

## MINUTES OF THE SPECIAL STRONGSVILLE COUNCIL MEETING

HELD ON JULY 29, 2008 IN THE COUNCIL CHAMBER

### **CALL TO ORDER:**

The meeting was called to order at 6:02 p.m. by the President of Council, Michael J. Gallagher. All joined in the Pledge of Allegiance to the Flag.

### **CERTIFICATION OF POSTING:**

The Clerk of Council certified that the meeting had been posted according to the requirements of Ordinance No. 2004-273.

### **ROLL CALL:**

**Present: Council Members:** Patrick J. Coyne, Joseph C. DeMio, Michael J. Gallagher, Raymond L. Haseley, and Michael J. Daymut. Also Present: Leslie J. Seefried, Clerk of Council. **Administration:** Thomas P. Perciak, Mayor; Kenneth A. Kraus, Law Director; Donald C. Batke, Finance Director; Eugene P. Magocky, Economic Development Director; Robert Moody, Chief of Fire; Charles Goss, Chief of Police; Ken Mikula, City Engineer; and Anthony J. Biondillo, Building Commissioner.

**Absent:** Council Members Mark A. Roth and James A. Kaminski.

Motion was made by Mr. DeMio and seconded by Mr. Coyne to excuse Council Members Mark A. Roth and James A. Kaminski for just cause. All members present voted aye and the motion carried.

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Councilman DeMio moved to adjourn from open session into executive session [Article XI, Section 9, City Charter] for the purpose of discussing pending litigation with the Law Director. The motion was seconded by Councilman Coyne. Roll Call: All ayes. Motion carried. Council adjourned into executive session at 6:04 p.m. with Council Members Coyne, Daymut, DeMio, Gallagher and Haseley present. Also present were Mayor Perciak, Law Director Kraus, Finance Director Batke and Fire Chief Moody. The Law Director advised that at 6:18 p.m. a motion was made by Mr. Daymut, seconded by Mr. Haseley, and unanimously approved to conclude the Executive Session and reconvene in open session.

The Special Council Meeting reconvened at 6:19 p.m.

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**PUBLIC HEARING:**

**Ordinance No. 2008-130.** AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF STRONGSVILLE ADOPTED BY SECTION 1250.03 OF TITLE SIX, PART TWELVE OF THE CODIFIED ORDINANCES OF STRONGSVILLE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN REAL ESTATE LOCATED AT 21138 ROYALTON ROAD IN THE CITY OF STRONGSVILLE FROM R-RS (RESTAURANT-RECREATIONAL SERVICE) CLASSIFICATION TO MS (MOTORIST SERVICE) CLASSIFICATION (PART OF PPN 392-16-002) AND FROM GI (GENERAL INDUSTRIAL) CLASSIFICATION TO MS (MOTORIST SERVICE) CLASSIFICATION (PART OF PPN 392-16-002) AND FROM GI (GENERAL INDUSTRIAL) CLASSIFICATION TO GB (GENERAL BUSINESS) CLASSIFICATION (PART OF PPN 392-16-002), AND DECLARING AN EMERGENCY. (Catanzarite Investment Co., Owner. Stephen W. Funk, Atty., for Applicant Sheetz, Inc.) 1<sup>st</sup> rdg: 6-16-08. Favorable recommendation by Planning Commission 6-26-08. 2<sup>nd</sup> rdg: 6-27-08.

Council President Gallagher opened the Public Hearing on Ordinance No. 2008-130 and invited anyone wishing to speak **IN FAVOR** of the Ordinance to approach the podium and address Council at this time.

Stephen Funk, Roetzel and Andress, 222 South Main Street, Akron, Ohio - Good evening. My name is Stephen Funk; I'm an attorney at Roetzel and Andress in Akron, Ohio; 222 South Main Street. I'm here on behalf of the applicant, Sheetz, Incorporated. You all – First of all, before I start I just wanted to thank everyone for scheduling this special hearing before you go on recess; we appreciate you taking the time to schedule this for tonight. The intersection that we're talking about here – I know we have both ordinances, they both essentially relate to the same intersection, so it might be easier if I just talked about both of them, but happy to answer any questions you have. (Referring to drawings displayed to the Council and Administration.) But essentially the intersection we're talking about is State Route 237 and State Route 82, just down the street on Royalton Road. And currently at that intersection, this is the northwest corner, there is a vacant small former (unintelligible) facility, orange, zoning, and that's the next ordinance that you'll be considering. And then behind that is what was formally a restaurant bar, I believe, that's been vacant for some time, in the green area, and then the red area is all vacant land. And what we're proposing to do is to rezone that to the blue, which would be MS, and that area is defined as being where the Sheetz store will be located. And the yellow, we're proposing to rezone that to General Business, primarily because that land may potentially in the future be subject to future development, but it probably would be more of a smaller business as opposed to an industrial use, given the nature of that property – there's some ravines and some rough geography there. And we think this makes a lot of sense for a number of reasons. One is that currently that property is not being used, it's been vacant; it really is going to improve that intersection. And, also, it's consistent with the surrounding uses. Across the street is a Speedway station and the other part of the intersection was formally a BP station and then there's Royalville Plaza that's along there, as well. And we think it'll really improve that intersection and benefit the entire community. And with me here today is Kira Kabo, who is with GPD, and they're the engineers on the project, along with (unintelligible) from Sheetz, and we're here to answer any and all of your questions you might have.

Mr. Gallagher – Any questions from Council?

(None)

Mr. Gallagher – Thank you.

**PUBLIC HEARING (cont'd):**

**Ordinance No. 2008-130 (cont'd):**

President Gallagher invited anyone wishing to speak **IN OPPOSITION** to the Ordinance to now approach the podium and address Council.

(No comments)

Hearing no further comments in regard to Ordinance No. 2008-130, Council President Gallagher declared the Public Hearing on said Ordinance closed.

**Ordinance No. 2008-131.** AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF STRONGSVILLE ADOPTED BY SECTION 1250.03 OF TITLE SIX, PART TWELVE OF THE CODIFIED ORDINANCES OF STRONGSVILLE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN REAL ESTATE LOCATED AT 21034 ROYALTON ROAD IN THE CITY OF STRONGSVILLE FROM LB (LOCAL BUSINESS) CLASSIFICATION TO MS (MOTORIST SERVICE) CLASSIFICATION (PPN 392-16-003), AND DECLARING AN EMERGENCY. (Edno Clubs, Inc., Owner. Stephen W. Funk, Atty., for Applicant Sheetz, Inc.) 1<sup>st</sup> rdg: 6-16-08. Favorable recommendation by Planning Commission 6-26-08. 2<sup>nd</sup> rdg: 6-27-08.

Council President Gallagher opened the Public Hearing on Ordinance No. 2008-131 and invited anyone wishing to speak **IN FAVOR** of the Ordinance to approach the podium and address Council at this time.

Stephen Funk, Roetzel and Andress, 222 South Main Street, Akron, Ohio – Again, I've already addressed this; the only – this Ordinance, this would only relate to the orange portion of the property.

Mr. Gallagher – Name and address for the record, please?

Stephen Funk – Oh, I'm sorry. Steve Funk again for Roetzel and Andress; 222 South Main Street, Akron, Ohio.

Mr. Gallagher – Thank you. Anyone else in attendance?

(No comments)

President Gallagher invited anyone wishing to speak **IN OPPOSITION** to the Ordinance to now approach the podium and address Council.

(No comments)

Hearing no further comments in regard to Ordinance No. 2008-130, Council President Gallagher declared the Public Hearing on said Ordinance closed.

**ORDINANCES AND RESOLUTIONS:**

Mr. Batke – Excuse me, Mr. Chairman. If I could just interject for a moment.

Mr. Gallagher – Mr. Batke.

Mr. Batke – If you don't mind, that I can certify that funds will be made available for all of the ordinances and resolutions on this evening's agenda requiring certification of funding and up for adoption. Thank you.

Mr. Gallagher – Mr. Batke, thank you very much; I didn't see you on my agenda and we always like to see you on our agenda.

Mr. Haseley – That never stopped him before.

Mr. Gallagher – Thank you, Mr. Batke. Ordinances and Resolutions.

**Ordinance No. 2008-130** by Mayor Perciak and Mr. Haseley. AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF STRONGSVILLE ADOPTED BY SECTION 1250.03 OF TITLE SIX, PART TWELVE OF THE CODIFIED ORDINANCES OF STRONGSVILLE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN REAL ESTATE LOCATED AT 21138 ROYALTON ROAD IN THE CITY OF STRONGSVILLE FROM R-RS (RESTAURANT-RECREATIONAL SERVICE) CLASSIFICATION TO MS (MOTORIST SERVICE) CLASSIFICATION (PART OF PPN 392-16-002) AND FROM GI (GENERAL INDUSTRIAL) CLASSIFICATION TO MS (MOTORIST SERVICE) CLASSIFICATION (PART OF PPN 392-16-002) AND FROM GI (GENERAL INDUSTRIAL) CLASSIFICATION TO GB (GENERAL BUSINESS) CLASSIFICATION (PART OF PPN 392-16-002), AND DECLARING AN EMERGENCY. (Catanzarite Investment Co., Owner. Stephen W. Funk, Atty., for Applicant Sheetz, Inc.) 1<sup>st</sup> rdg: 6-16-08. Favorable recommendation by Planning Commission 6-26-08. 2<sup>nd</sup> rdg: 6-27-08. Public Hearing 7-29-08.

**Motion for adoption by Mr. DeMio, second by Mr. Coyne.**

**Roll Call: All ayes. Motion carries. Ordinance No. 2008-130 ADOPTED.**

**Ordinance No. 2008-131** by Mayor Perciak and Mr. Haseley. AN ORDINANCE AMENDING THE ZONING MAP OF THE CITY OF STRONGSVILLE ADOPTED BY SECTION 1250.03 OF TITLE SIX, PART TWELVE OF THE CODIFIED ORDINANCES OF STRONGSVILLE TO CHANGE THE ZONING CLASSIFICATION OF CERTAIN REAL ESTATE LOCATED AT 21034 ROYALTON ROAD IN THE CITY OF STRONGSVILLE FROM LB (LOCAL BUSINESS) CLASSIFICATION TO MS (MOTORIST SERVICE) CLASSIFICATION (PPN 392-16-003), AND DECLARING AN EMERGENCY. (Edno Clubs, Inc., Owner. Stephen W. Funk, Atty., for Applicant Sheetz, Inc.) 1<sup>st</sup> rdg: 6-16-08. Favorable recommendation by Planning Commission 6-26-08. 2<sup>nd</sup> rdg: 6-27-08. Public Hearing 7-29-08.

**Motion for adoption by Mr. DeMio, second by Mr. Coyne.**

**Roll Call: All ayes. Motion carries. Ordinance No. 2008-131 ADOPTED.**

**ORDINANCES AND RESOLUTIONS (cont'd):**

**Ordinance No. 2008-165** by Mayor Perciak. AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ISSUE AND APPROVE CHANGE ORDER NO. 1 FOR AN INCREASE IN THE CONTRACT PRICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONTRACT BETWEEN THE CITY OF STRONGSVILLE AND PRECISION ENVIRONMENTAL CO., INC., IN CONNECTION WITH THE PURCHASE AND INSTALLATION OF AN EMERGENCY GENERATOR, ELECTRICAL UPGRADES AND INTERIOR LIGHTING AT THE EDWARD J. LATAWIEC SERVICE CENTER, AND DECLARING AN EMERGENCY.

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

**Motion for adoption by Mr. DeMio, second by Mr. Coyne.**

**Roll call: All ayes. Motion carries. Ordinance No. 2008-165 ADOPTED.**

**Resolution No. 2008-166** by Mayor Perciak and All Members of Council. A RESOLUTION AUTHORIZING THE MAYOR AND LAW DEPARTMENT TO ENTER INTO A RELEASE AND SETTLEMENT AGREEMENT TO RESOLVE PENDING LITIGATION; AND DECLARING AN EMERGENCY.

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

**Motion for adoption by Mr. DeMio, second by Mr. Coyne.**

**Roll call: All ayes. Motion carries. Resolution No. 2008-166 ADOPTED.**

**Ordinance No. 2008-167** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR PROFESSIONAL REAL ESTATE AGENCY, MARKETING AND ADVISORY SERVICES IN CONNECTION WITH THE SALE OF APPROXIMATELY 166 ACRES OF CITY-OWNED VACANT INDUSTRIAL LAND FOR ECONOMIC DEVELOPMENT, AND DECLARING AN EMERGENCY.

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

**Motion for adoption by Mr. DeMio, second by Mr. Coyne.**

**Roll call: All ayes. Motion carries. Ordinance No. 2008-167 ADOPTED.**

**OTHER BUSINESS:**

Application for Liquor Permit – TRF0 – D1-D2-D3-D3A-D6 – To: TB Restaurant, Inc., ***dba Geppetto's Strongsville, 15323 Pearl Road***, Strongsville, OH 44136; From: TPO, Inc., dba Geppetto's Strongsville, 15323 Pearl Road. (Responses must be postmarked no later than 08/15/2008)

Mr. Gallagher – There was an objection, wasn't there, Mr....?

Mr. Kraus – Mr. President, there was an objection filed by the Building Commissioner, at least on a conditional basis, due to some outstanding property code violations. I would recommend that Council enter a conditional objection so that if the applicant remedies those violations that the objection will be withdrawn and transmitted down to Columbus by the Clerk, as the Police Department has no objection otherwise.

Mr. Gallagher – Is there a motion to that effect?

Mr. DeMio – I guess I will move towards that motion, with that understanding.

Mr. Coyne – Second.

Roll Call: All ayes. Motion carries to conditionally object to the above stated Application.

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Mr. Gallagher – Is there any other business?

Mr. DeMio – Yes, I do have a motion to have Council review 19698 Westwood Drive; I'll ask the Law Department to do the correct language of the motion so it's done properly and legally.

Mr. Kraus – Yes, Mr. President, Councilman DeMio. This is with respect to a BZA Floor Area variance. The motion would be in four parts, to, first, approve the request for review of the July 23, 2008 decision of the Board of Zoning and Building Code Appeals to grant a 260 SF Floor Area variance from Zoning Code Section 1252.15 which permits a 400 SF floor area and where a 660 SF Floor Area is proposed in order to construct an Accessory Building for property located at 19698 Westwood Drive PPN 392-29-009 zoned R1-75, due to the fact that Council finds and determines that one or more matters at issue in the request significantly affect or involve a purpose of the Planning and Zoning Code and/or the intent of Council in their adoption; and number two, a motion to enlarge the time to hear and decide the matter by thirty (30) days until September 28, 2008 due to Council's scheduled August recess; and thirdly, to set a hearing *de novo* on the matter for the September 2, 2008 Council meeting at 8:00 p.m., at the City of Strongsville Communications Center, 13213 Pearl Road; and finally, to direct our Clerk of Council to provide notice to all parties required to receive notice of a variance.

Mr. DeMio – So moved.

Mr. Coyne - Second.

Roll Call: All ayes. Motion carries.

**ADJOURNMENT:**

There being no further business to come before this Council, the meeting was declared adjourned by Council President Gallagher at 6:34 p.m.

Signature on File  
Leslie J. Seefried, MMC  
Clerk of Council

September 2, 2008  
Approval Date