

## **SUMMARY OF CAUCUS DISCUSSION AND MINUTES OF THE REGULAR STRONGSVILLE COUNCIL MEETING HELD ON SEPTEMBER 2, 2008**

The Council of the City of Strongsville met in the Caucus Room at the Strongsville Communications Center, 13213 Pearl Road, on Tuesday, September 2, 2008 at 7:00 p.m.

Present: Council Members: Patrick J. Coyne, Michael J. Daymut, Joseph C. DeMio, Michael J. Gallagher, Raymond L. Haseley and Mark A. Roth. Also Present: Clerk of Council Leslie J. Seefried. Administration: Mayor Thomas P. Perciak, Law Director Kenneth A. Kraus, Finance Director Donald C. Batke, Service Director Joseph M. Walker, Economic Development Director Eugene P. Magocky, City Engineer Ken Mikula, Building Commissioner Anthony J. Biondillo, Communications and Technology Director John Bedford, Recreation Director Stephen F. Kilo, Fire Chief Robert Moody and Police Chief Charles Goss.

The following Committees met to review legislation on the agenda:

Planning, Zoning and Engineering Committee: Chairman Haseley recommended suspension and adoption for Ordinance 2008-173, authorizing an application for State of Ohio Issue 1 funding for improvements to the municipal sanitary sewer system in connection with the Webster Road/Blazey Trail Sanitary Sewer Project. He recommended first reading for Resolution 2008-185, approving an amended development plan for Westfield Southpark Mall to permit construction of a day care facility. First reading and referral to Planning Commission was recommended for Ordinance 2008-186, proposing to rezone real estate located at 18489 Pearl Road (PPN 397-18-002) from General Business classification to Commercial Service classification. Mr. Haseley recommended suspension and adoption for Ordinance 2008-187, authorizing the grant of a permanent non-exclusive sanitary sewer easement to Lorain County within part of the Marks Road right-of-way in the City for a sanitary sewer main. A lengthy discussion ensued when Councilman Roth posed several questions regarding the project to the City Engineer and Service Director. Mr. Roth was disappointed that the ordinance was recommended for adoption this evening when he, as the ward councilman, had many questions regarding the project and had just received his packet on Friday, over the Labor Day weekend. Mr. Roth requested that the ordinance instead be placed on first reading. The City Engineer and Service Director, along with the Mayor and Law Director, responded to Mr. Roth's questions about who would be responsible for maintaining the line (Lorain County); how it would affect the 30 or so existing homes on the Strongsville side of Marks Road who have already tied into sewers; the five Strongsville homes that would be given sewer extensions by Lorain County as part of the project; etc. The Service Director stated this project does nothing but benefit the City of Strongsville. After much discussion, it was agreed that the Ordinance would be voted on this evening.

Public Safety and Health Committee: Chairman DeMio recommended suspension and adoption for Resolutions 2008-174, 2008-175, 2008-176, 2008-177 and 2008-178, all relating to the Strongsville Police Department Facility, all rejecting all bids submitted for various trades work in connection with the renovation of the facility and all authorizing the Mayor to re-advertise for bids for such work. Mr. DeMio recommended suspension and adoption for Ordinance 2008-183, authorizing the demolition and destruction of a city-owned communications tower located on city property near 18600 Royalton Road no longer needed for any municipal purpose. He also recommended suspension and adoption for Ordinances 2008-195, 2008-196, 2008-197 and 2008-1998, all relative to the new Ward 4 Fire Station Headquarters Project and all authorizing the issuance and approval of change orders for increases in the contract prices in connection with improvements to that facility.

Further, Mr. DeMio noted that Ordinance No. 2008-199, authorizing the sale by internet auction of certain lost, abandoned, stolen, seized and/or forfeited property held by the Police Department, would be added to the agenda this evening with a recommendation of suspension and adoption.

Public Service and Conservation Committee: Council President Gallagher recommended suspension and adoption for Ordinance 2008-169, authorizing and consenting to the application by Columbia Township for Issue 2 funding for the asphalt resurfacing of North Marks Road from Sprague Road south to Snell Road. He recommended suspension and adoption for Ordinances 2008-170, 2008-171 and 2008-172, all in connection with applying for State of Ohio Issue 1 funding for City road projects; for Ordinance 2008-179, authorizing the sale of an obsolete and surplus vehicle; Ordinance 2008-180, authorizing the disposal of a Service Department vehicle; Ordinance 2008-181, authorizing entering into a cooperative agreement with the City of Middleburg Heights for resurfacing of a portion of Main Street between Big Creek Parkway and the railroad tracks; and for Ordinance 2008-184, authorizing entering into a real estate agreement with ODOT in connection with the widening and reconstruction of Pearl Road south.

Finance Committee: Chairman Coyne recommended adoption for Resolutions 2008-140 and 2008-141. Law Director Kraus advised that a motion to amend the Resolutions to include the exhibits would be necessary prior to the motion to adopt. Mr. Coyne also recommended suspension and adoption for Ordinance 2008-168, the City's appropriation ordinance; and for Resolution 2008-194, amending Resolution No. 2006-49 to designate an additional depository for active and interim funds of the City.

Economic Development and Technology Committee: Chairman Daymut reported that the next committee meeting would take place on Monday, September 22<sup>nd</sup>, at 7 p.m. He also reminded all present that the next business network breakfast meeting will take place on Thursday, September 25<sup>th</sup>, at 7 a.m. in the Event Center at the WFE Recreation Complex.

Recreation and Community Services Committee: Chairman Gallagher recommended suspension and adoption for Ordinance 2008-182, ratifying and authorizing the demolition and disposal of a structure located on city-owned property at 21255 W. Lunn Road no longer needed for any municipal purpose; for Ordinance 2008-188, authorizing the Mayor to accept the transfer of Quality Community Partnership's ownership interest in two light transit narrow body vehicles and enter into an agreement with ODOT regarding the continued operation and maintenance of those vehicles in order to continue to provide transportation services to the elderly and disabled; and for Ordinances 2008-189, 2008-190, 2008-191, 2008-192 and 2008-193, all amending previously adopted ordinances in order to increase the not-to-exceed amount of contracts with various vendors in connection with food items for the Recreation and Senior Center.

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President Gallagher asked if any of the Council members had any questions and or issues to be brought to the attention of any of the department directors.

Mr. Gallagher stated he has been receiving many calls about signs on business properties. Building Commissioner Biondillo responded that we are enforcing our current sign ordinances, but are doing so with the limited resources. Revisions to the sign ordinance are currently underway.

Mr. Gallagher also inquired about the dirt mounds near Boston and Prospect Road in connection with a project of developer Dave Terry's. The Mayor advised that he will be meeting soon with Mr. Terry and will be able to update the Council further after that meeting.

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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 personnel matters. The motion was seconded by Councilman Daymut. Roll Call: All ayes. Motion carried. Council adjourned into executive session at 7:49 p.m. with the following members present: Coyne, Daymut, DeMio, Gallagher, Haseley and Roth. Also present was Mayor Perciak. A motion was made by Mr. DeMio, seconded by Mr. Daymut, and unanimously approved to conclude the Executive Session at 7:59 p.m. and reconvene in open session.

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## **MINUTES OF THE REGULAR STRONGSVILLE COUNCIL MEETING HELD ON SEPTEMBER 2, 2008 IN THE COUNCIL CHAMBERS AT THE COMMUNICATIONS CENTER**

### **CALL TO ORDER:**

The meeting was called to order at 8:02 p.m. by the President of Council, Michael J. Gallagher. All joined in the Pledge of Allegiance to the Flag.

Mr. Gallagher – Good evening ladies and gentlemen to the Tuesday, September 2<sup>nd</sup> City Council meeting for the City of Strongsville. We're getting a little adjusted up here after a month sabbatical and hopefully we'll be... you're all set there, Leslie?

Ms. Seefried – Yep.

### **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:** Patrick J. Coyne, Joseph C. DeMio, Michael J. Gallagher, Raymond L. Haseley, Mark A. Roth III, 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; Joseph M. Walker, Service Director; Eugene P. Magocky, Economic Development Director; Robert Moody, Chief of Fire; Charles Goss, Chief of Police; John Bedford, Communications and Technology Director; Ken Mikula, City Engineer; Anthony J. Biondillo, Building Commissioner; and Steve Kilo, Recreation Director.

### **COMMENTS ON MINUTES:**

The Minutes of the Regular Council Meeting held on July 21, 2008 and the Minutes of the Special Council Meeting held on July 29, 2008 were approved as submitted.

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Motion was made by Mr. DeMio and seconded by Mr. Coyne to amend the agenda by adding Ordinance No. 2008-199. All members present voted aye and the motion carried.

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**APPOINTMENTS AND CONFIRMATIONS:**

None.

**REPORTS OF COUNCIL COMMITTEES;**

**SOUTHWEST GENERAL HEALTH SYSTEM – Mr. Gallagher:** Also there was no meeting over the month, and I will report on this month's meeting at the next meeting.

**SCHOOL BOARD – Mr. Roth:** Thank you, Mr. Gallagher. I was in attendance at the August 21<sup>st</sup> School Board meeting. Mr. Paul Moses was appointed the new Athletic Director. The Strongsville Schools have achieved the K through 6 thirty or less per classroom. Reinstated was the program for foreign languages. There will be salary increases January 1<sup>st</sup> of this year and August 1<sup>st</sup> of this year for personnel. Twenty million dollars is being invested by the schools. Mr. John Karpinski was appointed the Assistant Superintendent and Human Resource Director. And additional teachers were hired and personnel for this year. That's all I have, Mr. Gallagher.

Mr. Gallagher – Thank you, Mr. Roth. Questions for Mr. Roth?

Mayor Perciak – John Karpinski is a resident of the City of Strongsville.

Mr. Gallagher – Thank you, Mr. Mayor, and actually quite a genuine individual and quite an addition to the Schools, and we congratulate him.

**RECREATION AND COMMUNITY SERVICE – Mr. Gallagher:** Before the committee this evening we have Ordinance 2008-182, it's the demolition of a City-owned structure, suspension and adoption is recommended; Ordinance 188 will be placed on first reading; Ordinances 189, 190, 191, 192 and 193, all dealing with increases in contracts at the Rec Center dealing with food and dry goods, all those were recommendations through the committee for suspension and adoption. I'll take any questions.

(None)

**PUBLIC SERVICE AND CONSERVATION:** Mr. Gallagher – I'll sit in Mr. Kaminski's stead. Before Public Service this evening we have Ordinance 2008-169, that's an application for Issue 2 funding with Columbia Township for the resurfacing of Marks Road from Sprague to Snell, recommendation is suspension and adoption; Ordinance 170 is also an application for Issue 1 funds for improvements to Marks Road from Lunn to Boston in connection with the Marks Road resurfacing, recommendation is suspension and adoption; Ordinance 171, issuance of Issue 1 funding for improvements to Pearl Road in connection with the Pearl Road widening project, suspension and adoption; Ordinance 172, an application for Issue 1 funding for improvements to Howe Road, suspension and adoption is the recommendation; Ordinance 179, authorizing the sale of an obsolete surplus vehicle, suspension and adoption;

**REPORTS OF COUNCIL COMMITTEES (cont'd):**

Mr. Gallagher (cont'd) - Ordinance 180, disposal of a surplus vehicle, suspension and adoption; Ordinance 181 is a cooperative with Middleburg Heights for a resurfacing project, suspension and adoption; and Ordinance 184 is a real estate agreement with ODOT with the Drake and Shurmer in connection with the Pearl Road widening project, the recommendation is suspension and adoption. If there are any questions, I'll answer them.

(None)

**PUBLIC SAFETY AND HEALTH – Mr. DeMio:** Thank you, Mr. Gallagher. All the ordinances on Public Safety and resolutions will all be suspension and adoption tonight. Some of them have to do with the re-advertising that applies to the police station. So without going into detail because it is a full, full agenda tonight, the unique things are the demolition of the tower right by the police station, as well as – excuse me – well, that would be the real unique one, I should say. So, they were all suspension and adoption in our committee, we met for quite some time today, and we're looking forward to the new bids and we appreciate the Finance Director, the Mayor and Law Department on these issue because they worked very hard; unfortunately, they weren't quite what was acceptable to our City. So we'd like to suspend and adopt those to get the police station back on track. That's it, and I'll take questions otherwise if there are any.

Mr. Gallagher – Questions for Mr. DeMio?

(None)

**PLANNING, ZONING AND ENGINEERING – Mr. Haseley:** Thank you Mr. Gallagher. We met this evening and discussed the following: Ordinance 2008-173, after lengthy discussion we're placing it on first reading and referring back to committee; Resolution 2008-185 –

Mr. Gallagher – We're going to pass that one.

Mr. Daymut – It's up for adoption, Ray.

Mr. Gallagher – We agreed to vote.

Mr. Haseley – Oh, I didn't hear that. Oh. I stand corrected. We had an agreement, a last minute agreement to suspend and adopt that, which I think is the right thing. Resolution 2008-185, place on first reading and back to committee; Ordinance Number 2008-186, place on first reading, refer to Planning Commission, back to committee; Ordinance 2008-187, suspend and adopt. That concludes my report; if there are any questions, I'll be glad to try to answer them.

Mr. Gallagher – Thank you, Mr. Haseley. Questions for Mr. Haseley?

(None)

**FINANCE - Mr. Coyne.** Thank you Mr. Gallagher. The Finance Committee met this evening, we have two resolutions and two ordinances in committee. 2008-140 and 141, both resolutions; 140 is to direct the Director of Finance to certify to the County Auditor the unpaid property maintenance and nuisance issues, and 141 is to direct the Finance Director to certify to the County Auditor all unpaid sewerage rental charges.

**REPORTS OF COUNCIL COMMITTEES (cont'd):**

Mr. Coyne (cont'd) - 2008-168 and 194; 168 is an ordinance making appropriations for the current expenses and other expenditures for the year 2008; and our last one this evening, which is 194, we're amending the resolution to designate an additional depository for active and interim accounts. That's all I have this evening; I'll be more than glad to answer any questions.

Mr. Gallagher – Thank you, Mr. Coyne. Questions for Mr. Coyne?

(None)

**ECONOMIC DEVELOPMENT AND TECHNOLOGY – Mr. Daymut.** Thank you Mr. Gallagher. We did meet this evening; we have no ordinances or resolutions on this evening's agenda. I'd like to announce that our next meeting will be Monday, September 22<sup>nd</sup>, at 7 p.m. here at the Communications Center. And our next breakfast meeting will be Thursday, September 25<sup>th</sup> at 7 a.m. at the Rec Center. We'd like to thank PayAmerica for sponsoring that particular breakfast, and we have an excellent speaker at that breakfast, it will be Joseph Hobritch, consultant and economist from the Federal Reserve Bank of Cleveland, and the topic will be Economic Outlook for 2009. I think it will be very interesting. If you would mark your calendars I would appreciate if you'd be able to make that breakfast meeting. That's all I have this evening, Mr. Gallagher. Thank you very much.

Mr. Gallagher – Thank you Mr. Daymut. Questions for Mr. Daymut?

(None)

**BUILDING AND UTILITIES – Mr. Roth.** Thank you Mr. Gallagher. The era of flashing midnight on many alarm clocks throughout northern Strongsville has to cease. Numerous complaints are flooding into me; people are having their jobs risked and threatened because they're being tardy often for work. We've had numerous power outages over and over and over again, the magnitude I'm not sure, but it has to cease. Too many people are waking up – what, three times last week with flashing midnight when they wake up in the morning late because their power had gone out. This can't be tolerated any more. It's not a long outage, just enough to screw up everybody's alarm clock and computers, and it has to cease. Many residents in northern Strongsville -- the magnitude I'm not sure of, but many residents are absolutely flabbergasted this is allowed to continue.

And then I would just like an update on a flooding issue that Mr. Mikula and I met on quite some time ago on Creekside, DeMarco case. Mr. Mikula, are we – has the decision been made to add a couple retention basins while the lots are open and undeveloped? What's going on there?

Mr. Mikula – If I might. Mr. Roth, I sent you a memo on that a couple days after we met, so I would refer to that. But basically, we will be installing a catch basin when the house is developed directly behind him to help alleviate some of that water back there. But it's all written in that memo, if I could just refer to that.

Mr. Roth – Okay. We're not going to do anything to the flooding problem until those lots are developed? What if those lots take years to develop?

Mr. Mikula – Well, there really is no other alternative back there.

**REPORTS OF COUNCIL COMMITTEES (cont'd):**

Mr. Roth – We have to wait?

Mr. Mikula – And that's what the original improvement plans indicated, that...

Mr. Roth – As the lots are developed?

Mr. Mikula – Right.

Mr. Roth – Okay. Do Mr. and Mrs. DeMarco know that?

Mr. Mikula – I relayed the same information to him.

Mr. Roth – Okay, thank you. That's all, Mr. Gallagher.

Mr. Gallagher – Thank you, Mr. Roth. Any questions for Mr. Roth?

(None)

**COMMITTEE OF THE WHOLE – Mr. Gallagher:** There is no legislation before the Committee-of-the-Whole this evening.

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

Mayor Perciak – Thank you, President Gallagher. Two things. On Friday -- believe it or not, it's time to start thinking about snow, so the Senior Snow Plow Program notices went out on Friday, so if anyone has any questions feel free to contact either the Mayor's Office or contact Mr. Walker's office and we'll be happy to help you along with that.

The next thing that we'd like to talk about already, fall is around the corner, the leaf program. Our leaf program will begin October 20<sup>th</sup> and not before. It appears because of the dry summer we have a lot of leaves down and people are already calling, when are we going to begin the leaf program? The leaf program will begin October 20<sup>th</sup>.

September 14<sup>th</sup> is going to be a happy day here in Strongsville, the re-dedication of the Old Town Hall. So on September 14<sup>th</sup> from 2-5 p.m. the Old Town Hall will be re-dedicated and anyone having any questions on that, please feel free to contact my secretary, Donna Miscik, or Mrs. Susan Norcross or Ben Stankewicz and they can give you all the particulars on that.

September 21<sup>st</sup>, Breakfast on the Bridge sponsored by the City Club; I ask all of you to partake in that. Last year approximately 1,200 breakfasts were served. Anyone wishing tickets, please contact my office or any member of the City Club and we'll be happy to accommodate you. Also in the afternoon, which is a fun time for all of our young families, a Day at the Chalet, which is being sponsored by our Arts in Strongsville group. So anyone looking to do something here in the fall in the City of Strongsville, there's something going on almost every weekend.

**REPORTS AND COMMUNICATIONS FROM THE MAYOR, DIRECTORS OF DEPARTMENTS  
AND OTHER OFFICERS (cont'd):**

Mayor Perciak (cont'd) - September 27<sup>th</sup> and September 28<sup>th</sup> is our Harvest Festival. Please again we ask you to join us at the Harvest Festival here in the center of town, and then in the evening at 7 p.m. a musical presentation will be presented in St. Joseph's Church and sponsored by our Arts in Strongsville group. And I'll have more information for you on that, but that will be in the evening. But we have events going from early morning to late evening here in Strongsville as we begin the celebration of fall. That's the end of my report, Mr. President.

Mr. Gallagher – Thank you, Mr. Mayor. Any questions for Mayor Perciak?

Mr. Roth – Mr. Gallagher.

Mr. Gallagher – Mr. Roth.

Mr. Roth – Mayor, just something to consider. We replay many, many functions often, often; over and over and over again on cable; maybe Mr. Bedford and yourself can consider replaying Council meetings more than just a few minutes here on Monday night, maybe sometimes throughout the week. Just something to consider.

Mayor Perciak – That we can do.

Mr. Gallagher – Now that would be considered filler. Wow, it's a rough crowd out there tonight. Any other questions for the Mayor?

(None)

**FINANCE DEPARTMENT - Mr. Batke:** Thank you, Mr. President.

Mr. Gallagher – Welcome back, Mr. Batke.

Mr. Batke – Well, nice to be back and good to see you, as always.

Mr. Gallagher – Good seeing you, sir.

Mr. Batke – Absolutely. Just so you know, funds will be available on this evening's agenda for all of the resolutions and ordinances requiring certification of funding and up for adoption. Thank you.

Mr. Gallagher – Thank you Mr. Batke. As you can tell, and Mr. Haseley just commented, that when I had my opportunity and I could read that, I screwed it up and you didn't even look down once.

Mr. Batke – I memorized it.

Mr. Gallagher – Absolutely. Questions for Mr. Batke?

(None)

**REPORTS AND COMMUNICATIONS FROM THE MAYOR, DIRECTORS OF DEPARTMENTS  
AND OTHER OFFICERS (cont'd):**

**LAW DEPARTMENT – Mr. Kraus:** Yes, thank you, Mr. President. All ordinances and resolutions on the agenda this evening are in proper legal form.

In addition, I would like to advise Council that several months ago we had interposed an objection to a liquor permit for Geppetto's at 15323 Pearl Road based upon their failure to complete correction of certain building violations. Mr. Biondillo has submitted a memo to the Law Department and the Clerk of Council indicating that those corrections have been made and therefore the Department of Liquor Control has been so notified.

There are several court dates for the Law Department this week. Tomorrow morning at nine o'clock we're going to be in the 8<sup>th</sup> District Court of Appeals for oral argument in the Obojski versus Visconsi-Royalton versus City of Strongsville matter. On Thursday, September 4<sup>th</sup> in the afternoon we have a pretrial conference in Common Pleas Court in the Lewanski litigation involving the so-called ring road at the north end of town. And then to cap off the week, on Friday, September 5<sup>th</sup> in the afternoon we have a hearing in the United States District Court in front of Judge O'Malley in the Zerman litigation. And that's my report; thank you, Mr. President.

Mr. Gallagher – Thank you Mr. Kraus. Any questions for Mr. Kraus?

Mr. Roth – Yes, Mr. Gallagher.

Mr. Gallagher – Mr. Roth.

Mr. Roth – Just during Mr. Kraus's report jogged my memory; a piece of legislation was not approved for developing, so can I speak to Chief Goss right after the meeting to go another route on my concern? It'll only take one minute, Chief.

Chief Goss – Okay.

Mr. Roth – Thank you.

Mr. Gallagher – Thank you, Mr. Roth. Any other questions?

(None)

**AUDIENCE PARTICIPATION:**

Mr. Gallagher – We've come to the part of our agenda for audience participation. If you wish to speak with Council, we encourage that, step to the podium, we need your name and your address and if you would speak clearly into the microphone; you have five minutes. On the list this evening I have Angelo Ritson.

Mr. DeMio – Michael – and I apologize; before the folks come up to get noticed – if I may.

Mr. Gallagher – Go ahead.

**AUDIENCE PARTICIPATION (cont'd):**

Mr. DeMio – Angelo, the documents that you sent me, just for the record, I gave to the Chief and the Mayor and Law Director and they want to have time to study the legalities of the sign and they'd like us to be able to get back – they'll get back to you within a week. So I want to put that on the record, Mike. The other thing is about the objection, the building permit; those folks are at the end, so please just wait until the end of the meeting so you don't come up inadvertently. That's all. Thank you.

Angelo Ritson, 18925 Saratoga Trail, Strongsville - Angelo Ritson; 18925 Saratoga Trail. First of all, I just remind everybody, obviously, school is back in session, kids are everywhere like fireflies, so one of my objectives here and ongoing is safety on our street, which is Saratoga Trail. First I want to thank Chief Goss and the police department for organizing a meeting with the residents on Saratoga Trail, which took place August 6<sup>th</sup>; they had about forty residents participate with members from your police department and it was very productive. I also want to thank Joe DeMio, who chairs the Public Safety and Health Committee, for reviewing some warning signs concepts that we have that came out of that meeting. And our objective is to collaborate with the City to improve the traffic safety on that street, and I promise you that will be an ongoing effort with the residents and obviously make sure that we're in compliance and agree with the City on that. Thank you.

Mr. DeMio – Thank you, Angelo, for your time.

Mr. Gallagher – And now Fraser and Duplaga, you're here for the variance, we'll be calling you at the end. Is there anyone else here wishing to speak with Council?

(No comments)

**ORDINANCES AND RESOLUTIONS:**

**Resolution No. 2008-140** by Mr. Coyne. A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE OF THE CITY TO CERTIFY TO THE AUDITOR OF CUYAHOGA COUNTY UNPAID PROPERTY MAINTENANCE NUISANCE ABATEMENTS FOR LEVY AND COLLECTION ACCORDING TO LAW, AND DECLARING AN EMERGENCY. 1<sup>st</sup> rdg: 7-7-08. 2<sup>nd</sup> rdg: 7-21-08.

Motion by Mr. DeMio to amend the Resolution by substitution in order to attach Exhibit A; second by Mr. Coyne. All members present voted aye and the motion carried.

**Motion by Mr. DeMio to adopt as amended; second by Mr. Coyne.**

**Roll Call: All ayes. Motion carries**

**Resolution No. 2008-140 ADOPTED.**

**Resolution No. 2008-141** by Mr. Coyne. A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF FINANCE OF THE CITY TO CERTIFY TO THE AUDITOR OF CUYAHOGA COUNTY UNPAID SEWERAGE RENTAL CHARGES FOR LEVY AND COLLECTION ACCORDING TO LAW, AND DECLARING AN EMERGENCY. 1<sup>st</sup> rdg: 7-7-08, 2<sup>ND</sup> rdg: 7-21-08.

Motion by Mr. DeMio to amend the Resolution by substitution in order to attach Exhibit A; second by Mr. Coyne. All members present voted aye and the motion carried.

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

**Resolution No. 2008-141 (cont'd):**

**Motion by Mr. DeMio to adopt as amended; second by Mr. Coyne.**

**Roll Call: All ayes. Motion carries**

**Resolution No. 2008-141 ADOPTED.**

**Ordinance No. 2008-168** by Mayor Perciak. AN ORDINANCE MAKING APPROPRIATIONS FOR THE CURRENT EXPENSES AND OTHER EXPENDITURES OF THE CITY OF STRONGSVILLE, OHIO FOR THE YEAR 2008 AND REPEALING ORDINANCE NO. 2008-118.

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: Ayes: DeMio, Gallagher, Haseley, Daymut, Coyne.**

**Nays: Roth.**

**Motion carries.**

**Ordinance No. 2008-168 ADOPTED.**

**Ordinance No. 2008-169** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING AND CONSENTING TO COLUMBIA TOWNSHIP PREPARING AND SUBMITTING AN APPLICATION FOR STATE OF OHIO ISSUE 2 FUNDING FOR THE ASPHALT RESURFACING OF NORTH MARKS ROAD FROM SPRAGUE ROAD SOUTH TO SNELL ROAD IN THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-169 ADOPTED.**

**Ordinance No. 2008-170** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ENGINEER TO PREPARE AND SUBMIT AN APPLICATION FOR STATE OF OHIO ISSUE 1 FUNDING FOR IMPROVEMENTS TO MARKS ROAD FROM LUNN ROAD TO BOSTON ROAD IN CONNECTION WITH THE MARKS ROAD RESURFACING PROJECT IN THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-170 ADOPTED.**

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

**Ordinance No. 2008-171** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ENGINEER TO PREPARE AND SUBMIT AN APPLICATION FOR STATE OF OHIO ISSUE 1 FUNDING FOR IMPROVEMENTS TO PEARL ROAD IN CONNECTION WITH THE PEARL ROAD WIDENING PROJECT (CUY-42-0.90) IN THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-171 ADOPTED.**

**Ordinance No. 2008-172** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ENGINEER TO PREPARE AND SUBMIT AN APPLICATION FOR STATE OF OHIO ISSUE 1 FUNDING FOR IMPROVEMENTS TO HOWE ROAD IN CONNECTION WITH THE HOWE ROAD RESURFACING PROJECT IN THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-172 ADOPTED.**

**Ordinance No. 2008-173** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR AND CITY ENGINEER TO PREPARE AND SUBMIT AN APPLICATION FOR STATE OF OHIO ISSUE 1 FUNDING FOR IMPROVEMENTS TO THE MUNICIPAL SANITARY SEWER SYSTEM IN CONNECTION WITH THE WEBSTER ROAD/BLAZEY TRAIL SANITARY SEWER PROJECT IN THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-173 ADOPTED.**

Mayor Perciak – Mr. President, if I may at one point, interject here.

Mr. Gallagher – Mr. Mayor.

Mayor Perciak - These past three ordinances, should we be so fortunate to obtain this grant money, will save the City in excess of five million dollars.

Mr. Gallagher – Thank you, Mr. Mayor.

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

**Resolution No. 2008-174** by Mayor Perciak and All Members of Council. A RESOLUTION REJECTING ALL BIDS SUBMITTED FOR GENERAL TRADES WORK IN CONNECTION WITH THE RENOVATION AND ADDITION TO THE STRONGSVILLE POLICE DEPARTMENT FACILITY, AND AUTHORIZING THE MAYOR TO RE-ADVERTISE FOR BIDS FOR THE SAME.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-174 ADOPTED.**

**Resolution No. 2008-175** by Mayor Perciak and All Members of Council. A RESOLUTION REJECTING ALL BIDS SUBMITTED FOR ELECTRICAL WORK IN CONNECTION WITH THE RENOVATION AND ADDITION TO THE STRONGSVILLE POLICE DEPARTMENT FACILITY, AND AUTHORIZING THE MAYOR TO RE-ADVERTISE FOR BIDS FOR THE SAME.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-175 ADOPTED.**

**Resolution No. 2008-176** by Mayor Perciak and All Members of Council. A RESOLUTION REJECTING ALL BIDS SUBMITTED FOR FIRE PROTECTION WORK IN CONNECTION WITH THE RENOVATION AND ADDITION TO THE STRONGSVILLE POLICE DEPARTMENT FACILITY, AND AUTHORIZING THE MAYOR TO RE-ADVERTISE FOR BIDS FOR THE SAME.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-176 ADOPTED.**

**Resolution No. 2008-177** by Mayor Perciak and All Members of Council. A RESOLUTION REJECTING ALL BIDS SUBMITTED FOR PLUMBING WORK IN CONNECTION WITH THE RENOVATION AND ADDITION TO THE STRONGSVILLE POLICE DEPARTMENT FACILITY, AND AUTHORIZING THE MAYOR TO RE-ADVERTISE FOR BIDS FOR THE SAME.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-177 ADOPTED.**

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

**Resolution No. 2008-178** by Mayor Perciak and All Members of Council. A RESOLUTION REJECTING ALL BIDS SUBMITTED FOR HEATING, VENTILATING AND AIR CONDITIONING WORK IN CONNECTION WITH THE RENOVATION AND ADDITION TO THE STRONGSVILLE POLICE DEPARTMENT FACILITY, AND AUTHORIZING THE MAYOR TO RE-ADVERTISE FOR BIDS FOR THE SAME.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-178 ADOPTED.**

**Ordinance No. 2008-179** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE SALE OF AN OBSOLETE AND SURPLUS VEHICLE NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-179 ADOPTED.**

**Ordinance No. 2008-180** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE DISPOSAL OF A DEPARTMENT OF PUBLIC SERVICE VEHICLE NO LONG NEEDED FOR ANY MUNICIPAL PURPOSE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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.**

Mr. Gallagher – Discussion?

Mr. Roth – Yes, Mr. Gallagher.

Mr. Gallagher – Mr. Roth.

Mr. Roth – Is this vehicle not sellable? And we invested a lot of money into this vehicle; has it been stripped of all the valuable parts?

Mr. Gallagher – Mr. Walker.

Mr. Walker – Which --Are you talking about on the...?

Mr. Gallagher – 180.

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

**Ordinance No. 2008-180 (cont'd):**

Mr. Walker – On the 180? Yeah, 180 has been stripped of its parts; the reason that it's no longer – that we can't send it to the auction is because it's not road worthy. So we stripped the parts off of it and what's remaining will go to salvage pool.

Mr. Roth – Thank you, Mr. Walker.

Mr. Walker – You're welcome.

Mr. Roth – That's it, Mr. Gallagher.

**Roll call: All ayes. Motion carries.**

**Ordinance No. 2008-180 ADOPTED.**

**Ordinance No. 2008-181** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A COOPERATIVE AGREEMENT WITH THE CITY OF MIDDLEBURG HEIGHTS FOR RESURFACING OF A PORTION OF MAIN STREET BETWEEN BIG CREEK PARKWAY AND THE RAILROAD TRACKS; AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-181 ADOPTED.**

**Ordinance No. 2008-182** by Mayor Perciak and All Members of Council. AN ORDINANCE RATIFYING AND AUTHORIZING THE DEMOLITION AND DISPOSAL OF A STRUCTURE LOCATED ON CITY-OWNED PROPERTY AT 21255 WEST LUNN ROAD NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-182 ADOPTED.**

**Ordinance No. 2008-183** by Mayor Perciak and All Members of Council. AN ORDINANCE AUTHORIZING THE DEMOLITION AND DESTRUCTION OF A CITY-OWNED COMMUNICATIONS TOWER LOCATED ON CITY PROPERTY NEAR 18600 ROYALTON ROAD NO LONGER NEEDED FOR ANY MUNICIPAL PURPOSE, AND DECLARING AN EMERGENCY.

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

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

**Ordinance No. 2008-183 (cont'd):**

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

**Roll call: All ayes. Motion carries.**

**Ordinance No. 2008-183 ADOPTED.**

**Ordinance No. 2008-184** by Mayor Perciak. AN ORDINANCE AUTHORIZING THE MAYOR TO ENTER INTO A REAL ESTATE AGREEMENT (NO. 22092) WITH THE OHIO DEPARTMENT OF TRANSPORTATION, IN CONNECTION WITH THE WIDENING AND RECONSTRUCTION OF PEARL ROAD SOUTH (US 42) FROM APPROXIMATELY DRAKE ROAD TO SHURMER ROAD, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-184 ADOPTED.**

**Resolution No. 2008-185** by Mayor Perciak and Mr. Haseley. A RESOLUTION APPROVING AN AMENDED DEVELOPMENT PLAN FOR WESTFIELD SHOPPING-TOWN SOUTHPARK MALL TO PERMIT CONSTRUCTION OF A DAY CARE FACILITY; AND DECLARING AN EMERGENCY.

**First reading; referred to Planning, Zoning and Engineering Committee.**

**Ordinance No. 2008-186** 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 18489 PEARL ROAD IN THE CITY OF STRONGSVILLE FROM GB (GENERAL BUSINESS) CLASSIFICATION TO CS (COMMERCIAL SERVICE) CLASSIFICATION (PPN 397-18-002). (James Ondrejlak, Owner. Proposed Use: Headquarters for transportation of physically/mentally handicapped children in public and private schools.)

**First reading; referred to Planning Commission and to the Planning, Zoning and Engineering Committee.**

**Ordinance No. 2008-187** by Mayor Perciak and Mr. Haseley. AN ORDINANCE AUTHORIZING THE MAYOR TO GRANT A PERMANENT NON-EXCLUSIVE SANITARY SEWER EASEMENT TO THE COUNTY OF LORAIN WITHIN PART OF THE MARKS ROAD RIGHT OF WAY IN THE CITY OF STRONGSVILLE (PART OF PPN 391-01-002) FOR THE CONSTRUCTION, OPERATION, MAINTENANCE AND REPAIR OF A SANITARY SEWER MAIN AND APPURTENANCES, AND DECLARING AN EMERGENCY.

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

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

**Ordinance No. 2008-187 (cont'd):**

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

Mr. Gallagher – Discussion?

Mr. Roth – Yes, Mr. Gallagher.

Mr. Gallagher – Mr. Roth.

Mr. Roth – Just would ask in the future that an issue so important to Ward 3 would be maybe discussed with the Ward 3 Councilman more than just Labor Day weekend in front, especially when we know we're going to pass this without any readings. Just would appreciate some discussion on such important issues in the future.

Mr. Gallagher – Thank you. Any other discussion?

(No comments)

**Roll call: All ayes. Motion carries.**

**Ordinance No. 2008-187 ADOPTED.**

**Ordinance No. 2008-188** by Mayor Perciak and Mr. Gallagher. AN ORDINANCE AUTHORIZING THE MAYOR TO ACCEPT THE TRANSFER OF QUALITY COMMUNITY PARTNERSHIP'S OWNERSHIP INTEREST IN TWO LIGHT TRANSIT NARROW BODY VEHICLES AND ENTER INTO AN AGREEMENT WITH THE OHIO DEPARTMENT OF TRANSPORTATION REGARDING THE CONTINUED OPERATION AND MAINTENANCE OF SUCH VEHICLES IN ORDER TO CONTINUE TO PROVIDE TRANSPORTATION SERVICES TO THE ELDERLY AND PERSONS WITH DISABILITIES, AND DECLARING AN EMERGENCY.

**First reading; referred to Recreation and Community Services Committee.**

**Ordinance No. 2008-189** by Mayor Perciak and Mr. Gallagher. AN ORDINANCE AMENDING ORDINANCE NO. 2007-226 IN ORDER TO INCREASE THE NOT TO EXCEED AMOUNT IN CONNECTION WITH THE CONTRACT FOR THE PURCHASE OF DRY GOODS FOR USE AT THE WALTER F. EHRNFELT RECREATION & SENIOR CENTER, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY. [A. LOPRESTI & SONS, INC.]

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-189 ADOPTED.**

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

**Ordinance No. 2008-190** by Mayor Perciak and Mr. Gallagher. AN ORDINANCE AMENDING ORDINANCE NO. 2007-227 IN ORDER TO INCREASE THE NOT TO EXCEED AMOUNT IN CONNECTION WITH THE CONTRACT FOR THE PURCHASE OF DRY GOODS FOR USE AT THE WALTER F. EHRNFELT RECREATION & SENIOR CENTER, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY. [GORDON FOOD SERVICES]

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-190 ADOPTED.**

**Ordinance No. 2008-191** by Mayor Perciak and Mr. Gallagher. AN ORDINANCE AMENDING ORDINANCE NO. 2007-229 IN ORDER TO INCREASE THE NOT TO EXCEED AMOUNT IN CONNECTION WITH THE CONTRACT FOR THE PURCHASE OF MEAT, FISH AND POULTRY FOR USE AT THE WALTER F. EHRNFELT RECREATION & SENIOR CENTER, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-191 ADOPTED.**

**Ordinance No. 2008-192** by Mayor Perciak and Mr. Gallagher. AN ORDINANCE AMENDING ORDINANCE NO. 2007-230 IN ORDER TO INCREASE THE NOT TO EXCEED AMOUNT IN CONNECTION WITH THE CONTRACT FOR THE PURCHASE OF DAIRY PRODUCTS FOR USE AT THE WALTER F. EHRNFELT RECREATION & SENIOR CENTER, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-192 ADOPTED.**

**Ordinance No. 2008-193** by Mayor Perciak and Mr. Gallagher. AN ORDINANCE AMENDING ORDINANCE NO. 2007-231 IN ORDER TO INCREASE THE NOT TO EXCEED AMOUNT IN CONNECTION WITH THE CONTRACT FOR THE PURCHASE OF BAKERY PRODUCTS FOR USE AT THE WALTER F. EHRNFELT RECREATION & SENIOR CENTER, WITHOUT PUBLIC BIDDING, AND DECLARING AN EMERGENCY.

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

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

**Ordinance No. 2008-193 (cont'd):**

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

**Roll call: All ayes. Motion carries.**

**Ordinance No. 2008-193 ADOPTED.**

**Resolution No. 2008-194** by Mr. Coyne. A RESOLUTION AMENDING RESOLUTION NO. 2006-49 TO DESIGNATE AN ADDITIONAL DEPOSITORY FOR ACTIVE AND INTERIM FUNDS OF THE CITY OF STRONGSVILLE, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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. 2008-194 ADOPTED.**

**Ordinance No. 2008-195** by Mayor Perciak and Mr. DeMio. AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ISSUE AND APPROVE CHANGE ORDER NO. 2 FOR AN INCREASE IN THE CONTRACT PRICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONTRACT BETWEEN THE CITY OF STRONGSVILLE AND GIAMBRONE CONSTRUCTION, INC., IN CONNECTION WITH IMPROVEMENTS TO THE NEW WARD 4 FIRE STATION HEADQUARTERS PROJECT, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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: Ayes: Coyne, DeMio, Gallagher, Haseley, Daymut.**

**Nays: Roth.**

**Motion carries.**

**Ordinance No. 2008-195 ADOPTED.**

**Ordinance No. 2008-196** by Mayor Perciak and Mr. DeMio. AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ISSUE AND APPROVE CHANGE ORDER NO. 2 FOR AN INCREASE IN THE CONTRACT PRICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONTRACT BETWEEN THE CITY OF STRONGSVILLE AND R.J. MARTIN ELECTRICAL CONTRACTING, INC., IN CONNECTION WITH IMPROVEMENTS TO THE NEW WARD 4 FIRE STATION HEADQUARTERS PROJECT, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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: Ayes: Gallagher, Haseley, Daymut, DeMio.**

**Nays: Roth, Coyne.**

**Motion carries.**

**Ordinance No. 2008-196 ADOPTED.**

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

**Ordinance No. 2008-197** by Mayor Perciak and Mr. DeMio. AN ORDINANCE AUTHORIZING AND DIRECTING THE MAYOR TO ISSUE AND APPROVE CHANGE ORDER NO. 2 FOR AN INCREASE IN THE CONTRACT PRICE IN ACCORDANCE WITH THE PROVISIONS OF THE CONTRACT BETWEEN THE CITY OF STRONGSVILLE AND COMMERCE PLUMBING COMPANY, IN CONNECTION WITH IMPROVEMENTS TO THE NEW WARD 4 FIRE STATION HEADQUARTERS PROJECT, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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: Ayes: Daymut, Coyne, DeMio, Gallagher, Haseley.**

**Nays: Roth.**

**Motion carries.**

**Ordinance No. 2008-197 ADOPTED.**

**Ordinance No. 2008-198** by Mayor Perciak and Mr. DeMio. 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 NORTHEAST OHIO TRENCHING SERVICE, INC., IN CONNECTION WITH IMPROVEMENTS TO THE NEW WARD 4 FIRE STATION HEADQUARTERS PROJECT, AND DECLARING AN EMERGENCY.

Motion by Mr. DeMio to suspend the rules requiring every ordinance or resolution to be read on 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: Ayes: Coyne, DeMio, Gallagher, Haseley, Daymut.**

**Nays: Roth.**

**Motion carries.**

**Ordinance No. 2008-198 ADOPTED.**

**Ordinance No. 2008-199** by Mayor Perciak and Mr. DeMio. AN ORDINANCE AUTHORIZING THE SALE BY INTERNET AUCTION OF CERTAIN LOST, ABANDONED, STOLEN, SEIZED AND/OR FORFEITED PROPERTY HELD BY THE CITY'S POLICE DEPARTMENT, 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. 2008-199 ADOPTED.**

**COMMUNICATIONS, PETITIONS AND CLAIMS:**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75.**

Mr. Gallagher – Ladies and gentlemen, under Communications, Petitions and Claims – Mr. DeMio, are these...

Mr. DeMio – They're both here.

Mr. Gallagher- Ms. Fraser and Mr. Duplaga, would you step forward please?

Karen Fraser - Mayor and members of Council. I am here regarding...

Mr. Gallagher – Ma'am.

Karen Fraser – I'm sorry. I am sorry.

Mr. Gallagher – Are the both of you prepared to move forward with this hearing? I've been hearing you wanted two weeks to discuss this; I don't know where we're at.

Mr. DeMio – No, that was my idea; I thought they would have an opportunity...

Karen Fraser – I believe we took the man that's in – the Building Commissioner by surprise, so he wasn't prepared to do any type of mediation...

Mr. Gallagher – Would you like that?

Karen Fraser - ...just before the meeting. I am opposing the variance, so I think that the building in question is going to be way too large for the spot, which...

Mr. Gallagher – Okay. Mr. Duplaga, would you be amenable to meeting and trying to resolve this, or would you prefer to go forward, both of you, this evening? It's your call.

Todd Duplaga – Probably to go forward.

Mr. Gallagher – Okay. If you'll just have a seat and we'll – We have to go through this; I don't think we've done one of these in a long time. I'm going to open the public hearing regarding the Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. Motion requesting review by the Council was made, seconded and unanimously approved on July 29<sup>th</sup>. This evening we're here to hear this. Under our Charter, in Article IV, Section 6(c) of our Charter requires that this hearing be de novo; in essence, that is the matter be heard, to be reheard in its entirety by the Council. So this will be another hearing that you went through previously for your variance. Those intending to testify, please rise. Mr. Law Director, would you swear them in?

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont'd):**

Mr. Kraus – Yes, Mr. President.

The Law Director administered the oath to all standing.

Mr. Gallagher – I believe Council has received all our necessary reports and papers regarding this issue.

Mr. Kraus – Mr. President, I would suggest that the Clerk read and verify that the notice properly went out.

Mr. Gallagher – Leslie, can you verify? He wants you to read it for the record.

Ms. Seefried – I certify that this notice was posted and that it was properly distributed to the relevant parties: August 19, 2008; Notice of Review Hearing by the City Council of the Findings and Determination of the Board of Zoning Appeals concerning the variance request for 19698 Westwood Drive , Permanent Parcel Number 392-29-009, in the City of Strongsville, zoned R1-75.

Mr. Gallagher – Mr. Biondillo.

Mr. Biondillo – Yes, sir?

Mr. Gallagher – Can we have your testimony, please?

Mr. Biondillo – Yes. The facts of the case are that Mr. Duplaga applied for a permit to construct an accessory structure. Our Zoning Code Section 1252.15 allows a 400 square foot structure to be constructed on residential properties. The applicant requested 660 square feet of floor area, which is a variance of 260 square feet. On July 23<sup>rd</sup> at the Board of Zoning Code Appeals hearing that variance was granted. That's the case, in a nutshell.

Mr. Gallagher – Thank you. Ms. Fraser, would you step forward, please? Do you want to give us your testimony regarding your complaint?

Karen Fraser – I believe that the structure is too large, it is sixty percent larger than the code allows, it is only ten feet off of my property line, which would be within the code, but, like I said, I just believe that the structure is too large. I believe the code is there for a reason. I don't see why it needs to be 260 square feet above and beyond the code. He has two additions already on the house, he has a variance that was granted for expanding his garage that I did not oppose because I didn't think that it would be a nuisance. This shed, I believe, is too large for the area that it's going into and it is – and I don't like where – I -- it's too large. I had a prepared statement – I'm sorry, I'm very nervous.

Mr. Gallagher – That's all right, take your time. We don't bite.

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont'd):**

Karen Fraser – I know, I know. In a nutshell, the building is too large for where it's going and I am looking to have – I am looking for this appeal to be – or the rule to be overturned.

Mr. Gallagher – Okay, and you didn't bring anybody else with you to testify?

Karen Fraser – No. It actually sits just between our properties. It's on his property, but it wouldn't affect any of the other neighbors.

Mr. Gallagher – Mr. Duplaga, I would anticipate you have an opinion on your side.

Todd Duplaga – Hi, I'm Todd Duplaga, I'm the homeowner at 19698 Westwood Drive. And what I want to say is she has accessory buildings on her property that would leave the same footprint as the building that I propose to build on my property, and hers is probably closer to the property line than what I proposed; mine is going to be ten feet, which is code. I took a picture of that, I have a picture with me. And she has an accessory building and then another accessory building right behind it, which is probably 660 square feet of accessory building in itself. That's why I don't understand what her – what she's thinking of, why I can't do the same on my property. It just seems – it doesn't seem right why she'd have a – be opposed to me doing the same as what she has on her property, that's all.

Mr. Gallagher – How big is your lot?

Todd Duplaga – It's 65,000 square feet.

Mr. Biondillo – Mr. President, if I can. The frontage is approximately 100 feet wide, one side is 563 feet long, the other side is 694 feet long.

Mr. Gallagher – Thank you.

Mr. Daymut – Mr. Gallagher.

Mr. Gallagher – Mr. Daymut.

Mr. Daymut – Just a quick question for the applicant. Why do you have the need for this variance; I mean, what are you planning to do with this structure?

Todd Duplaga – Lawn tractors, garden equipment, spreaders, rollers.

Mr. Daymut – All big; I mean, are you talking about a tractor tractor or a lawn tractor?

Todd Duplaga – Yeah, front-end loader and lawn tractors, pull behind roller, spreaders, lawn mowers.

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Mr. Daymut – Mr. Gallagher, if I might again. Now is this indus – is this construction equipment or is this home equipment?

Todd Duplaga – Residential lawn equipment. The 125 horsepower tractor has a front-end loader on it.

Mr. Gallagher – This is equipment specifically for this lot?

Todd Duplaga – Yes.

Mr. Daymut – Thank you, Mr. Gallagher.

Mr. Gallagher – Does anyone have any questions? Do you have any?

Mr. DeMio – The question I – I always want neighbors to try their best to get along. Ms. Fraser, if the building was moved to the other side of the yard, in other words, farther away from where it sits today, where it's requested to sit, would that be acceptable?

Todd Duplaga – Um...

Mr. DeMio – Hang on one sec.

Todd Duplaga – That's to her.

Mr. DeMio – I'm just asking her a question, that's all.

Karen Fraser – I actually told Mr. Duplaga that I would withdraw my appeal had he moved the building to the other side of the lot, so yes. And there is a fence between his lot and the neighbor on the other side of him there, so his new shed would actually sit behind an existing shed from the people on the other side of his lot.

Mr. DeMio – Okay, that's what I saw when I drove it. Okay.

Karen Fraser – Right. So right now between our houses there's a big open space and that would be gone.

Mr. DeMio – Okay, so that – I don't know how Tony Biondillo feels about that, but does the applicant want a variance, would that be acceptable to you?

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Todd Duplaga – No, sir. I'd have to take down – cut down all my fruit trees and my grapevine and everything else just to do that. The way I had my – the footprint of the building where I wanted it is identical to their lot, there's their house and their accessory building behind that, behind their garage; it's going to be my house, then on the west side of my lot will be my building. Just as theirs sits. That's why I don't – This is a little ridiculous, it's kind of – I really don't understand what her problem is with me doing the same as what they have on their lot.

Mr. DeMio – Then you don't do...

Todd Duplaga – I can't – it's just not feasible to put it on that side of the lot, to answer your question, sir.

Mr. DeMio – Okay, that's good, I'm glad you answered. And you don't do – you don't own a lawn equipment company? Or do you?

Todd Duplaga – No, sir.

Mr. DeMio – You don't.

Todd Duplaga – I'm a sheet metal worker.

Mr. DeMio – Okay.

Todd Duplaga – Local 33.

Mr. DeMio – 33?

Mr. Gallagher – Is that all?

Mr. DeMio – That's the only question I...

Mr. Gallagher – Any other questions?

Mr. DeMio – That was the question I had.

Mr. Roth – Yes.

Mr. Gallagher – Mr. Roth.

Mr. Roth – Is Ms. Fraser's accessory building – sounds like it was grandfathered, I would take it, many years ago? And is it 660 square feet?

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Karen Fraser – He's referring to – I have a building behind – my buildings actually sit behind my garage, they are not – and on the other side of my buildings is a wooded lot, a vacant wooded lot. So together they would probably equal that amount.

Mr. Roth – Oh, there's two smaller...

Karen Fraser – There are two smaller buildings, correct. One is a metal shed and one is a wooden building that was on the lot when we bought the house ten years ago. Both of them were on the lot already.

Mr. Gallagher – Anything further, Mr. Duplaga?

Todd Duplaga – I think I've pretty much covered it. When somebody does buy that lot next to them, they're going to be in the same situation, it's going to be the same footprint as what I'm doing. Somebody moves there, builds a house, they're going to have an accessory building in the same exact spot as where I plan on putting mine. That's – I don't understand why – Whether I – even if it was 400 square feet, if I did 10 by 30 feet it's going to cover the same – she's still not going to be happy with that. I don't understand...

Mr. DeMio – And you can't make this any smaller. And you're sure, before we vote, you're positive this is the smallest it can be, right?

Todd Duplaga – Yes, sir.

Mr. DeMio – You're sure.

Todd Duplaga – That's why I applied for the variance.

Mr. Daymut – Mr. Gallagher.

Mr. Gallagher – Mr. Daymut.

Mr. Daymut – One final thing. You cannot – You will not or you cannot move it? Maybe if you can clarify that in my mind.

Todd Duplaga – Move it?

Mr. Daymut – You cannot or you will not?

Todd Duplaga – I will not move it to the other side.

Mr. Daymut – Okay.

Todd Duplaga - I'd have to destroy all my...

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Mr. Daymut - That's all I need. Thank you.

Todd Duplaga - ...trees.

Mr. DeMio – The fruit trees.

Mr. Gallagher – Thank you. Ms. Fraser, do you have any rebuttal?

Karen Fraser – No.

Mr. Gallagher – Can I ask you a question?

Karen Fraser – Sure.

Mr. Gallagher – You're really not against the size of the building, you're against the aesthetics and the placement of the building.

Karen Fraser – I do not like where it's being placed, but in addition to that, the size of the building is monstrous. It is literally a three-car garage going where he's talking about. So, in addition to not liking the fact that there's going to be a shed there, it's huge. It's really – And, like the Building Commissioner said, the lots are only a hundred feet across, and he's proposing a building that's 30 by 22. And it's fairly close to the houses; I don't know the exact footage behind the house. I know that he scaled back his plans; originally, it was going to be taller and only five feet off of the property line, so he did scale it back, but the size of the shed is enormous. And, like I said before, he already has a variance that was granted to expand his existing garage, which is going to be two across, it's two deep already, and then there's an addition on the back of that. So, I mean, I don't understand why it needs to be as large as it does and it's really not – not really any of my business what he puts in there, but I do not like the size of the shed, I think it's too large.

Mr. Gallagher – Okay.

Mr. Kraus – Mr. President.

Mr. Gallagher – Mr. Kraus.

Mr. Kraus – Yes, I don't understand. Sir, did – has your garage been expanded already, or is it going to be?

Todd Duplaga – It is; I have yet to pick up my permits.

Mr. Kraus – Okay.

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Todd Duplaga – From the City. Yes, they are ready to go. For a driveway, widening my driveway and a two-car garage in front of my house.

Mr. Kraus – And where are you storing all this equipment now?

Todd Duplaga – I store some in rentals places, my parents have a barn and I have stuff at their place, plus, my garage now is packed. I'm just trying to get everything to my house, instead of having all my tools and...

Mr. Kraus – So you're storing some in your garage currently. When your garage is...

Todd Duplaga – Yeah, my garage is full now.

Mr. Kraus – When your garage is expanded are you going to have more space in your garage for some of this equipment?

Todd Duplaga – That's when I'll bring my vehicles from my parents' house to put in the addition on my garage in front of the house. I can't – Right now, I cannot park or do anything in my garage, I have to park outside. This way, I can park in my garage and have all my vehicles inside at night, nothing will be sitting in the driveway overnight. And all my tools and miscellaneous garden equipment, everything will be in its place.

Mr. Kraus – What I'm trying to get at is, of course, under the law and under our code a variance requires a substantial hardship of some kind, and I think what Council is trying to determine, as you know, is the precise nature of the hardship that you're claiming, which, as I understand it, basically is that you'd like to put as much as possible, if not all, of the equipment into this accessory structure if Council were to approve it.

Todd Duplaga – Yeah; everything – all my vehicles will be in my garage attached to the house and all my tools and garden equipment and everything will go in the accessory building.

Mr. Kraus – Thank you.

Mr. Daymut – Mr. Gallagher.

Mr. Gallagher – Mr. Daymut.

Mr. Daymut – Mr. Biondillo, now with this garage expansion, does that fit in the code or did that require a variance?

Mr. Biondillo – Councilman Daymut, I don't know the particulars of that variance that was granted for the garage.

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Mr. Daymut – So there was a variance for the garage already? And now he wants a variance for a shed?

Todd Duplaga – Yes, sir.

Mr. Gallagher – What was the variance on the garage?

Todd Duplaga – The variance for the garage was 200 square feet and 16 feet of right of way. I think it actually was 18 feet, from what they measured off of the topical view.

Mr. Biondillo – There had to be a side yard setback requirement and, also, a variance from the maximum allowable square footage size of an attached garage. So he was granted a 200 square foot variance.

Todd Duplaga – The Vaughns on Prospect Road just did the same thing I'm doing now. They had variances for everything. I didn't realize there was so many zoning codes when I first started this, but I'm going through the steps to do that, until I was appealed for this. But everybody on the building commission at my public hearing voted yes for it; they were at my house, they saw how her yard was set up, they saw my yard and how large it was and how it was maintained and they all agreed unanimously to vote yes for what I had asked for.

Mr. Kraus – Mr. President, I have one other question.

Mr. Gallagher – Mr. Kraus.

Mr. Kraus – If I can. Mr. Biondillo, do you know whether or not the garage variance that had been granted, which, apparently it was, according to the applicant, if that would fall within the new parameters of the revised ordinance that was passed?

Todd Duplaga – Excuse me, sir, but I believe it was still under the 800 square feet.

Mr. Kraus – No, no, I understand that.

Todd Duplaga – And I believe you guys upped it to a thousand square feet of attached recently.

Mayor Perciak – But this something else he's talking about.

Todd Duplaga – Oh, I'm sorry.

Mr. Kraus – Well no, right, it was; the ordinance was increased by I think 200 square feet.

Mr. Biondillo – Yes, the variance would have – new variance would have – it wouldn't have required a variance.

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Mr. Kraus – Wouldn't have required a variance.

Mr. Biondillo – Correct; that's correct.

Mr. Kraus – So Council needs to be aware of that.

Mr. DeMio – Would not have.

Mr. Kraus – It would not have required a variance, right, under the new standard.

Mr. DeMio – Michael; Mr. Gallagher, if I may. I would strongly encourage the two neighbors to get together again. I am personally going to move for this hearing to be continued to our next Council meeting; I would request a second. And I also would request that councilmen, particularly in the ward and anyone else allowed, to please go back and take a look at this yard. That would be my motion.

Mr. Gallagher – Well, they're here now and they seem...

Todd Duplaga – I have pictures of her building in my pocket and my yard, if you want to...

Mr. Gallagher – Would you have a problem waiting two weeks on this? I mean, I don't want to...

Todd Duplaga – I started this process months ago.

Mr. Gallagher – Right.

Todd Duplaga - The sooner the better for me. Honestly.

Mr. Haseley – The snow will be flying and he'll still have his equipment outside.

Mr. Gallagher – Right. And ma'am, you would prefer to go forward?

Todd Duplaga – I wanted to start my garage and the out building at the same time, sir, just so I can have concrete brought in on the same day, instead of doing everything twice, that's why I've been putting this off until now because Joe keeps calling me from the City to come get my permits, I told him I can't. He's the one that told me about this; I didn't even know about this tonight until I talked to him last week and I explained to him why I haven't picked up my permit for my garage, because of this situation.

Mr. Gallagher – Is there a second to Mr. DeMio's request? I sense you want a decision this evening, that's what I sense.

Todd Duplaga – For me, it would be in my favor; yes, sir.

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Mr. Gallagher – Does Council have anything other?

(No comments)

Mr. Gallagher – Mr. Kraus, could you formulate the question to Council and the motion?

Mr. Kraus – Well, Mr. President, under Article IV, Section 6 (c) of our City Charter, under these circumstances our Council has reviewed and conducted a de novo hearing; Council has really three choices, Council may reverse, amend or modify the findings and determinations of the Board of Zoning Appeals. So it would really be up to Council, depending on their wishes; if you care to make a motion to reflect a desire to modify in some manner, or reverse or amend; that would be – any of those would be proper. I'd be happy to phrase a motion...

Mr. Gallagher – I had – I just recently had one of these and what I did was I brought the neighbors together and we came to a settlement, in essence, as to what to do here. I've got to tell you, I really don't, considering the size of this lot, I don't really have a problem with the building, but it sounds to me, like Mr. Haseley was saying, I believe, I don't see the hardship here, unless your gardening or – you know – I don't know what's going on there as far as these machines, but I don't want to take that from you, also. And I sense that it's more of an issue of aesthetics and – you know, to you. So my recommendation or my suggestion is, you know, you can do 400, you can go to 660, you know, split the baby in half and go to 500 and call it a day. Can you live with that?

Todd Duplaga - So what if I did that and put a fence up and then she wouldn't be able to see any part of my yard?

Mr. DeMio – Well that's – See, that's why we ask you...

Mr. Gallagher – Well, let's not – let's stay on point here. I mean, you know, we don't want to get into a squabble here, but I would imagine you want to get something out of this and your neighbor wants to get something out of this and there's a good chance you're...

Todd Duplaga – So, what if I go 20 by 30 then, instead of 22 by 30?

Mr. Gallagher – There's a chance you can get 400 here, there's a chance you can get 660; you know, it's not really a game show, but you're kind of rolling some dice here. I think maybe if you go to 500, if your neighbor would be amenable to that.

Todd Duplaga – I'm willing to go 20 by 30. If you...

Mr. Gallagher – 600, right. Ma'am?

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Karen Fraser – I still believe it's way too large. And when I printed off the reasons for granting a variance, when I looked that up, I don't see any part of those reasons that he is complying with; there's no hardship, like you said. There's – I just -- I don't understand why it got approved in the first place, to be quite honest, just because he wants it. And I think – I think what it was is he came with these grandiose plans originally and then scaled them back and he took their advice and scaled back those plans and I think they approved it because he took their advice. I don't think they approved it because they thought it was okay. And I don't understand why it got approved in the first place. And I don't want to be here, I don't want to feud with my neighbor.

Mr. Gallagher – And this is rare, this is a rare occasion and, quite honestly, I don't like going against – The way we have the City set up is we have the Building Department over there, the commission, and these are your neighbors and mine and they came to a conclusion, and well do I know this...

Karen Fraser – And I understand that.

Mr. Gallagher – And they go – you know, and they made a decision that this isn't so bad. I don't usually like going against that.

Karen Fraser – But they had dealings with him for – Like he said, he had presented these plans months ago and they had dealings with him. I was put on the spot and came into the public hearing and they had – they had a banter when I walked in; you know, 'Oh Todd, you're here so much you should – you could be on the committee', you know.

Mr. Gallagher – Well that's all right, though.

Karen Fraser – You know, and it was – and, you know, it was friendly, but I was intimidated right off the bat and...

Mr. Gallagher – Okay, bottom line, you're not...

Karen Fraser – Bottom line is I don't like...

Mr. Gallagher – You just want to go 400.

Karen Fraser – I would prefer he scale back the shed.

Mr. Gallagher – To 400.

Karen Fraser – Thank you.

Mr. Gallagher – Okay? Thank you. And you're at 600.

Todd Duplaga – I'm willing to go 600. Well, if I go to – if I did go down to four hun – I don't understand why...

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Mr. Gallagher – Well you can go 400 and you'd walk out of here and – I mean, you would prefer 600.

Todd Duplaga – Yeah. I mean, I want to get all my stuff to my house, is what my plans are.

Mr. Gallagher – Okay.

Mr. Daymut – Mr. Gallagher, I'll go back to the point, and I can't emphasize this enough; I think that there would be a good compromise if we had some movement. Am I correct? If we had some movement out of the – And I can relate to the neighbor; when we look at our – I think you can, too; if you look out your kitchen window and, you know, the landscape has changed and the beautiful trees and whatever you see, there's something that's a huge building that perhaps with just a little movement on your part this could be resolved very easily; you could have your desire to have your square footage, you neighbor could have her desire to have a little better aesthetics out of the back. It just seems to me that that would be the proper compromise. And perhaps I'm wrong...

Todd Duplaga – I don't – I understand what you're – your point. But my point is, she has the same structure on her property that I'm asking for.

Mr. Daymut – But we're not dealing with her structure, we're dealing with your variance here that we have the ability to overturn; I mean, that's what we're here to hear. As Mr. Gallagher has said, in these circumstances we need to have the neighbors work together for the best possible scenario because you have to live next to each other, we don't.

Mr. Gallagher – Okay, thank you; we're done. Mr. DeMio.

Mr. DeMio – I would just like to make a motion to change the square footage to 500.

Mr. Gallagher – Do I have a second?

Mr. Kraus – Mr. President, just to phrase that, if I can.

Mr. DeMio – And if the Law Director could phrase it.

Mr. Gallagher – If you would, please; I'm sorry.

Mr. Kraus – Yeah, that would be a motion to modify the findings and determination of the Board of Zoning Appeals to reduce the variance from 260 square feet of floor area down to an additional 100 feet, for a total of 500 square feet, as opposed to the 660 that had been approved.

Mr. Gallagher – I have a motion by Mr. DeMio, do I have a second?

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Mr. Roth – How do the two parties feel about this?

Mr. Gallagher – It's actually in our hands right now.

Mr. Roth – Can I ask how the two parties feel about this?

Mr. Gallagher – It's – They can't agree.

Mr. Kraus – Is there a second?

Mr. Gallagher – Is there a second?

Mr. Coyne – I'll second it.

Mr. Gallagher – Second by Mr. Coyne. Call the roll, please.

Ms. Seefried – Mr. Coyne?

Mr. Coyne – Yes, I'm for giving him 500 feet.

Ms. Seefried – Mr. DeMio?

Mr. DeMio – Yes.

Ms. Seefried – Mr. Gallagher?

Mr. Gallagher – Yes.

Ms. Seefried – Mr. Haseley?

Mr. Haseley – Yes.

Ms. Seefried – Mr. Roth?

Mr. Roth – No.

Ms. Seefried – Mr. Daymut?

Mr. Daymut – No.

(The roll call resulted in a vote of 4-2 in favor of the modification by Council of the variance previously granted by the BZA..)

**COMMUNICATIONS, PETITIONS AND CLAIMS (cont'd):**

**Matter of the Review by the Council of the findings and determination of the Board of Zoning and Building Code Appeals at its meeting of July 23, 2008 concerning Todd Duplaga, Owner, property located at 19698 Westwood Drive, PPN 392-29-009, zoned R1-75. (cont')**

Mr. Gallagher – And I don't know the process, Mr. Biondillo, but the square footage is now 500 feet.

Mr. DeMio – Square feet.

Mr. Gallagher – Square feet.

**MISCELLANEOUS BUSINESS:**

Mr. Gallagher – Is there any other business before Council this evening?

(No comments)

**ADJOURNMENT:**

There being no further business to come before this Council, the meeting was declared adjourned by Council President Gallagher at 9:18 p.m.

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

October 6, 2008  
Approval Date