ms. Kosek felt it would be easier and less confusing for council to make decisions if the variances were done individually. Mr. Jamison advised council is reviewing tonight the BZA's decision; council is not reviewing 4 separate decisions because the BZA made one decision. Mr. DeMio clarified the council's focus tonight is just on the variances, not the aesthetics or if a certain business should be placed there. Mr. Jamison advised the council can have an open discussion/dialogue amongst themselves after everyone has spoken as to their thoughts and what the conditions they make like. Mr. Jamison also advised that council has to make their decision tonight or the BZA decision stands. Mr. DeMio asked if he could table, at any time, this portion to the end of the meeting. Mr. Jamison advised he could by way of a motion. Ms. Kosek asked if the BZA voted on the variances as a whole or separately. After reviewing the minutes, Mr. Jamison advised they voted on them all together, as one. Ms. Roff asked if the applicant or developer are not happy with council's decision, could they go back to the BZA and ask for a change. Mr. Jamison advised they could take the matter down to Common Pleas Court to hear. Mr. Jamison again reiterated that this is an administrative appeal tonight, not a legislative action; therefore, council is acting in an administrative capacity. Ms. Roff asked if council could go into executive session to get legal counsel. Mr. Jamison advised this has to be done in an open meeting.

Mr. Walker advised some streets may have had a delay in garbage pick-up due to the holiday. Mr. Walker also advised the water tower project has started. Mr. DeMio is requesting Mr. Walker and Mr. Jamison look into amending the code section pertaining to garbage removal. He would like to see a timeframe when residents have to bring their garbage cans back from their tree lawn. Mr. Schonhut obtained a tentative construction schedule for the Royalton Road/Pearl Road project.

MINUTES OF THE STRONGSVILLE CITY COUNCIL REGULAR MEETING HELD ON TUESDAY, SEPTEMBER 3, 2019 IN THE MIKE KALINICH SR. CITY COUNCIL CHAMBERS.

CALL TO ORDER:

Council President DeMio called the meeting to order at 8:00 p.m. All joined in the Pledge of Allegiance to the Flag.

CERTIFICATION OF POSTING:

The Clerk of Council certified that the meeting had been posted in accordance with Ordinance No. 2004-273.

ROLL CALL:

Present: Council Members: Matthew A. Schonhut, Annmarie P. Roff, Matthew P. Patten, Joseph C. DeMio, Kelly A. Kosek, Gordon C. Short and James E. Carbone. **Also Present:** Clerk of Council Aimee Pientka. **Administration:** Mayor Thomas P. Perciak, Law Director Neal M. Jamison, Finance Director Joseph Dubovec, Communications and Technology Director David E. Sems, Service Director Joe Walker, Recreation and Senior Services Director Bryan Bogre, Assistant Building Commissioner Mike Miller, City Engineer Ken Mikula, Public Safety Director Charles Goss, Fire Chief Jack Draves and Police Chief Mark Fender.

Absent: Councilman Human Resource Director Steve Kilo.

COMMENTS ON MINUTES:

The Minutes of the Regular Council Meeting held on July 15, 2019, the Special Meeting held on July 22, 2019 and the Special Meeting held on August 6, 2019 were approved as submitted.

APPOINTMENTS, CONFIRMATIONS, AWARDS AND RECOGNITIONS:

(None)

A moment of silence was observed for the recent mass shooting victims.

PUBLIC HEARING:

Council review of the findings and determinations of the Board of Zoning Appeals granting certain variances concerning the property owned by Development Management Group, LLC, located at 9175 Pearl Road, PPN 395-16-004.

Mr. DeMio – I will turn this over to our law director. He is going to give us, for the record, the exact duties we have here tonight. Remember folks, if you don't swear to God when he swears you in, you can affirm or simply say I do.

Mr. Jamison – Thanks Mr. Chairman, tonight we are here because council exercised their right under Article IV, Section 6c to review the decision of the Board of Zoning Appeals back in July of this year. We are here tonight to hear the appeal de novo, which means it's fresh. It is a hearing to take evidence and testimony and for council to, if they so desire, to reach a decision tonight of that decision made by the Board of Zoning Appeals. I would like now is for anyone from the audience whose going to come up and speak to stand up and raise your right hand so we can swear you in en masse.

PUBLIC HEARING (cont'd):

At this time, Mr. Jamison swore in those wishing to speak in regards to this matter.

Mr. Jamison – Now Mr. Chairman would be the opportunity for the applicant and the owner, either individually or together, to come up and present what they want council to hear. You certainly have the right during this process to ask questions as we go through this process.

Mr. DeMio – If you could spell your first and last name and that's all we need before we get started.

Ken Knuckles, 4209 Gallatin Pike, Nashville, TN: My name is Ken Knuckles with Development Management Group of Nashville. I think for the record, you guys know, my company has been the owner. We're actually representing the property owner of Krukemeyers as well as Browning Properties, who are my client, the proposed developer for the property.

Mr. DeMio – For the record, just give an address please.

Mr. Knuckles – Sure, mine is 4209 Gallatin Pike in Nashville, TN.

Mr. DeMio – Thank you.

Mr. Knuckles – Thank you, as we were a little surprised that this got pulled, considering how well the process went, getting up through the Board of Zoning Appeals meeting, which you guys are very well aware, was held on the 10th. I think within a couple days after the 20 day appeal process started, we were notified that council had pulled this for review. I guess we're just kind of learning for the first time tonight maybe what some of the reasoning was behind that despite our best efforts to try and get our hands around that earlier. There were four variances that were approved. I don't know how much you need me to rehash this. I'm happy to go back through it completely. In general, or in summary, the four variances had to do with one being the parcel size in which the zoning requirement dictates that it needs to be a two acre minimum. Our parcel is .93 acres in size. The others had to do with a 4 ½ foot... a little over 4 foot building encroachment into the building setback line from the center line of Pearl Road. Then there were parking parallels of Pearl Road and Whitney Road encroach into the 30 foot and the 20 foot parking setbacks (unintelligabel) through there. Additionally, there is a 20 foot buffer requirement that we had to hold along the east side of our property that is adjacent to the residential apartments through there. As I expressed to the BZA, this is for all intents and purposes a 1 acre parcel, which we do fast food restaurants all day long, everywhere, on 1 acre. What we're asking for here, in the way of variances what we have requested from BZA was certainly not, in our opinion excessive in the respect that we knew that there had been other variances that had been granted...a lot of precedence, I guess, for McDonalds and Sheetz, particularly Raising Canes and others that have tried to redevelop some of the older parcels and properties in town. I think the city, at the time...not just the BZA but leading up to the BZA, certainly saw the merit in redeveloping this property...I think, saw Arby's as certainly a good fit for the corner; and it saw this as an opportunity to get yet another corner of this visible intersection redeveloped, raise the tax base and some jobs and that sort of thing.

What this Arby's is, is a 2,600 square foot building with 30 parking places. That's about as basic as a fast food restaurant gets. The 30 parking spaces is a minimum requirement based on the number of seats. The city requires us to have one space for every two seats. This is a 60 seat restaurant so we are at the minimum. We are not asking for excessive parking or excessive development outside of what the minimum requirements are here. We tried to keep things as minimized as we possible could despite the encroachments that we're talking about into the buffer yards. The plan still presents a 35% green area on this property.

PUBLIC HEARING (cont'd):

Mr. Knuckles (cont'd) - That exceeds what McDonalds is providing, what Sheetz is providing, the car wash, Raising Cane's or any of the other ones that I've had the opportunity to look at which are somewhere between 20%-25%. Despite our parcel being .93 acres and propose we put a fast food restaurant on it; we're still well in excess of what the city would look for us to provide with regards to landscaping and buffering a green area.

These all seem like reasonable requests. I think going through the BZA and the discussion we had there as well, the subsequent or previous discussions we had with staff and, of course, we've gone through Planning Commission prior...the staff and other that we talked to at the city seemed to think that these were reasonable requests and they were eager to do what they could to help get this property redeveloped. I probably went a long way around the barn, as we say in Nashville, to get to my point; but like I said, I can discuss any or all of these variances in more detail. If you have questions for me, I'll be happy to do that.

Mr. DeMio – Do you have anyone else that wants to come up?

Mr. Knuckles – Yes.

Mr. DeMio – As your side, if you will.

Mr. Knuckles – Yes, from my side, I have Krukemeyer's here who are the property owners; and then any specific, operational type questions you may have, I've also got Paul Quinn whose the director of development, director of construction. Any questions related to the property owners or Arby's themselves, we can answer just about any of those questions.

Mr. Jamison – So Mr. Chairman, I didn't know if you want to let everybody go and then call them back to have questions. That's up to you.

Mr. DeMio – Did he want to say anything? Whatever you decide.

Tom & Sherri Krukemeyer, 9175 Pearl Road, Strongsville, OH: Good evening Mr. Mayor and council. I'm Tom Krukemeyer and this is Sherri Krukemeyer. We own the property at 9175 Pearl Road. First of all, I want to thank the City of Strongsville for 28 great years up there at the corner. We were one of four restaurants when we first opened in 1988. Here we are today and we're trying to move on with life and sell our property. We thought things were going along pretty well and I guess there was a hiccup. We're, I think I can speak for both of us, we're reasonable people, we're flexible people, I'm just confused to why the BZA looked at this, which I think is what their job was-is to look at it, and I understand that the council has the right to question it. I think tonight that's why we're here and we're just kind of looking for answers. I think Sherri has a couple things she wants to say too.

Mrs. Krukemeyer – Well, I guess I'm just a little frustrated because we've been playing by all the rules. This corner has been a point of contention for many. I know there have been a lot of complaints about the corner. The city did not condemn the property, but yet we took it upon ourselves to take the building down. There were homeless people living in it. We went ahead and we spent the money; money mind you I do not have, to take the building down. We did that in good faith to the city. We're trying to work...we bought this property as an investment property. This is supposed to be our retirement. By this whole process going the way it's gone so far, and the delay...this could cost me my buyer. This could cost me my buyer. That's not acceptable. It's not okay. I mean to some people it's just like, "You know, I don't like this or that...", but you have to look at the trickle down effect, the big picture. It's not okay. If you don't grant these variances, you're basically giving me an unsellable piece of property. That's really not okay.

PUBLIC HEARING (cont'd):

Mrs. Krukemeyer (con't) - It's imperative that these variances get passed because there is so much precedent I don't know how you could not. I mean, there's just so much precedent. How do you say, "I'm going to let Cane's, but you guys, not so much." How do you do that? I don't think that you have the right to pick and choose that way. I think it has to be fair and I think that we have done everything in our power to play and to play nice. This is really serious for us and I mean, we have a right to be able to sell our property and move on with our lives. We have a right to that; so please don't deny us that.

Mr. Krukemeyer – Thank you.

Paul Quinn, 3 Glenlake Parkway, Atlanta, GA, 30328: My name is Paul Quinn. I represent Inspire Brands. Inspire Brands is...

Mr. DeMio - I know it's pretty understandable, but for the record, just spell your last name and give your address.

Mr. Quinn – Okay, it's P-A-U-L, Q-U-I-N-N. My corporate address is 3 Glenlake, Atlanta, GA, 30328. I'm here tonight to represent Inspire Brands. I'm the corporate vice-president of construction for Inspire Brands which is a restaurant conglomerate of which Arby's restaurant group is one of our restaurant brands. I've been doing restaurant development for 33 years; so I consider myself very familiar with not only the Arby's brands but other brands that are out there from a standpoint of traffic flow onsite and parking lot layout. I also...recently, my wife and I moved to Fort Meyers, Florida from Strongsville, OH where we were residents for 17 years here; so I consider myself a subject matter expert on Strongsville as well...the traffic patterns and everything else and where the people come and go. I don't normally appear at meetings like this, but I've been living in this town up until a year ago for 17 years and this Arby's restaurant is something that we've wanted to do...another development of Arbys in Strongsville for some time and just could never find the right location. This seems to be the location and I wanted to personally be here to make sure that we address whatever concerns the city may have relative to this development, thank you.

Mr. DeMio – Is there anyone else that's the applicant? Does council want to hear from the other side first or do you want to have questions right now of the applicant? Matt, why don't we lead with you because you were the gentlemen of Planning who started the process in requesting the variance. Go right ahead. Who would you like to come up?

Mr. Schonhut – I guess whoever wants to answer the questions; whoever is most comfortable.

Mr. Jamison – I would suggest they all 4 come up just in case...or one can be the spokesperson.

Mr. DeMio – You can take a seat in the first row if you wish and then if...

Mr. Schonhut – So, I think a lot of at least my concern...everybody else can speak for themselves, is...and some of the other project that you brought up are not necessarily at an intersection with the angle you guys have, that you have on your property here. It's kind of a tough potential safety hazard for our community as far as potentially causing traffic and pedestrian issues moving forward. With that, was there ever any traffic study or sight line studies done in regards to this project at all?

Mr. Knuckles – We have not done one. We have not been asked by the city or anyone else to do one. What I can say is that this has been a restaurant. It's been developed as a restaurant for a number of years.

PUBLIC HEARING (cont'd):

Mr. Schonhut – Would you agree that a drive-thru restaurant though draws more traffic traditionally than a sit down restaurant?

Mr. Knuckles – It can, sure.

Mr. Schonhut – How many cars do you think you'll have through there?

Mr. Knuckles – Do you have an idea on that Paul? I'm not sure...I wouldn't want to hazard a guess honestly. To me, if the point of discussion is in the direction of what would be more suitable for the property...it would be less intensive...I don't know that you're going to be able to find anything that's suitable that could fully meet all of the zoning requirements for that property that would produce a less intensive...

Mr. Schonhut – So, that would probably be a good question for the current owners. Have you ever explored any other zoning or possibilities of any other purchasers, other than what the current zoning of the property is, to differently fit the project?

Mr. Quinn – Excuse me, isn't this supposed to be about the variances that were requested? The 4 variances? Aren't we supposed to be having a discussion on the 4 variances, not on what the zoning is?

Mr. Schonhut – They're applicable via safety and study.

Mr. DeMio – Our law director is here and if there is an improper question, I am sure Mr. Jamison will direct us that we should not ask that question...so go head.

Mr. Jamison – I think it's reasonable at this time...if you know. If you don't or...we'll keep moving forward.

Mr. Knuckles – In response to that, the zoning of the property, the proposed use of the property has never been an issue here. To interject that at this point in time, in consideration of why we are here tonight, is to revisit or re-discuss the variances. I'm not sure that's appropriate either.

Mr. Schonhut – The property owner specifically stated that they would have problems selling this property. So I was requesting that if different zoning code...if they would not fit within the variances requested.

Mr. Knuckles – Okay, but again, my point is going to be the property is zoned for restaurant use. The size of the building that we're proposing here is 2,600 feet. We do a lot of fast food work. You're not going to find a restaurant that's really much less than in size than what Arby's is proposing here. So, if you're not doing a restaurant, you're all of a sudden looking for something less intensive or smaller-for instance, some sort of a retail type development or tenant. I can't speak on behalf on what they have...or discussions they may have had or internally about rezoning the property or other parties that may have been interested; but again, I'll have to go back to the point that this is about the variances. It has nothing to do with whether or not other properties are being considered or if other tenants have been considered here. I'm not sure how that is pertinent.

Mr. Schonhut – I think it's applicable, but we can disagree.

PUBLIC HEARING (cont'd):

Ms. Roff – In other properties that you have developed, do any of them sit in that kind of a high traffic area? If they do, do they have any restrictions on whether you can turn left or right out of there or how far it has to be away from a traffic light?

Mr. Knuckles – I can personally say that I've never developed anything else in the City of Strongsville; so I can't speak to that.

Ms. Roff – I'm just saying in general though, you had referred to that you've developed many properties on less acreage; so, were any of them in an area that has that much traffic?

Mr. Knuckles – Sure, all of them. These tenants like Arby's and other restaurant uses or even retail uses. They want to be (unintelligible)

Ms. Roff – Are there any restrictions for those properties?

Mr. Knuckles – You're asking me a specific question about a general response; and I don't know if I could give you one.

Ms. Roff – At any time, did you guys look at that as a possibility as far as turns coming in and out of there.

Mr. Knuckles – Certainly, as I've said, we've had discussions preliminarily with the city and staff. We've had a meeting with the Planning Commission where is issued the formal denial so we could get to the BZA. We've had discussions with the BZA. In each instance, the point about access to Pearl Road was a point of discussion. I'll give you the answer that I gave them at each of those opportunities is that we are continuing to work with the city at staff level through engineering. We understand their concerns and it's in everyone's best interest, including ours and Arby's, to find a way to make the access here more appealing to the city and something that they can live with; but that is something that when we come through the city at the appropriate time, which is going to be Planning Commission and staff review of that level of information, that's when I think we can talk in more detail about that.

Mr. Schonhut – Mr. Knuckles, I think you may...that may come up here tonight in the condition that the zoning variances that we are looking at are closer to the street; which may or may not end, quite frankly on a much smaller parcel than what our Code calls for, may create a very high safety issue at a highly traveled intersection.

Mr. Knuckles – Okay, and McDonalds is on the opposite corner, Sheetz in on the opposite from that.

Mr. Schonhut – Correct, as a right turn in at both entrances only...right in, right out.

Mr. Knuckles – I believe McDonalds can make full turns on Pearl Road.

Mr. Schonhut – They're not nearly as close to the intersection.

Ms. Roff – Yes, they are not right at the corner. You guys have referred to Cane's. Cane's is a right turn only out of their Pearl Road exit. Taco Bell, right turn only out of their Pearl Road exit. A lot of those areas, a lot of the areas in that...I'm sorry, a lot of the fast food restaurants in high traffic areas have a right turn only out of...

PUBLIC HEARING (cont'd):

Mr. Quinn – Okay, let me try to address this. Certainly those sites that when we go before cities to plan the sites, like Ken did here, you know-the site access isn't important not only to the end user but also to the community. Easy on, easy off, in a safe manner; something that is not injurious to the public safety, health and welfare of the members of the community. Yes, we would be concerned with that if that was an issue on a site. In this particular instance, I thought tonight we were talking about the 4 variances; and I think that we still need to go to the Planning Commission, is that correct? At the Planning Commission; that's usually where that is brought up and if they want a traffic study, that is done; and that is something that we are more than willing to have open ears on, listen to what the city's concerns may be relative to the traffic flow in and out, and we certainly would be willing to listen to the city and work with them as Ken said on this particular parcel.

Mr. Schonhut – And again, that is something that we have the ability to modify here tonight. We can affirm, amend, or deny the variances given and put conditions on them should we amend them or affirm them. With a condition on them, we can put that...BZA could have done it to. Council has the ability to do that here as well. It doesn't necessarily need to get to the Planning point to do that. Neal, confirm or correct me if I'm wrong.

Mr. Jamison – Yes, as it relates to the issues, you can't get into...

Mr. Schonhut - Not aesthetics, but safety concerns.

Mr. Jamison – Aesthetics or things like that, correct.

Mr. Schonhut – Health, safety, and welfare of the community.

Mr. Jamison – Council does have the ability tonight in amending the decision of the BZA to potentially, if they so choose, put one or a number of conditions on if they so desire.

Mr. Quinn – Absolutely, I understand that; but I would also ask that this council yield to the professional people and the other administrative people within your city that are set up to do that; to let them make those recommendations as opposed to this council determining something as safe or not safe. We will work with the Planning Commission. We will work with the city engineer. Tonight, we're here about the 4 variances. This is the first time that I can ever remember going to a city meeting where we walked in completely blind as to what the issues are. Nobody was able to tell us what the concerns of this committee were or what the...

Mr. Schonhut – We weren't able to do that because that would have meant that all of us were violating an Open Meetings Act or the Sunshine Law.

Mr. Quinn – Right, it's the way your Charter is written here and I understand that.

Mr. Schonhut- The State of Ohio law (*states*) that we could not discuss this outside of this public meeting here. There's no way that any of us could have collectively or singularly spoke collectively for all of us to anybody about this issue.

Mr. Quinn – Okay, but you have a client coming in here, a potential user, not knowing what your issues are. We would have loved to have worked with the city, in a work council session, to have worked this out long before now and sit down and be able do that so this would be a matter of just approving what was done at a work session. I understand...

Mr. Schonhut – (Unintelligible)

PUBLIC HEARING (cont'd):

Mr. Quinn – Wait a second, let me finish...

Mr. DeMio – No, no, no, do not finish, as a matter of fact, listen for a second. He is trying to explain to you the problems we have. We had a summer recess where everyone of us, including administrators, were not available. We can't magically make everybody show up. I understand your concern and I get it; but we couldn't just magically show up and then he would have to make sure there's notice, she'd have to provide notice to the public that we were having the meeting. Please don't think that we were trying to hide anything. What Mr. Schonhut said is exactly on point of what our law director instructed us to do. We didn't do anything that our law director...what our law director told us, we followed the law exactly what he told us. Whether we agree with him or not by the way. You were in back, correct?

Mr. Quinn – Yes.

Mr. DeMio – You heard our concerns.

Mr. Quinn – Yes.

Mr. DeMio – So you get it.

Mr. Quinn – I'm not saying anybody did anything wrong. I'm just questioning the procedure and evidently, that's how the city is set up. We always want to work with the city. We always want to work out any issues anybody has; but if we don't know what they are, then we can't work them out. I guess we're going to find out what those are tonight.

Mr. DeMio - ...ways from Sunday to try to get all of us together. Honest to God, you can ask him and ask her.

Mr. Jamison – If I could interject Mr. Chairman, real quick, the law provides that this is an administrative appeal; so they're sitting up here like judge and jury. It's not like we can hold meetings ahead of time to flush out these issues. They're really here tonight to review the decision that was previously made at an administrative level. It's like if you go to court, you don't get to meet with the judge ahead of time to have a mini hearing.

Mr. Quinn – But at least you know what you're going to court for.

Mr. Jamison – But, in this case, you're here because they're reviewing the variances that were granted. That's what the purpose is tonight, is to review what was granted; and that's why we're having this dialogue now with you guys to discuss those. It sounds like they're addressing certain safety concerns so far; and we'll keep going forward. Just to clarify, there's also a tight window that this has to be done. It's really for your benefit so that you get some answer in terms of what is going to happen with this. They really, in fairness to council, didn't have the ability or right to meet with you ahead of time because number one, they have to meet totally; and number two, this is an administrative appeal. It's not like they can hold a pre-appeal hearing or meeting with you. This is really the time to flush as this out; and they're going to have to make a decision tonight going forward. I know it sounds frustrating to you, but that's the way this administrative process works.

Mr. DeMio – And by the way, it is very frustrating to us as well.

Mr. Quinn – Okay, so we'll be happy to see what we can work out here tonight.

PUBLIC HEARING (cont'd):

Mr. DeMio – Mr. Schonhut, why don't you continue your thought. Go right ahead.

Mr. Schonhut – I was pretty much...we'll go back around and hear what everybody...

Ms. Roff – The only thing I would ask then is if the questions were already or the concerns were already brought up by the BZA as far as the traffic area and possible left and right turns in and out. What conversation did you have?

Mr. Knuckles – The conversation was, as I said a few minutes ago, that we were working with staff; we were continuing to work with staff. We were aware of the fact there were concerns; and we were willing to work with engineering to find a solution that was beneficial to the city as well as to Arby's. They were advised at the time by whoever legal counsel was at that meeting that was not something they could factor into their decision with regard to the variances. They basically acknowledged the fact that staff will take care of this and engineering will take care of that and (unintelligible) at some point down the road. They acknowledged it; we discussed it and they'd rather let go of that for the purpose to making their vote.

Ms. Roff – Thank you.

Mr. DeMio – Mr. Patten, do you have anything?

Mr. Patten – I would just echo...so I guess we've made it to the point where we understand in order to move forward tonight. I guess the question would be what would you guys be willing to work with us on, or how flexible? You mentioned in the beginning you guys are flexible and want to work with us. They both had addressed the safety issues on Pearl Road or Whitney Road. Would you be open to considering changing that plan?

Mr. Knuckles – Would I be willing to put specific restrictions here tonight that you guys deem are necessary in your opinion without having traffic engineering or the city engineer sign off on those? Is that what you're asking?

Mr. Patten – I'm asking are you open to the suggestions.

Mr. Knuckles – Certainly, certainly, but anything that is specific that hasn't had been in review or discussion with city engineering...I mean, we know there is a traffic concern. We know there is an access concern. We acknowledge that and we've worked with staff and the city and we're going to continue to do that.

Mr. Patten – So I guess Neal, my question would be in terms of what those contingencies would look like if we're looking at modifications?

Mr. Jamison – So, what I've heard so far tonight is that the concern of pulling left onto Pearl Road. Potentially, you could make that a condition of granting the variances tonight. In amending the decision of BZA, you could sit there and say, "Grant the 4 variances subject to the condition that there be no left turn onto Pearl Road as an example. That would be a condition that would follow this as it goes through the process with Planning and everything else.

Mr. Knuckles – Just to clarify, so is it the city's remaining concern here have to do with left turns into the site from Pearl Road? That's the last I heard so that was...

Mr. Jamison – I think it's coming out.

PUBLIC HEARING (cont'd):

Mr. Knuckles – Is that your biggest concern?

Mr. Jamison – Exiting.

Ms. Roff – I would be concerned with both, in and out; especially because there is not a turn lane when you get up close that are left and...

Mr. Knuckles – We acknowledge that, particularly, a left turn in was going to be a bigger concern and we're already looking at options to try and minimize or eliminate the ability to do that.

Ms. Roff – My concern would be a left in and out.

Mr. DeMio – I just want to clarify something, because I only heard Pearl Road, am I hearing something about Whitney Road as well?

Ms. Roff – I would be concerned about Whitney Road too because of the makeup of it and there not being a center turn lane there on Whitney providing a safe spot for a car to go in or out of.

Mr. DeMio – So you're talking both?

Ms. Roff – That would be my concern. I would want feedback obviously from...

Mr. Jamison – I could also add, as it's been related earlier, that at the appropriate time, if let's say, you don't make that a condition tonight, for let's say one or both exits. Certainly, this is something Planning can take up in terms of their consideration; and as Mr. Knuckles related, I think that studies can...they can have traffic studies done to evaluate what those exit loads will handle, if any. This is not the final step in the process. We do have a Planning Commission that can address these in more detail in terms of working through it. You can still make that a condition though; I'm not saying you can't. Understand, there will be an opportunity later to have that addressed. Certainly, you can make your opinions known to Planning Commission at the appropriate time as well. You could either submit something or appear there and express your view, good or bad, about this. Certainly, those are conditions that you could impose tonight if you so desire. (Unintelligible) certainly relates to safety.

Mr. Knuckles – Can I...so, a minute ago, you talked about the access to Whitney Road. Were you suggesting that be right in and right out only as well as the driveway to Pearl Road?

Ms. Roff – Correct, depending on where the driveway exit is at.

Mr. Knuckles – So, right in, right out movement only into the site; so no left turns...no ability to turn left into the site from anywhere?.

Ms. Roff – Depending on how far back...the problem is that this does have to do with the variances obviously. The setback where the driveway will be coming in and out on Whitney Road.

Mr. Quinn – Can we address that because it's possible that curb cut on Whitney Road could be moved a little bit further away from the intersection if the 20 foot buffer rear setback was eased. That is a possibility.

Mr. DeMio – Where the wall is.

PUBLIC HEARING (cont'd):

Mr. Quinn – Where the garage wall is, yes. Currently, it's approximately 10 feet of green area, and then the asphalt starts. The existing condition already encroaches into that 20 foot setback and I'm not sure why that's an ordinance I think because it's considered residential area or whatever; but if you look at it, there's a brick wall right there.

Mr. DeMio – Right. Anything else right now?

Mr. Patten – I'm good.

Mr. DeMio – I'll turn to Mr. Short.

Mr. Short – I have no questions for the applicant.

Mr. DeMio – Okay, Ms. Kosek?

Ms. Kosek – According to the ordinance there are 4 things that you have to establish exists; and I haven't really heard those being addressed. One of the things is unnecessary hardship peculiar to the property involved if the literal application of the zoning code is applied. Can you address the unnecessary hardship that would be incurred?

Mr. Knuckles – As far as I'm concerned, if you got what I would consider large parking setbacks off of both of the streets. You have a very large building setback off of Pearl Road. This is a one acre property. If you take that one acre and you, the site plan graphically shows this, if you show where the actual buildable area falls within that one acre once you impose the 30 foot and 20 foot setbacks and the other building setbacks that are (unintelligible) the other property lines, that's kind of your hardship. You're really limited on what can be put on this piece of property; whether it's a restaurant, a retail use, or any other commercial use that's allowed to be here. I think the requirements are...they're pretty stringent, particularly these parking setbacks. The building setbacks aren't really hurting us that much but the parking setbacks certainly are. I think all of those things considered on a one acre parcel creates a small, buildable, developable envelope for the property.

(Conversation in the background)

Ms. Kosek – I'm sorry, I couldn't hear what you said.

Mr. Quinn – Yes, just to follow up with what Ken said, we understand why municipalities have variances and it's a rule and a regulation; but there is also...well why they have their rules for setbacks and everything else, but there is a variance process. I understand your question on the hardship. In this particular case, this is an established lot. It's .96 acres, so it's almost an acre. This is a very large parcel. It's an existing parcel between two roads, a corner lot, and two other properties; so the property can't get any bigger. It has when you take the strict application of the variance process here in Strongsville and you apply it to a corner lot, you have those setbacks that Ken talked about on two sides of the lot. Then you have the 20 foot buffer at the rear because it's up against a residential lot. It very, very quickly...the strict application of those variances, or excuse me, of those requirements, those development requirements on this parcel, limit this parcel down to being very restrictive as to what it's use is to the point where, as Sherri said, almost undevelopable.

Ms. Kosek – What hardship would there be if there was a restriction on the left hand turn? How would that impact...if the variances were granted, but for the left hand turns that we've been discussing, what would the unnecessary hardship be at that point?

PUBLIC HEARING (cont'd):

Mr. Quinn – Easy on, easy off is what is important. If it can't be accomplished safely, then there is no...it doesn't work. I'm not a traffic expert, but what I've heard here tonight is there is some concern about the exits. Ann Roff brought it up and she asked about potentially amending it. If this council wants to make an amendment to the variances that are on here, saying that it's approved contingent upon the applicant working with the Planning Commission and the Planning Commission having their safety people, having their engineers look at the access, we will work with those people to get what the right combination is for the application on this particular parcel. I don't know if a left out is a hardship, I don't know if a right out is a hardship. I can't say because I'm not the expert. I would prefer to yield to the experts which would be city engineering and/or the Planning Commission; and we're more than willing to do that. We don't want customers not going to the Arby's site because it's a high traffic accident area. That's the last thing we want. We wouldn't spend the \$1.6 million dollars on that corner if that was the case. We want it to be a safe in and out as well. What that exactly is...you've brought up a concern here, let's find out what safe access is to that property by having the city engineer and the planning director-and if they a traffic study, as Matt suggested, that can be looked at. You had the Mad Cactus there for years with customers going in and out. You've got a hotel there with customers going in and out. I can assure you that the McDonalds does probably three times the volume that an Arby's restaurant does and they have cars going in and out of that with a full cut over there; and add to that the carwash goes in and out of the curb cut too.

Ms. Kosek – So one of the other standards is where granting the variance will not be materially detrimental to the public welfare. We're talking about public welfare and safety and what you're suggesting is that you'd like to determine whether it's going to impact safety at a later date; but that's one of the things that you have to establish here in order to be granted the variance. It's your burden to establish that.

Mr. Quinn – That was established at the zoning meeting where the variances were granted.

Ms. Kosek – No, this is a de novo review, which means you need to establish it here before us. What happened before frankly doesn't matter. We get to look at it fresh and so I'm asking you now to establish that it would not impact the public welfare to be granted with the left hand turns. That's what I'm asking because you're saying you don't want to make the decision now, you want to punt it down the road to someone else; and what I'm asking you is I think you need to establish here today that from a public welfare perspective, the variance would not be a problem.

Mr. Quinn – There wasn't any variance associated with the curb cuts.

Mr. Jamison – Yes, let me just point out Kelly that they only have to show a hardship for the stuff they are asking a variance from.

Ms. Kosek – Okay.

Mr. Jamison – So turning in and out of the premises was not one of the variances granted. Technically, they don't have to establish a hardship for that. That might be a question you have, but it's not something that they have the burden at this time to show. They just have to show for the 4 variances that were required in terms of setbacks and that why it was a hardship and why it's not detrimental to the health and safety of the City of Strongsville. Left turns was not one of the variances that was sought at that location.

Mr. Schonhut – If I would point that out, that would be what my concern was and I know I addressed it with you was the safety of having the parking setback along Pearl Road, is that going to impact the sightline off of Whitney Road; which I think Kelly's point is a legitimate question of the safety...

PUBLIC HEARING (cont'd):

Mr. Schonhut (cont'd) - ...of the safety of sightlines of the setback to Pearl Road.

Mr. Quinn – Pose that in a question Matt. What was that again?

Mr. Schonhut – Is there a concern to the public safety with the setback of the parking being closer to Pearl Road of impacting sightlines of people on Whitney Road trying to enter Pearl Road with cross traffic?

Mr. Quinn – Not that I know of.

Mr. Schonhut – Okay, do you have any documentation to support that at all...sightlines?

Mr. Quinn – Do you have any documentation to support that it is?

Ms. Kosek – It really is your burden. It's your burden. It's not our burden to prove you wrong. It's your burden to establish the public welfare is not impacted. It's your burden.

Mr. Quinn – I don't believe so here.

Mr. Jamison – The question becomes in terms of whether the variances granted somehow are detrimental to the health and safety. That's the question and if you can answer it.

Mr. Quinn – I don't know if it is or not; but the real question is can you move the setback? Can you move the parking back a little bit more off of Pearl Road and shift the whole project back into the 20 foot area? We would not be opposed to that. I don't know if the Planning and Zoning Commission would be opposed to that and/or if we would need to get a variance now on the back. We're not opposed to that; and if that addresses the safety and welfare concerns that you have from visibility on Pearl Road and Whitney Road, then that seems like a solution.

Mr. DeMio - ...20 feet...if it was cut in half let's say, 10 feet.

Mr. Quinn – That would give you 10 more feet of green on Pearl Road.

Mr. Schonhut – I'm less concerned about the green and more concerned about...

Mr. Quinn – Right, right, green is visible.

Mr. DeMio – I understand.

Mr. Quinn – And there is a visibility corridor there on the corner that we're restricted from putting anything in; there's a triangle there.

Mr. Knuckles – We actually are in favor of; we think it looks really cool with that intersection but the decorative fencing, the brick pilasters and fencing and stuff that you guys were having done on the intersections, which we're planning to, I mean wouldn't that kind of lend itself to any concerns of visibility through there too at the intersection? I'm just asking for the same reason you...

Mr. Schonhut – Again, I don't if the variance was as far up as it was, all of that could be shifted back.

Mr. Knuckles – I agree. We could shift it back.

PUBLIC HEARING (cont'd):

Mr. Schonhut – I think that's what I discussed with you. I don't know what the process is as far as...obviously that creates another variance and I don't know if...

Mr. Jamison – I think Mr. Quinn was pretty succinct in saying it that if council so desired to have them shift this back 10 feet, clearly that could be a condition that you could put on tonight. That would in turn require the applicant to go get a variance on the backline for 10 feet. We can't speak for BZA, what they'll do, but certainly that's something that I think could be done, It's not impossible. If that was the desire of council to go forward tonight, and I think you answered it pretty well, that you're willing to do that at this point.

Mr. Quinn – I believe that if we did move it back 10 feet that would take the building encroachment out which eliminates that variance.

Mr. Jamison – Right.

Mr. Quinn- It would move the curb cut on Whitney Road 10 feet further away from the intersection and it would give 10 more feet of visibility along Pearl Road.

Mr. DeMio – Do we have an understanding of why they gave you 20 feet?

Mr. Schonhut – 20 feet is the code on the back. They have 16.1 feet on the front and also 4.5 feet encroachment on the...

Mr. DeMio – unintelligible

Mr. Knuckles – Well, when I went through BZA, it actually did come up. I actually brought it up as I was trying to explain our logic for our layout of the site plan. The variances we were asking for, we had the choice of either pushing the site toward the residential property 10 feet or whatever it may have been to reduce the impact to the right-of-way encroachments, or the parking setback encroachments, but it was my opinion at the time, and BZA concurred obviously, that they felt like the city was in a better position to give up some green space there rather than to infringe our development 10 feet closer to the residential property.

Mr. DeMio – How tall is the wall?

Mr. Schonhut – 8-10 feet.

Mr. Carbone – It's a garage.

Mr. Knuckles – It's a garage...the backside of the garage there...

Mr. Schonhut – 8-10 feet, somewhere in that range I would guess.

Mr. Knuckles – That's kind of how we ended framing the variances.

Mr. DeMio – There's a buffer there for the apartment with the garage there, right?

Mr. Schonhut – And that may be something that Planning may request with whatever space is left there.

Mr. DeMio – Kelly, are you done?

PUBLIC HEARING (cont'd):

Ms. Kosek – Go ahead Jim.

Mr. Carbone – It is great that there's a proposal on this property. It's great what we've done in the north end and hopefully continue to do; but we do have to keep the safety first and foremost. When I saw this, my issue was the 16.1 feet and the sightline from Whitney Road making a right hand turn...that sightline on Pearl Road. When you have that and then you look at the left hand turn onto Pearl Road, I mean you're crossing...you have to cross over 3 lanes of traffic, one being a left hand turn onto Whitney Road from Pearl Road. The sightline, first and foremost, that's the variance that troubles me the most. Second, even though there was no variance, I get that, but I think it plays into this intersection that we have to look at and I have to feel better about even moving...if moving back 10 feet and then that curb cut on Whitney Road is moved back and it's not stuck in that intersection and we're not crossing traffic and a left hand turn from Whitney Road to Pearl Road would make me feel better. What would really make me feel better about this is in conjunction with the 16.1 feet, if we could push it back 10 feet, is to on the record saying that we're not going to do that left hand turn on Pearl Road. Look it, I love the opportunity here, it has nothing to do with that. I think this is great for the residents on the north end as far as convenience and that's where all this is going, but it's got to be about safety.

Mr. Knuckles – And I understand that and this is clearly a decision that only Arby's could make because they have to operate that store day in, day out, for the next 20-30 years or however long they're going to be there. If they think they can operate at that level then that's their decision to make; but if they can't, they can't.

Mr. Carbone – And from my experience with other restaurants in other communities where there is a lot of traffic, a restaurant that generates a lot of traffic that has to cross traffic like this, they had to on their own eliminate the left hand turn with cones because of the safety issues that's there. I think being a councilperson who truly cares about the community and the health of the community and the safety of the community, I really think we want to work with you, but I think this has to be pulled back and that would solve the issue with the sightline on Pearl Road. It would also solve the issue again on Whitney Road, we're not turning left into the left hand turn lane, but also the left hand turn.

Mr. Quinn – Okay, so let me understand, you're proposing on Pearl Road, no left out or no left in? Which one?

Mr. Carbone – No left out of Arby's.

Mr. Quinn – Onto Pearl Road?

Mr. Carbone – Yes sir.

Mr. Quinn – Okay, and then on Whitney Road, the curb cut gets moved back 10 more feet, that curb cut is a full access curb cut, right?

Mr. Carbone – Yes.

Mr. Quinn – And that would remain a full access curb cut?

Mr. Carbone – Right, but that would take it out of the left hand turn area there.

PUBLIC HEARING (cont'd):

Mr. Quinn – By moving it back, it takes (unintelligible) the left hand turn? Okay, so if I were to say that Arby's would agree to no left hand turn out of the sight closest to the...the curb cut closest to the hotel on Pearl Road, no left hand turn out, and I can say that tonight and we would agree to that, and that would solve some of your concerns?

Mr. Carbone – With pushing the...

Mr. Quinn – Yes, and moving it back 10 feet.

Mr. Carbone – Moving it back, right, for the sightline.

(Unintelligible Conversation)

Ms. Roff – If I could just interject, it should be...I think safety issues on that road right there in that spot, it should be left in and out. There's not a center line, like you have further down on other parts of Pearl Road where you could use it as both a sitting point to go left into establishments. If they were to be allowed to turn left into there, they would be backing up traffic going south on Pearl Road in a lane that is supposed to be flowing because there is not anywhere for them to sit to turn left into. Now, if you have one or two or three cars waiting to make a left hand turn into Arby's, you've got them almost up to the intersection.

Mr. Carbone – And they would have the opportunity at the light to make...

Mr. Schonhut – Are you open to a right in, right out only on Pearl Road?

Mr. Quinn – That would limit all the traffic that passes the stoplight that comes in; so they would have to...

Mr. Schonhut – Make a left onto Whitney Road as opposed to...

Mr. Quinn – They would have to make a left onto Whitney Road. If I could...

Ms. Roff – Where they have an arrow.

Mr. Quinn – If I can get a monument sign at that entrance on Whitney Road, so that they can see it from the intersection knowing that is also an entrance there, then that would be something we would consider.

Ms. Roff – Then you're covering up...

Mr. Jamison – If I could just interject, that is something that Planning would have to decide. I mean, that's not something that we can decide tonight. Let me say this Ann, just to answer, and I think at some point we need to...I think we have a clearer understanding of where we're at with this. No left turn in would be hard to enforce, particularly on Pearl Road.

Mr. Schonhut – You have many other places, including right across the street from there at Sheetz that has that with a raised median.

Mr. Jamison – Okay.

Ms. Roff – Sheetz has it.

PUBLIC HEARING (cont'd):

Mr. Schonhut – Cane's has it, many of the other projects that they referenced have that.

Ms. Roff – The daycare has it, Taco Bell has it.

Mr. DeMio – Dollar Bank.

Ms. Roff – Many have that "V" making it...stating that there is no left turn and making it almost impossible unless you go up on the curb to make that left turn.

Mr. Knuckles – You guys have it all over town. I mean, you put a raised concrete median out there, people are going to drive over top of them if that's where they want to go.

Ms. Roff – They can, but it makes it a little bit more difficult, but it needs to be posted too, in which they can be ticketed for then.

Mr. Krukemeyer – So, this is all new to everybody it sounds like. It's like almost you're wandering into uncharted waters. I just want to caution everybody to being careful.

Mr. DeMio – That's why we have our law director to advise us to be careful or not, of what we can say or not say.

Mr. Krukemeyer – Okay.

Mr. Jamison – Okay, so my suggestion, Mr. Chairman, is to allow anyone who might be objecting to it to come forward and let them be heard at this time; and then you guys will have another chance to give a rebuttal.

Mr. DeMio – Let's once again go over the duties for what the objectors are allowed to talk about.

Mr. Jamison – Yes, so this is again about the variances. This isn't about the nature of the business or if it's going to affect any other business in town. Those are not relevant factors for...

(Unintelligible Conversation)

Mr. Jamison – No, we're not here to regulate business or to decide other businesses in the area. This is really about health and safety.

Mr. DeMio – Just give your names, spell your first and last name.

Vince Cannata, 31 Burwick Road, Highland Heights, OH: Vince Cannata and we've...

Mr. DeMio – Can you spell your first and last name and give your address please, for Aimee.

Mr. Cannata Jr. – C-A-N-N-A-T-A, our address in Strongsville is 15112 Pearl Road and our office is 317 Burwick Road in Highland Heights.

Mr. DeMio – The other gentleman as well please.

Vince Cannata, 310 Chadwick Drive, Aurora, OH: My name is Vince Cannata also, 310 Chadwick Drive, Aurora, OH 44202.

PUBLIC HEARING (cont'd):

Mr. DeMio – Thank you, Aimee thanks you too.

Mr. Cannata Jr. – Just to say one thing, we are not in agreement with this project. It's going to be detrimental to our business; so we can't discuss any more than that. We've been there 26 years as a franchisee of Arby's, and we still are. The point after looking at all your concerns here and having built several restaurants and knowing what the volume of traffic that goes through one of these restaurants, on an average volume you're talking 300-500 cars a day, 75% drive thru. There's a lot of concern here. You've got some issues. That lot is small. We have an extensive investment in the restaurant and the remodel down near Pearl Road. This site was proposed once about 10 years ago. We ran through Paul Quinn.

Mr. Jamison – You know what Mr. Cannata, I would sort of stop you there, because that's not relevant to this.

Mr. Cannata Jr. – Okay.

Mr. Cannata Sr. – Just to follow up, when a new restaurant opens, for example, when Cane's opened, Pearl Road was backed up. At Pearl Road and Whitney Road, I think you're going to see something worse than that as far as the traffic and the safety of the customers making a left hand turn onto Pearl Road. With grand opening numbers, there will be 500-700 people going into that store. Then it will probably settle down to somewhere...I think it might even be around 400-600 cars a day.

Mr. Cannata Jr. – You have to remember the drive thru is critical. Our drive thru percentages have gone up substantially in the last couple of years. That's true of all fast foods.

Mr. Jamison – Okay, thank you.

Mr. Cannata Jr. – That's it?

Mr. DeMio – They were just having a difficult time hearing you recording wise, that's all.

Mr. Cannata Jr. – Does anybody want to ask us any questions?

(No questions)

Mr. Jamison – Thank you, so if there's anything else the applicant wants to rebut, particularly what was just said, quickly...

Mr. Quinn – I just want to say, he referenced me as approving or not approving a site before. This is the very first time that Arby's has looked at this site. This site was never under consideration.

Mr. Jamison – I don't think that's relevant for our discussion tonight. Anything else you guys have at this point? I would just point out to council...are you going to table this now Joe? Is that your game plan?

Mr. DeMio – I know you folks won't like this, but we're going to do all our ordinances and resolutions first and then we have to decide how we're going to handle things from that point tonight because we have to have the decision tonight. With that said, I will table.

PUBLIC HEARING (cont'd):

Motion Made by Mr. Carbone, second by Mr. Schonhut to table the remaining discussion of the public hearing to after the completion of reading the ordinances and resolutions. All members present voted aye and the motion carried.

REPORTS OF COUNCIL COMMITTEES:

SCHOOL BOARD – Ms. Kosek: Yes, I attended the school board meeting on August 15th; which was right before school started on the 19th. At the board meeting, the school board approved the hire of several new employees, including a new high school assistant principal and there was some good news in that Superintendent Ryba reported that the school has experienced an increase in enrollment in the last two weeks before school started they had saw... I think they estimated about 30 new students; which was a lot more than they had in the past and they attributed that to the passage of the levy. Everything sounded like things were moving in the right direction and I think everyone has started and having a good school year. That was the meeting.

Mr. DeMio – Thank you.

SOUTHWEST GENERAL HEALTH SYSTEM – Mr. Short: No report as there was not a meeting during our recess; so, I will have an update, hopefully at the end of September. Thank you.

Mr. DeMio – Okay, thank you so much.

BUILDING AND UTILITIES – Mr. Patten: Thank you, Mr. DeMio. One ordinance for tonight. Ordinance No. 2019-146. This is an ordinance accepting \$161,764.00 from NOPEC. The recommendation is to suspend and adopt. Any questions, otherwise I will close my committee.

Mr. DeMio – Thank you so much.

COMMUNICATIONS AND TECHNOLOGY – Ms. Kosek: There are no ordinances or resolutions on the agenda for Communications and Technology tonight. So, I will move right into Economic Development.

Mr. DeMio – Thank you.

ECONOMIC DEVELOPMENT – Ms. Kosek: We did not have an Economic Development Committee meeting in the August recess; but, there have been two advisory board meetings. We will continue those board meeting. The next Economic Development Committee meeting will be on September 23rd at 7:00 pm in the Council Chambers. Unless there are any questions, I will close both committees.

Mr. DeMio – Okay, thank you so much.

FINANCE – Mr. Carbone: Yes. I have two ordinances and two resolutions this evening; which are all going to be suspend and adopt. We have first, Ordinance No. 2019-139; appropriations for the annual expenses and expenditures of the City for 2019. We have Ordinance No. 2019-140; this is the issuance of \$2 million of notes in anticipation of the issuance of bonds for paying for the improvement of the Traffic Signalization Program. Resolution 2019-141; this is accepting the amounts and rates determined by the Budget Commission of the County Fiscal Officer. Lastly, Resolution 2019-142; this is directing our finance director to certify to the Fiscal Officer of the county for unpaid property maintenance nuisance abatement and levy collection. Again, recommendation for all four is to suspend and adopt and that ends it.

REPORTS OF COUNCIL COMMITTEES (cont'd):

PLANNING, ZONING AND ENGINEERING – Mr. Schonhut: Thank you, Mr. DeMio. Ordinance No 2019-131 is modifying our professional construction and management services agreement with DLZ in relation to the project at S.R. 82 and S.R. 42; so that we can make sure we still receive the federal grant dollars on that project. Ordinance No. 2019-132 is an increase with Nerone and Sons for the work they did at the culvert by S.R. 82 and the Greens of Strongsville. It's an increase of about \$3,000.00. Ordinance No. 2019-133 is vacating storm sewer easements and then accepting new easements over at Altenheim. Just cleaning up some stuff up after all the work that was done over there. Resolution No. 2019-134 is authorizing the mayor to go out for bids for a pump station project at W. 130th and Sprague. Resolution No. 2019-135 is Planning Commission approval of the final site plan for the rehab and skilled nursing facility at 18936 Pearl Road. The recommendation on all those is to suspend and adopt. That is all I have, unless anybody has any questions.

Ms. Kosek – Matt, I don't have question; but, I just want to point out that my law firm represents Nerone and Sons and so I will be abstaining from the ordinance tonight.

Mr. Schonhut – Thank you.

Mr. DeMio – Anything else?

Mr. Schonhut – That's it.

Mr. DeMio – Okay.

PUBLIC SAFETY AND HEALTH – Mr. Short: Thank you Mr. DeMio. Three ordinances tonight. Ordinance 2019-143; this is to approve a filing of an application for funding under the Fiscal Year 2016 Urban Area Security Initiative Grant Program to accept a grant for reimbursement of exercise training expenses incurred by both the city's police and fire departments. The recommendation there is to suspend and adopt. Ordinance No. 2019-144; this is to authorize and approve the filing of an application with the Ohio Attorney General's Office for reimbursements for program fees related to the opioid epidemic. The recommendation there is to suspend and adopt. Finally, Ordinance No. 2019-145; this is to amend the Administrative Code of the Strongsville Ordinances to change the fees for...that the city charges to other police departments who use our facilities. The recommendation there is to suspend and adopt. If there are any questions, if not I will close my committee. Thank you.

Mr. DeMio – All right excellent. Thank you so much.

PUBLIC SERVICE AND CONSERVATION – Ms. Roff: I have Ordinance No. 2019-121; this is a change order for...amended...an amended version, sorry, of an ordinance we already passed because of a change in cost for two items. It turned out to be a little under \$4,000.00. The recommendation for that is to suspend and adopt. I have Ordinance No. 2019-136, I'm sorry, that was for the pump station. Back to Ordinance No. 2019-136; this is an ordinance allowing the mayor to and city to go out for grant money for a tree canopy grant; which is a project provided by Cuyahoga County Planning Commission and it would be in the amount of \$48,000.00. We would then be responsible for 5% of that to match which would be \$2,500.00. The recommendation for that is to suspend and adopt. I have Ordinance No. 2019-137; that is an ordinance approving...authorizing the Mayor to approve a contract with the company taking over the operation maintenance of the sanitary waste and treatment center. There is an increase on that contract because of a new pump station and some new regulations. The recommendation for that is suspend and adopt. I have Ordinance No. 2019-138 and that is...actually not an ordinance, a resolution asking for a...a...to...a sell for the City to buyback a lot over in the Strongsville Municipal Cemetery. The recommendation for that is to adopt. That is all I have for Public Service and Conservation, unless there are questions and then I will roll into rec...

REPORTS OF COUNCIL COMMITTEES (cont'd):

PUBLIC SERVICE AND CONSERVATION – Ms. Roff (cont'd):

Mr. DeMio – No, I just have one to interject. I just want to say, again, thank you to all of council individually and as a group and mayor, you're Administration and our rec director for doing an outstanding job at movie night. It actually was so well attended that I believe that...Mr. Bogre might have stopped counting cars at one time because they were coming in at a nice level, mayor, I just want to again thank you and hop we can continue that great idea into next year as well. I know most of us were there that night and enjoyed the...folks having such a good time. Ann, was there anything else?

Ms. Roff – You can add to that thank you, Square 22 for sponsoring that...

Mr. DeMio – Absolutely.

Ms. Roff – a portion of that and gave a donation of \$2,000.00; which covered at least 50%, if not more, of the cost. So that was very, very, very generous. So, thank you to the Catanzarite family and Square 22...

Mr. DeMio – Right, and since Mr. Catanzarite is here, Mr. Bogre and myself went through the announcements and both of us did that as well in front of the audience; but, I want to thank you again. It was a great turnout.

Mr. Patten – Mr. Chairman if I can add too?

Mr. DeMio – Sure.

Mr. Patten – And thanks to Jason Keppler and Tim Campbell too for a late night that they put in. Certainly appreciated it and it made for a great event.

Mr. DeMio – That's so true. Well, with that said Ann, am I good to go to Council as a Whole?

Ms. Kosek – Can I just...

Ms. Roff – I have one ordinance for rec.

Mr. DeMio – Oh, go ahead.

Ms. Kosek – Before you go to that I just want, for the same thing, there is another item on for Nerone and Sons and I represent the...I don't represent but my law firm represents them in other matters; so, I will be abstaining.

RECREATION AND COMMUNITY SERVICES – Ms. Roff: For rec, I have one ordinance that's Ordinance No. 2019-147; that's an ordinance for the mayor and the rec department to go out for grant money provided by NOACA to purchase a senior mobile vehicle. The one that we have would be replaced and they would match 50% of the funds, correct Bryan? 80%, leaving us with \$10,000.00. I'm sorry. The recommendation for that is to suspend and adopt.

Mr. DeMio – We good?

Ms. Roff – Yes.

REPORTS OF COUNCIL COMMITTEES (cont'd):

COMMITTEE OF THE WHOLE – Mr. DeMio: We do have two pieces of legislation in Council as a Whole. Ordinance No. 2019-148 and Resolution No. 2019-149. Ordinance No. 209-148 is the replacement pages that we normally do for the codified ordinances. Our Law...our clerk, I should say. I almost called you a law clerk, I apologize. Our clerk will take care of that once this is passed. Also, September is Prostate Awareness Month. We are recognizing that as well. That is Ordinance No. 2019-149. That will be it. Both will be suspension and adoption. Mr. Carbone, I'm going to have you do something special here in a little bit. Steve just be ready buddy. Just be ready okay? Mayor? We're going to close communications from you. Anything you need to say?

REPORTS AND COMMUNICATIONS FROM THE MAYOR, DIRECTORS OF DEPARTMENTS AND OTHER OFFICERS:

MAYOR PERCIAK: No report and my Directors are excused for the evening. You may leave.

(Laughter)

Mr. Jamison – Now Mr. Dubovec has to give his.

Mayor Perciak – Yeah. When he's done. As soon as he's done.

Mr. DeMio – Umm, okay and Finance Department, Mr. Dubovec.

FINANCE DEPARTMENT – Mr. Dubovec: Thank you Mr. President, funds will be made available for all ordinances and resolutions on this evening's agenda requiring certification of funding. That ends my report, thank you.

Mayor Perciak – One last thing, we have a finance meeting Tuesday, September 12th at five o'clock in the Mayor's Conference Room. Thank you.

Mr. DeMio – Okay...

Mayor Perciak – 10th, I'm sorry. Lord have mercy on me, the 10th.

Mr. DeMio – Okay. Then of course our Law Department; which may come back at a later time today.

LAW DEPARTMENT – Mr. Jamison: All ordinances and resolutions are in proper legal form. That concludes my report.

Mr. DeMio – Okay. Mr. Carbone, I'm going to excuse myself for a minute; but I'm going ask audience participation to...oh, if the directors want to leave that would be great.

AUDIENCE PARTICIPATION:

Mr. DeMio – Audience participation. We have one gentleman up. And our sheet is somewhere. Mr. Hasko, you can come up.

Ms. Roff – Should we see what audience participation...

Mr. DeMio – That's what we're doing right now.

Ms. Roff – No, I mean in what it's regards to. If they need to be here.

AUDIENCE PARTICIPATION (cont'd):

Mr. DeMio – He's going to talk about...

John Hasko, 14515 Drake Road, Strongsville, OH: John Hasko. J-O-H-N H-A-S-K-O. 14515 Drake Road. School bus safety. Can anybody tell me if we've had any incidents of people going pass the stop signs on the buses? Do you know of any Ann?

Mayor Perciak – Mr. Hasko; what's happened is there is a, either a uniformed police officer or a plain clothes police officer on buses making certain that our children are safe; so...

Mr. Hasko – Oh, they're getting the license number of the people that violate...

Mayor Perciak – Well, they're doing more than that; but that's being taken care of.

Mr. Hasko – Can I ask what the fine or punishment is for people that do this...?

Mayor Perciak – No. No, I don't; because I don't know the answer to that; but, I can assure you that we are taking...we are paying special attention to that situation and we have uniformed officers on these buses or right there and/or plain clothes officers.

Mr. Hasko – Well, I wanted to make a suggestion for punishment. I mean a lot of places they fine people who are doing this; but one thing you might take away from a person that does this is not the money; but they're time. First offense, one weekend in jail. Second offense, two weekends in jail and then 30 days suspension of license...

Mayor Perciak – Well that I can't answer. The law director would have to answer that.

Mr. Jamison – Mr. Hasko, those are typically traffic offenses that don't rise to that level; but that would be up to the appropriate judge. Be here in Mayor's Court or Berea Municipal Court to decide that. The mayor or no one in the administration has that ability to do that. That would be something for the judicial branch to decide.

Mr. Hasko – So I have to contact the judge.

Mr. Jamison – If he'll talk to you.

(Laughter)

Mr. Hasko – And don't forget, when you go shopping this weekend at Giant Eagle on Saturday, between 10:00 a.m. and 3:00 p.m.; come back and see me. I'll take you back 60 years in time when you look at the old, classic cars.

Mayor Perciak – Okay.

Mr. Jamison – Thank you.

Mayor Perciak – Thank you John.

Mr. Talan – I give my name and everything?

Mr. DeMio – Name and address.

AUDIENCE PARTICIPATION (cont'd):

John Talan, 18844 Pearl Road, Strongsville, OH: Yeah, my name is John Talan. I live at 18844 Pearl Road and I want to discuss the Resolution Mo. 2019-135. The rehab center which is going in right to the south of me. I don't really have any objection to the development. I mean it's going to be a beautiful facility and it's, as a property owner, it's probably the best I could hope for considering the development that could be done there; but, I really, strongly object to the retention basin that's being planned that's going to border my property. It's like a one acre retention basin and the retention basin is going to drain into my property. There's a... I'm very familiar now in the past month in half with everything that's going on and I have drawings, extensive conversations with engineering. I wish Ken Mikula had not... I tried to catch him; but, it could very well pertain to something I have to say here. There's been, as far as I can tell, and no one can prove it different, there has been no study or analysis at all on how the drainage of the retention basin will affect my property. The only analysis that has been done, and I cannot get documentation on it as hard as I tried, is that the water flow rate out of the retention basin will be decreased as to what it is currently flowing over land now. Which is all well and good, and it's a common engineering metric, the water flow rate; but what it does not take into consideration that the water is going to be coming out of the retention basin in a two inch pipe. In the winter, in the spring that pipe, in my estimation and some work that I've had done, is going to like run continuously. It's going to come out slower that's very true; but, it's going to run continuously, okay? As far as I know, there's been no, as far as I know, there's been no EPA, both Federal and State examination of what's going on here. You know, the very fact that water is flowing directly from the retention basin... I mean it diminishes the value of my property. I have three acres of commercial property and who's going to buy that property or what am I going to get for that property knowing that there is a retention basin. It's a huge diminish of property value even if it works perfectly. What's even more upsetting is how this all came about, for me anyhow. So, I went to the rezoning meeting and at that meeting I stated that I didn't have any issues with the rezoning; but I commented and I went there specifically to comment that my concerns were the lighting, parking lot lighting, and the drainage at the property. At that time mayor, you told me to call engineering Department and Matt. Matt, I called you seven times. I left four messages, three times your message mailbox was full. I would've liked to have talked to you about it, you know. So I called Lori Daley in engineering. Nicest person you'd ever want to meet. We got together, she gave me all the drawings. I said... I looked at all the drawings, I said, "Boy, you know I see this retention basin here. It's right next to my property. It's of grave concern of mine." And she said, this is a month or so ago, "We are going to make them drain that into the storm sewer under Pearl." I'm fine great, I got a great facility; I have no problem. It's going to actually improve my drainage probably; because all the water is going to the storm sewer. Nine days before the Planning Commission meeting, I come to find that the water isn't going to be drained into Pearl Road. It's going to be drained into my property. I'm like what? Nine days before Planning Commission. I'm supposed to have fourteen days to write a written rebuttal to Planning Commission. How can I... you know, it's nine days. It was graciously offered to me, to improve my property. To help drain the water through the natural swale. Unfortunately, a fixed to that proposition was a necessity of need to sign a release preventing me or any other further owners of the property from suing them for damage to the property because of the retention basin. Well, I was almost going to do it but my wife was like, "You are not signing that." In hindsight, I'm glad that's the case. I didn't sign it and you know, everything... it went through Planning Commission, you know. If I don't have anything to worry about with the drainage of this retention basin, why was I asked to sign a release preventing me from suing? Okay? I can't imagine that...

Mr. DeMio – What else... I know you've been here before...

Mr. Talan – Right.

Mr. DeMio – What else do you have so we can... because we have a long night and you understand that I'm sure...

AUDIENCE PARTICIPATION (cont'd):

Mr. Talan – Right.

Mr. DeMio – But what else do you have to wrap up your concerns here.

Mr. Talan – Really? You're going to rush me through this?

Mr. Jamison – You had five minutes sir. You get five minutes in audience participation.

Mr. Talan – All right, alright. I'll...okay, I plan on...I've spoken with many...I've got a lot of attorney bills so far and it's okay...

Mr. Jamison – All right.

Mr. Talan – I'm going to vigorously defend my position on this. I wanted...we looked through the city ordinances and there's a number of them here that defend my position of particular instance...interest is Strongsville Ordinance 1462.05 and I'm going to give you the pertinent area...

Mr. DeMio – Okay.

Mr. Talan – Okay? But, it's...I'm not taking it out of context...

Mr. DeMio – I understand...

Mr. Talan – "Surface water..." no wait that's the wrong one. Sorry. Okay. "Surface waters shall not be drained onto adjacent properties, not in the same ownership without written permission from the owner of the adjacent property." How can you do that? How can you drain the water? I have not given anybody written permission. "The improvement of both public and private storm drainage facilities through or immediately adjacent to a new development shall remain the responsibility of the developer." If there is anything to be done, I'm not going to do it. There's a Supreme Court; "...He incurs liability only when his harmful interference with the flow of surface water is unreasonable." That's a concise thing. "...to add to ensure that the proposed creation, constructions or alternation will not adversely affect surrounding property owners where the overall drainage system of the city." It's not just my concern; the water doesn't end at the end of my property. It's going to continue north. I may not be the only one that gets affected by this.

Mr. DeMio – Mr. Law Director, is there any reason we should cease this ordinance tonight?

Mr. Jamison – No. In talking to engineering, I spoke to Mr. Talan's attorney last week, on August 27th. Mr. Eric Hoffman...

Mr. DeMio – Okay, Eric Hoffman...

Mr. Talan – Eric Hoffman...

Mr. DeMio – In case he calls any of us...

Mr. Jamison – And he was told, I think you had the conversation with Ms. Daley in our engineering department, that the proposed site plan goes above and beyond the code requirements. There is no reason to not go forward tonight.

AUDIENCE PARTICIPATION (cont'd):

Mr. Talan – Yeah; but, it says right here, you can't do without my...how can you drain that into my property? I've not giving you permission.

Mr. Jamison – Sir, all I can tell you is...

Mr. Talan – We're going to end up in court...

Mr. Jamison – I'm not here to debate you. It's just that our engineering department has reviewed it and it meets the standards under our code and they've signed off on it. I know you disagree and that's your right...

Mr. Talan – Well...

Mr. Jamison – As far as the city, the administration's concern, it fulfills the requirements and it's our recommendation the site plan be approved, thank you Mr. Chairman.

Mr. Talan – We will see. We're going to be in court. Everybody's going to end up in court.

Mr. DeMio – Keep us apprised if anything...

Mr. Jamison – Yeah, I'll let you know.

Mr. DeMio – Okay, anyone else for audience participation?

(No comments)

ORDINANCES AND RESOLUTIONS:

Ordinance No. 2019-121 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR EMERGENCY REPAIRS AT THE CITY'S WESTWOOD DRIVE PUMP STATION, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY. *First reading 07/15/19.*

Motion by Mr. Carbone to amend the Ordinance for what's highlighted in Section 2, second by Mr. Schonhut.

Roll Call: Ayes; Patten, DeMio, Short, Carbone, Schonhut and Roff.
Abstained; Kosek Motion carried.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut.

Roll Call: Ayes; DeMio, Short, Carbone, Schonhut, Roff and Patten.
Abstained; Kosek Motion carried.

Motion by Mr. Carbone, second by Mr. Schonhut, to adopt as amended.

Roll Call: Ayes; Short, Carbone, Schonhut, Roff, Patten and DeMio.
Abstain; Kosek Motion carries. Ordinance No. 2019-121 ADOPTED,
AS AMENDED.

ORDINANCES AND RESOLUTIONS (cont'd):

Ordinance No. 2019-131 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A MODIFICATION TO THE PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES CONTRACT BETWEEN THE CITY OF STRONGSVILLE AND DLZ OHIO, INC., IN CONNECTION WITH THE TLCI IMPLEMENTATION PROJECT AT PEARL ROAD AND ROYALTON ROAD WITHIN THE TOWN CENTER DISTRICT (CUY.-STRONGSVILLE TLCI; PID NO. 106723), AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-131 ADOPTED.

Ordinance No. 2019-132 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ISSUE AND APPROVE CHANGE ORDER NO. 1 (FINAL) FOR AN INCREASE IN THE CONTRACT PRICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONTRACT BETWEEN THE CITY OF STRONGSVILLE AND NERONE & SONS, INC., IN CONNECTION WITH THE GREENS OF STRONGVILLE EMERGENCY CULVERT REPAIR PROJECT, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut.

Roll Call: Ayes; Schonhut, Roff, Patten, DeMio, Short and Carbone.
Abstained; Kosek Motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: Ayes; Roff, Patten, DeMio, Short, Carbone and Schonhut.

Abstain; Kosek Motion carries. Ordinance No. 2019-132 ADOPTED.

Ordinance No. 2019-133 by Mayor Perciak and All Members of Council. AN ORDINANCE VACATING STORM SEWER EASEMENTS AND AUTHORIZING THE MAYOR TO ACCEPT A NEW GRANT OF EASEMENT FOR STORM SEWER SYSTEM PURPOSES FROM ALTENHEIM PROPERTIES, INC., AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-133 ADOPTED.

ORDINANCES AND RESOLUTIONS (cont'd):

Resolution No. 2019-134 by Mayor Perciak and All Members of Council. A RESOLUTION AUTHORIZING THE MAYOR TO ADVERTISE FOR BIDS FOR THE WEST 130th AND SPRAGUE ROAD PUMP STATION PROJECT.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Resolution No. 2019-134 ADOPTED.

Resolution No. 2019-135 by Mayor Perciak and All Members of Council. A RESOLUTION CONFIRMING PLANNING COMMISSION APPROVAL OF THE FINAL SITE PLAN FOR CONSTRUCTION OF A REHABILITATION AND SKILLED NURSING FACILITY AT 18936 PEARL ROAD, IN THE CITY OF STRONGSVILLE.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Resolution No. 2019-135 ADOPTED.

Ordinance No. 2019-136 by Mayor Perciak and All Members of Council. AN ORDINANCE RATIFYING AND APPROVING THE FILING OF AN APPLICATION FOR FINANCIAL ASSISTANCE WITH THE CUYAHOGA COUNTY PLANNING COMMISSION UNDER THE HEALTHY URBAN TREE CANOPY GRANT PROGRAM; AUTHORIZING ACCEPTANCE OF FUNDS, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-136 ADOPTED.

Ordinance No. 2019-137 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO AN AMENDMENT ONE TO THE AGREEMENT WITH VEOLIA WATER CONTRACT SERVICES USA, LLC, FORMERLY AMERICAN WATER OPERATIONS AND MAINTENANCE, INC., FOR THE OPERATION, MAINTENANCE AND MANAGEMENT OF THE CITY'S WASTEWATER TREATMENT FACILITIES AND APPURTENANCES, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-137 ADOPTED.

ORDINANCES AND RESOLUTIONS (cont'd):

Resolution No. 2019-138 by Mayor Perciak and All Members of Council. A RESOLUTION GRANTING PERMISSION TO REPURCHASE A CERTIFICATE FOR BURIAL RIGHTS IN THE STRONGSVILLE MUNICIPAL CEMETERY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Resolution No. 2019-138 ADOPTED.

Ordinance No. 2019-139 by Mayor Perciak. AN ORDINANCE MAKING APPROPRIATIONS FOR THE ANNUAL EXPENSES AND OTHER EXPENDITURES OF THE CITY OF STRONGSVILLE, OHIO, FOR THE YEAR 2019 AND REPEALING ORDINANCE NO. 2019-113.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-139 ADOPTED.

Ordinance No. 2019-140 by Mayor Perciak and All Members of Council. AN ORDINANCE PROVIDING FOR THE ISSUANCE AND SALE OF NOT TO EXCEED \$2,000,000 OF NOTES, IN ANTICIPATION OF THE ISSUANCE OF BONDS, FOR THE PURPOSE OF PAYING COSTS OF IMPROVING THE CITY'S TRAFFIC CONTROL SYSTEM, IN COOPERATION WITH THE OHIO DEPARTMENT OF TRANSPORTATION, BY ACQUIRING AND INSTALLING SIGNALS AND RELATED EQUIPMENT AND DEVICES TO DIRECT AND CONTROL THE FLOW OF VEHICULAR AND PEDESTRIAN TRAFFIC IN THE CITY, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-140 ADOPTED.

Resolution No. 2019-141 by Mayor Perciak and All Members of Council. A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY FISCAL OFFICER, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Resolution No. 2019-141 ADOPTED.

ORDINANCES AND RESOLUTIONS (cont'd):

Resolution No. 2019-142 by Mayor Perciak and All Members of Council. A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE OF THE CITY TO CERTIFY TO THE FISCAL OFFICER OF CUYAHOGA COUNTY UNPAID PROPERTY MAINTENANCE NUISANCE ABATEMENTS FOR LEVY AND COLLECTION ACCORDING TO LAW, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Resolution No. 2019-142 ADOPTED.

Ordinance No. 2019-143 by Mayor Perciak and All Members of Council. AN ORDINANCE RATIFYING AND APPROVING THE FILING OF AN APPLICATION FOR FUNDING UNDER THE FISCAL YEAR 2016 URBAN AREA SECURITY INITIATIVE GRANT PROGRAM; AUTHORIZING ACCEPTANCE OF THE GRANT AWARD FROM CUYAHOGA COUNTY FOR REIMBURSEMENT OF EXERCISE TRAINING EXPENSES INCURRED BY THE CITY'S POLICE AND FIRE DEPARTMENTS, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-143 ADOPTED.

Ordinance No. 2019-144 by Mayor Perciak and All Members of Council. AN ORDINANCE RATIFYING AND APPROVING THE FILING OF AN APPLICATION FOR FINANCIAL ASSISTANCE FROM THE OHIO ATTORNEY GENERAL'S OFFICE IN CONNECTION WITH THEIR LAW ENFORCEMENT DIVERSION PROGRAM RELATING TO THE OPIOID EPIDEMIC; AUTHORIZING ACCEPTANCE OF FUNDS, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-144 ADOPTED.

Ordinance No. 2019-145 by Mayor Perciak and All Members of Council. AN ORDINANCE AMENDING SECTION 250.10 OF CHAPTER 250, OF TITLE SIX OF PART TWO-ADMINISTRATION CODE OF THE CODIFIED ORDINANCES OF THE CITY OF STRONGSVILLE REGARDING FEES FOR USE OF DEPARTMENT FACILITIES BY OTHER POLICE DEPARTMENTS; AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-145 ADOPTED.

ORDINANCES AND RESOLUTIONS (cont'd):

Ordinance No. 2019-146 by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT FINANCIAL ASSISTANCE UNDER THE "NOPEC ENERGIZED COMMUNITY GRANT" PROGRAM TO IMPLEMENT ENERGY EFFICIENCY/ENERGY INFRASTRUCTURE PROJECTS, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-146 ADOPTED.

Ordinance No. 2019-147 by Mayor Perciak and All Members of Council. AN ORDINANCE RATIFYING AND APPROVING THE FILING OF AN APPLICATION ON BEHALF OF THE CITY OF STRONGSVILLE FOR FUNDING FROM NOACA THROUGH THE ENHANCED MOBILITY FOR SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAM, FOR THE PURCHASE OF A VEHICLE TO PROVIDE TRANSPORTATION SERVICES FOR THE CITY'S SENIOR WHEELS PROGRAM; AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-147 ADOPTED.

Ordinance No. 2019-148 by Mayor Perciak and All Members of Council. AN ORDINANCE APPROVING AND ADOPTING MID-YEAR REPLACEMENT PAGES TO THE CODIFIED ORDINANCES OF THE CITY, REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH, AND DECLARING AN EMERGENCY.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Ordinance No. 2019-148 ADOPTED.

Resolution No. 2019-149 by Mayor Perciak and All Members of Council. A RESOLUTION IN SUPPORT OF PROSTATE CANCER AWARENESS DURING THE MONTH OF SEPTEMBER.

Motion by Mr. Carbone to suspend the rules requiring every ordinance or resolution to be read on three different days, second by Mr. Schonhut. All members present voted aye and the motion carried.

Motion to adopt by Mr. Carbone, second by Mr. Schonhut.

Roll Call: All ayes. Motion carries.

Resolution No. 2019-149 ADOPTED.

Mr. DeMio – For the record, Aimee did an outstanding job. Oh my Lord. Alright. With that said...

COMMUNICATIONS, PETITIONS AND CLAIMS:

(None)

MISCELLANEOUS BUSINESS:

Motion by Mr. Carbone to go back to the hearing to review BZA's decision for property on the corner of Pearl and Whitney, second by Mr. Schonhut. All members present voted aye and the motion carried.

Mr. DeMio – Okay, may I...

Mr. Jamison – Yeah, go ahead.

Mr. DeMio – So, Mr. Schonhut, do you have that map you were looking at earlier?

Mr. Schonhut – Which one?

Mr. DeMio – Is that the map? Yeah, yeah. Same one.

Mr. Schonhut – This said map?

Mr. DeMio – Yes, can you slide...

Mr. Schonhut – The site plan?

Mr. DeMio – Yes. Can we have each councilperson take a good look that doesn't have one handy with that; so we have a clear...?

Mr. Jamison – I think it should be in everybody's package...

Mr. DeMio – It is, it is in everyone's packet. I want to make sure we're all on the same page. I'll look at yours...

Mr. Jamison – Okay.

Mr. DeMio – Is that side good? Do you need one? Here you go. Do you want to share that with him?

(Multiple conversations)

Ms. Kosek – He'll share with me.

Mr. Jamison – Okay.

Mr. DeMio – Okay.

Mr. Jamison – There we go.

Mr. DeMio – All right. So, let's reopen this discussion. Mr. Schonhut, let's start with you because we started with you in the beginning. Why don't you share with us your thoughts and we'll go around the table and then I'll talk to the law director for a moment; which will be on the record by the way and we'll work from there. Mr. Schonhut, go right ahead.

MISCELLANEOUS BUSINESS (cont'd):

Mr. Schonhut – I think if we again, speaking with them, take everything that is westerly, starting at the westerly portion of the parking area...that ADA parking that is to the western portion of the property and shift that east, I will call it 10 feet just to split the difference on...but still have some kind buffer where they can do something along the back side of that wall as approved by Planning or the ARB. To go through on that buffer on the back, that will shift everything down; which will also shift the Whitney Road driveway approximately back to its existing location while still eliminating the one that is nearest intersection...

Mr. DeMio – May we agree it's the original location of the restaurant? The former restaurant? Is that what you want it to be?

Mr. Jamison – Original of the driveway.

Mr. DeMio – Right. The driveway? Is that the original? It's bricked out here.

Mr. Schonhut – Yeah.

Mr. DeMio – Yeah.

Mr. Schonhut – What about it?

Mr. DeMio – It's the original driveway...

Mr. Carbone – Before the...

Mr. Patten – So you move it, move it to there.

Mr. Jamison – Correct. Yeah, right. So, Matt, just to follow up on what you just said, I think what you're proposing, potentially, is that the development and building would be shifted to the east by 10 feet. Is that a fair assessment?

Mr. Schonhut – Well, I just don't want to say building because it's really the...

Mr. Jamison – That's why I said development...

Mr. Schonhut – Yeah, the entire plan per say. Now improvements to the property, thank you.

Mr. Jamison – Okay...

Mr. Schonhut – Appreciate that...

Mr. Jamison – So we could say the improvements, development and building?

Mr. Schonhut – I do still have concern, genuinely concerned about, obviously this is a small lot. I know we have given variances to others in the past; I don't think as tight as this one or on as awkward of a parcel as this one with the ingress and egress off of Pearl Road. I think it's going to be huge, huge nightmare not to have that be right in, right out only with a raised median in the center. I truly do; because even if you allow left in, that's basically going to take two to three cars to start backing up into that intersection which could turn into, at varying times of the day - if you're going rush hour or if everybody leaving the city heading towards I-71.

MISCELLANEOUS BUSINESS (cont'd):

Mr. Schonhut (cont'd) - If somebody's trying to turn left into there that could take them a very long time; which could result in a backup into the intersection which I think, is a major, major safety concern as well as a left out; given that people could be coming left out of there just as fast of other locations with everything that's going on at this intersection and how close we are to the intersection and the size and shape of the lot. I definitely think that is a major concern of mine with as far as the size of the lot that we're working with and the variance that was granted in regards to the size of the lot versus what it could it be, if the lot was what our code calls for.

Mr. DeMio – Anything else?

Mr. Schonhut – That's all I have.

Mr. DeMio – Ann?

Ms. Roff – I would reiterate the same as Matt. The other issue though, will there need to be another variance if the building...if the development is moved back?

Mr. Jamison – Yeah, so I think we discussed that earlier. I think when Mr. Quinn was up that...yeah that would require them to go back for the east boundary line that abuts up to the wall there. They would have to get a 10 foot variance on that and...

Ms. Roff – Is there a letter that goes out to the neighbors, is that owners or is that...?

Mr. Jamison – Those are apartments there; so, I don't know how that works.

Ms. Roff – You don't know...

(Multiple conversations)

Mr. DeMio – Yeah, our Clerk does it for a living; so go right ahead.

Ms. Pientka – I believe that...

Mr. Schonhut – Aimee has the map...

Ms. Pientka – Ms. Zamrzla (inaudible) do it within 500 feet of the (inaudible)...

(Multiple conversations)

Mr. Jamison – And they would've had it for the previous one...

Ms. Pientka – Not every owner; because they're not owners, they're tenants.

Ms. Roff – Okay.

Mr. Jamison – And they had notice before Ann.

Ms. Roff – Yes, yes. I was just wondering though...

Mr. DeMio – Yeah, they'll get notice...

MISCELLANEOUS BUSINESS (cont'd):

Ms. Roff – I was just double checking...

Mr. DeMio – That was a good question though...

Mr. Jamison – No, it would require it and I think there was an acknowledgement that that would have to take place and they understood that because Mr. Quinn stated that earlier.

Mr. DeMio – Ann, may I go on to Mr. Patten? I just want to make sure you're done...

Ms. Roff – Yeah, I just want to, I guess clarify when we're going over this, we are allowed to...

Mr. Jamison – So, here's my suggestion, I'll listen to what you all have to say now. I've been taking note as we went through this. I'll propose to you a potential motion that would contain the conditions and clearly, get some comfort level with that before the formal motion would be made. I'll let you all talk and... I had something crafted; but, I have to hear what everybody else has to say.

Ms. Roff – Okay. I just want to make sure that we're...

Mr. Jamison – Yeah.

Ms. Roff – ...within the law too...

Mr. Jamison – I get that...

Ms. Roff – ...if anything we propose or offer...

Mr. Jamison – Right...

Mr. DeMio – We're not going to vote until we have a clear understanding what the motion is.

Mr. Jamison – Correct. That's a good way to put it...

Mr. DeMio – Fair...?

Mr. Jamison – Yes.

Mr. DeMio – Mr. Patten?

Mr. Patten – I would just echo Mr. Schonhut's comments on moving it back to increase site lines and if we could look at the raised median for the left hand out on Pearl, I think would be a...tough for potential accidents. I'd echo Mr. Schonhut.

Mr. DeMio – But you'd add the raised median portion.

Mr. Patten – Yeah.

Mr. Jamison – Okay, I will discuss in a minute...

Mr. DeMio – All right, okay... Mr. Short?

MISCELLANEOUS BUSINESS (cont'd):

Mr. Short – I just want a point of clarification Mr. Law Director, maybe Mr. Schonhut as well as Chair of the Planning Commission for...or council representative to Planning, we're talking all these left hand turns, safety issues, etc. which are the left hand turns, right ins, right outs, etc. are not part of these variances, correct?

Mr. Jamison – At the present time, yeah; but, it can be made a condition at BZA...

Mr. Short – I understand that. It goes though, in the normal planning process, this would go through Planning, correct those types of issue?

Mr. Jamison – It varies. Sometimes it does, sometimes BZA puts in.

Mr. Short – Okay. So, tonight, if we were to approve these variances with the modifications of (intelligible), then they have to look at that, correct? If we approve these variances with a modification for...to look at these left hand various turns, then they would have to do that. This way, they don't have to do it as a regular part of the planning process. It could be or could not be, correct?

Mr. Jamison – You mean "they" being...

Mr. Short – The Planning Commission. I'm sorry. The Planning Commission. The Planning Commission. What I'm trying to get a feel for here is, as a council, we authorized by the Charter to review these variances; which I have no problem with.

Mr. Jamison – Okay.

Mr. Short – Are we stepping into the grounds where we're becoming the Planning Commission? This is not a Planning Commission meeting. This is a council meeting. So I want to insure that what's separate from us to review tonight and what we are voting on to insure that we are not taking a role of the Planning Commission away.

Mr. Jamison – Okay, so, essentially, you're reviewing the decision of BZA to grant these variances. It's not unusual for BZA in granting variances to establish certain conditions, whatever they may be. In the past, have they done this? Yes. Did they do it this time? No; but, it's not outside the realm of the jurisdiction of BZA to do this and you're really standing in the shoes of BZA at this point because you're administratively reviewing their decision. You do have the ability at this point, within certain limits. You can't go into...

Mr. Schonhut – Public Safety and...Safety, health, welfare...

Mr. Jamison – Yeah. It's really related to health and safety issues. You can't get into the number of trees there or other things that Planning would look at in the final site plan that they would approve. Certainly, a health and safety issue is a condition that could be reasonably placed by this council in reviewing the BZA's decision.

Mr. Short – Okay, thank you for the clarification.

Mr. Jamison – No problem.

Mr. Short – So with that I have no further questions or comments.

Mr. DeMio – Kelly?

MISCELLANEOUS BUSINESS (cont'd):

Ms. Kosek – What I'm hearing everyone say is that if we move the plan, as it was, back 10 feet so the Pearl...

Mayor Perciak – The building.

Ms. Kosek – The whole plan, right?

Mr. Schonhut – The site basically. The improvements to the current site. Shift them all back...

Ms. Kosek – Right, so the parking spaces will move back and whatnot...

Mr. Schonhut – Correct.

Ms. Kosek – What would the variance then be from Pearl? Would we be talking about like a five in a half foot, what would be the variance end up being?

Mr. Schonhut – 6.1.

Ms. Kosek – Okay.

Mr. Jamison – My suggestion is...

Mr. Schonhut – But you'd be eliminating the other variance of the building setback from the centerline...

Mr. Jamison – Right; so, to make it simpler and easier, is that...if you were just to grant the previous variances granted, subject to the conditions that we're talking about, those are going to be addressed anyways as it gets shifted to the east or to the right, however you look at it. I wouldn't get into the detail of lowering the variance...

Ms. Kosek – I guess my other question would be, would we be granting the other variance or would that be going back to BZA? I guess that's a better question to ask.

Mr. Jamison – The only thing that they'll have to go back to BZA is that they have to get a variance for the 20 foot buffer to the apartments...

Ms. Kosek – Okay...

Mayor Perciak – East line.

Mr. Jamison – Yeah, the east line.

Ms. Kosek – Okay. We would not be deciding that because it hasn't been considered by BZA, correct?

Mr. Jamison – Correct.

Ms. Kosek – Okay. So, is the council comfortable with a left hand turn on Whitney; because there was some discussion about that earlier and it sounds like folks are not as concerned about that? I have some concerns about it. I will say that Pearl is my primary concern because it's a much more heavily traveled road; but, I'd like to hear some discussion about Whitney also.

MISCELLANEOUS BUSINESS (cont'd):

Mr. Schonhut – I think the struggle with that is certainly, Pearl is way more heavily trafficked and you create the issue of potential back up of left turn or an accident of left out; left in, you can back up into the intersection. I don't think that on Whitney, you necessarily create that problem as much. I think you still need to have, to let them have the opportunity to draw people in at least from varying directions without totally eliminating that for them.

Ms. Kosek – I'm sorry, the left in on Whitney I guess is maybe not as big a problem as maybe the left out?

Mr. Schonhut – Sure...

Ms. Roff – There's a left turn lane that extends to there also. So almost, it would be similar to what Giant...or Get Go looks like. Up by 82 and Drake where, there's the turn lane, they have a turn lane to turn in; which creates some issues sometimes but there's a spot for them to sit. Waiting to make the turn in.

Ms. Kosek – So Matt, you were saying...do you think that the shifting the 10, the 10 that we're talking about kind of solves that...?

Mr. Schonhut – I think it helps. I think there's going to be people that are going to be sitting there for a long time at times trying to get into that left hand turn lane; but, by eliminating that we basically crossed the ability of anybody being able to go southbound on Pearl without doing a major loop going around somewhere else. I'm less concerned; because it's a three lane road as opposed to a five lane, heavy traffic road. Not saying there may not ever be an issue there with somebody whipping into Whitney really quick. I know how fast I can take that turn at times without thinking about it because of the angle of it. It's definitely a concern; but, I think it's how much can we limit the traveling cars ability to travel from...to get out of this property, to move? Again, Pearl would be mine concern. I'd rather take our win there of the more heavily traffic, wider road as opposed to severely eliminating southbound traffic in any movement. You can certainly disagree with me; but...

Ms. Kosek – No, no. I'm not saying that I disagree. We hadn't discussed it and I just want to make sure that we have that discussion as we're moving forward. Those were my concerns.

Mr. Carbone – My concerns...

Mr. DeMio – Mr. Carbone...

Mr. Carbone – ...have not changed from the first time. The site line, I think moving back 10 feet would help with the site line. I also think, in reading the BZA meetings minutes that multiple members of BZA brought up how they did not feel comfortable with that left hand turn. I'm going to stay with that as part of the stipulation and then really looking at, were the couple other, my colleagues said about the left hand turn in, with the close proximity to that intersection. I would like to see that. My recommendation would be a right in and right out on that Pearl Road. I think moving the building back and the entrance back to its original, pulls it farther away from the intersection and I agree with Matt. It's less of a concern then the Pearl Road. I'd feel a little bit more comfort with Whitney on left; but, really got to look at Pearl Road...making a left into Arby's and making a left out of Arby's and pushing the building back 10 feet.

Mr. DeMio – Sounds like a true Police Officer talking right there. It's true. So with that said...

Mr. Jamison – So what I've done, if I may Mr. Chairman...

Mr. DeMio – Go ahead.

MISCELLANEOUS BUSINESS (cont'd):

Mr. Jamison – ...is, on the proposed motion to amend, and I gave the shell of it to Mr. Carbone earlier. Were it would read, just to start it out; "I hereby move to amend the findings and determinations of the Board of Zoning Appeals at its meeting held on July 11, 2019 granting a 4.6 foot building setback variance, a 16.1 foot parking setback variance from the Pearl Road right-of-way, 11.5 foot parking setback variance from the Whitney Road right-of-way and 1.07 acre minimum lot variance to Development Management Group, LLC., in order to construct a commercial building on the property located at 9175 Pearl Road, PPN: 395-16-004, by means of the following: the variances are granted, subject to the condition that the proposed improvements and building are shifted to the east by 10 feet; number one. Number two; no left hand turn from and into the premise for the driveway on Pearl Road."

Mr. Schonhut – Wouldn't we be changing the 16.1 foot variance to 6.1 foot variance as opposed to keeping that on the property, instead of just saying shifted? It would change the...it would modify the setback variance.

Mr. Jamison – My response to that, sort of like the discussion I had with Kelly, is that you're giving them up to that but they still have to shift it over. I mean if you want to start doing the math, I mean that's...

Mr. Schonhut – But that's still granting that variance and they can basically...I mean...

Mr. Jamison – All right...

Mr. Schonhut – It doesn't make any sense...

Mr. Jamison – I guess what you can do is make the third condition that the variance for the 16.1 becomes 6.1. Okay, I can add that in so that...

Ms. Kosek – Matt, would they then need the setback from the Pearl Road center line at all?

Mr. Schonhut – No. I mean I don't know. Unless they keep the building where it's at and somehow shift their parking lot around, I don't know.

Ms. Kosek – Okay.

Mr. Schonhut – I guess that depends on their ultimate site layout...

Ms. Kosek – I mean I guess that could...

Mr. Schonhut – Hypothetically, if you just copy and paste 10 feet back, no, but I don't know if that's exactly what they're going to do or not.

Mr. Jamison – All right, so let's go through each one. The first variance was a building setback variance. Granting a 4.6 foot building setback variance. Does that get wiped out then by doing that? Probably.

Mr. Schonhut – Potentially. Again, I...

Ms. Kosek – I mean I guess on that one, I will just say, I don't know that...I don't know for me, if that one is so significant that it matters...

Mr. Schonhut – No it's not...

MISCELLANEOUS BUSINESS (cont'd):

Ms. Kosek – If we could leave in and then would like to leave the building where they're at...

Mr. Jamison – Right...

Ms. Kosek – And able to do the other things, then I don't think that should be a problem; but, I do have concerns that the setback on the other, we change the numbers...

Mr. Jamison – So the 16.1 foot parking setback variance from Pearl is the one you're talking about?

Ms. Kosek – Yeah, I think that's the one that needs to change...

Mr. Jamison – Okay. We could make it so that that has now become a 6.1 foot variance...

Mr. Schonhut – Mr. Quinn, do you think your whole site plan is going to change significantly or do you think it's going to be more of a, somewhat copy and paste 10 feet back? Or Mr. Knuckles?

Mr. DeMio – Can you please come up to the mic...

Mr. Jamison – Yeah...

Mr. Schonhut – Just to make it...

Mr. Jamison – And we've got their name and address already so...

Mr. DeMio – Yeah.

Mr. Knuckles – I think with a universal shift, everything 10 feet to the east, I think it will fall somewhere close to a 6 feet variance; but, there's an odd angle that occurs at the right-of-ways from Whitney and Pearl. It's not just like a perfect rectangle...

Mayor Perciak – Correct.

Mr. Knuckles – If we make that shift, I think that 16 probably becomes something like a 6; but, we're going to have fix how we transition this angle of this drive and this way this parks work. That's my only concern. If this was just a square or rectangle then it would be easy to say that but we are going to shift this whole thing 10 feet so it probably will be something like 6; but this will work.

Mr. Quinn – Yeah actually it's getting bigger here. Yeah, so basically shift the entire improvements...

Mr. Schonhut – If you can copy and paste 10 back...

Mr. Quinn – Something like that...

Mr. Knuckles – Something close like that...

Mr. Schonhut – Close enough. We're just trying to figure out if you're going to need or not need everything else that you have, I guess.

Ms. Roff – What does that do for the dumpster area?

(Multiple conversations)

MISCELLANEOUS BUSINESS (cont'd):

Mr. Quinn – The dumpster moves too. Everything moves 10 feet.

Ms. Roff – Okay.

Mr. Jamison – Okay, so if we said 6.1 foot, would that work for you guys? Does that work for you guys? 6.1.

Mr. Knuckles – Yep...

Mr. Jamison – All right, so what we can do then is I can change it to say, "The variances granting 4.6 foot building setback variance, 11.5 foot parking setback variance from the Whitney Road right-of-way and a 1.07 acre minimum lot variance are granted subject to the following"...or actually then you'd say, you're then going to grant a 6 foot, 6.1 foot parking setback variance from Pearl Road.

Mr. Schonhut – Do we have the ability to grant? It's modifying the existing...

Mr. Jamison – Yeah...

Mr. Schonhut – Is how it needs to be written...

Mr. Jamison – Yes...

Mr. Schonhut – Just so we're good.

Mr. Jamison – Yes. So you would say then, we would read it out and so instead of saying 16.1, we would say 6.1 foot parking variance from Pearl and then all that is subject to the conditions that the proposed improvements and building are shifted to east by 10 feet or are you satisfied that by taking away that from 16.1 to 6.1 will satisfy your concern?

Mr. Schonhut – Not necessarily because you still have the apron on Whitney that we would have to move...

Mr. Jamison – Okay, so we can leave that in and I think there's no...I don't think that's a problem. Then the second one, the condition would be, no left hand turn from and into the premise for the driveway on Pearl Road. So, I'll read that again, just to make it clear. "I hereby move to amend the findings and determinations of the Board of Zoning Appeals at its meeting held on July 11, 2019 wherein this council shall grant a 4.6 foot building setback variance; a 6.1 foot parking setback variance from the Pearl Road right-of-way; an 11.5 foot parking setback variance from the Whitney Road right-of-way; and 1.07 acre minimum lot variance to Development Management Group, LLC. in order to construct a commercial building on the property located at 9175 Pearl Road, PPN: 395-16-004, by means of the following: that the above stated variances are granted, subject to the condition that the proposed improvements and building are shifted to the east by 10 feet; and two; no left hand turn from and into the premise for the driveway on Pearl Road." And that would be the motion.

Ms. Roff – And what about the Whitney enter and exit?

Mr. Jamison – I thought we...

Mr. Schonhut – That's covered under the 10 feet shifting back and forth...

Ms. Roff – Okay...

MISCELLANEOUS BUSINESS (cont'd):

Mr. Jamison – That gets slid over. Yeah...

Ms. Roff – Okay.

Mr. Jamison – So that's the proposed motion based on what I'm hearing today.

Mr. DeMio – Mr. Quinn has a question.

Mr. Jamison – Yes sir. Come on up again Mr. Quinn. Sorry, just so we can get you on the record.

Mr. Quinn – I just want to make sure I understand, was it July 11th or July 10th? I thought the meeting was on July 10th?

Mr. Schonhut – The minutes say 10th.

Mr. DeMio – I thought it was the 10th.

Mr. Jamison – It is 10.

Mr. Quinn – Okay, thank you.

Mr. Jamison – Thank you. Any other questions or...

Mr. Carbone – Can I throw something out there?

Mr. Jamison – No.

Mr. DeMio – We don't want you to; but go ahead.

Mr. Schonhut – Thank God the Browns aren't playing tonight. I mean geez...

Mr. Carbone – What if we just eliminated the six parking spots up front.

Mr. Schonhut – That's a whole another variance.

Mr. Jamison – My suggestion would be let Planning deal with that. That maybe something can be addressed, whether they want to do that or not. I mean I don't want to get into that kind of detail...

Mr. Carbone – Okay.

Mr. Jamison – Because that just...so what I think you're doing tonight is you're getting, if I heard correctly; you're shifting it 10 feet to the east to improve the site lines and also to create more of a buffer from the roadway; which was more than what was there before in the old building when it was...

Mayor Perciak – Mad Cactus.

Mr. Jamison – Mad Cactus, thank you mayor; and it's also...you're putting the condition on the ingress and egress to the premise from Pearl Road and onto Pearl Road. I mean, you know...that and it satisfies the health and safety issues that you guys raised earlier. So, if you may Mr. Chairman, I don't know if there's any more discussion. Just to help Mr. Carbone, I will read the motion, if you don't mind. When you're ready...

MISCELLANEOUS BUSINESS (cont'd):

Ms. Roff – One other thing, so this takes them back to BZA then for the other variance...

Mr. Jamison – So what will happen, they've got to go back and revisit how to adjust this and in doing so, they'll have to come back to BZA to get that; at the very least, for that property to the east; so, they're going to have to redo their pencil and paper. They know they've got some of the variances already, like the minimum acre requirement and the Whitney Road variance and the 4.6 foot building setback variance. That will get in the perimeters that they have to work in. They'll have to develop new plans and if they determine that in doing this they have to get another one, then they will come to BZA for that. Then it will get sent to Planning.

Mr. Quinn – Okay, so if we do that is this council going to request a review of that again or can we just go to the Planning Commission? I think we're trying to address all the concerns tonight.

Mr. Jamison – Right; so, technically, they have the right to review it. I think, I'm hearing from them if that BZA grants it that it shouldn't be an issue at that point. That would allay those concerns...

Mr. Quinn – Okay.

Mr. Jamison – Planning still has to look at it...

Mr. Quinn – Yeah, I just want to understand the process...

Mr. Jamison – And you still have to get your variance from that 20 foot requirement on the...

Mr. Quinn – Yeah...

Mr. Jamison – The east property...

Mr. Quinn – Okay. Thank you.

Mr. Jamison – Okay. You're welcome. Are there any other questions or should I read the...

Mr. Carbone – Neal, did you want me to read the front or are you going to read it?

Mr. Jamison – I'll do it Jim. Just because I had to change all of it.

(Multiple conversations)

Mr. Jamison – So, with your permission Mr. Chairman, I'll read the proposed motion to amend:

I hereby move to amend the findings and determinations of the Board of Zoning Appeals at its meeting held on July 10, 2019 wherein this Council shall grant a 4.6 foot building setback variance; a 6.1 parking setback variance from the Pearl Road right-of-way; an 11.5 foot parking setback variance from the Whitney Road right-of-way; and a 1.07 acre minimum lot variance to Development Management Group, LLC., in order to construct a commercial building on the property located at 9175 Pearl Road, PPN: 395-16-004, by means of the following: That the above stated variances are granted, subject to the condition that 1. The proposed improvements and building are shifted to the east by 10 feet, and 2. No left hand turn from and into the premises for the driveway on Pearl Road.

Mr. DeMio – So the motion made by Mr. Jamison on behalf of Mr. Carbone...

MISCELLANEOUS BUSINESS (cont'd):

Ms. Pientka – We need a second...

(Multiple conversations)

Mr. DeMio – Excuse me. Let me share something with everybody. We have a Law Director here, just let him tell me what to do.

Mr. Jamison – Right, so...

Mr. DeMio – I don't need 30 people telling me what to do. So, go on.

Mr. Jamison – Properly stated and then...

Mr. DeMio – Okay, hang...by Mister...

Mr. Jamison – Yeah, you read it right...

Mr. DeMio – Right, by Mr. Jamison, I didn't do...and I will need a second by Mr. Schonhut. Okay...

Mr. Jamison – For me or him?

Mr. Schonhut – You, the last sentence of the...about the turn...

Mr. Jamison – For the turn...

Mr. Schonhut – Yes.

Mr. Jamison – Okay. So number two, no left hand turn from and into the premises for the driveway on Pearl Road.

Mr. Schonhut – Coming into...okay.

Mr. Jamison – So second if you're ready...

Mr. DeMio – So, Mr. Carbone you're motion.

Mr. Carbone – Yes.

Mr. DeMio – I need a second.

Mr. Schonhut – Second.

Mr. DeMio – Okay. So, second by Mr. Schonhut. Please call the roll.

Roll Call: All ayes. Motion carries.

ADJOURNMENT:

There being no further business to come before this Council, President DeMio adjourned the meeting at 10:16 p.m.



Aimee K. Pientka, MMC
Clerk of Council

September 16, 2019
Date