

The City Record

Official Publication of the Council of the City of Cleveland



October the Twenty-Seventh, Two Thousand and Four

Jane L. Campbell
Mayor

Frank G. Jackson
President of Council

Valarie J. McCall
City Clerk, Clerk of Council

Ward	Name
1	Joseph T. Jones
2	Robert J. White
3	Zachary Reed
4	Kenneth L. Johnson
5	Frank G. Jackson
6	Patricia J. Britt
7	Fannie M. Lewis
8	Sabra Pierce Scott
9	Kevin Conwell
10	Roosevelt Coats
11	Michael D. Polensek
12	Edward W. Rybka
13	Joe Cimperman
14	Nelson Cintron, Jr.
15	Merle R. Gordon
16	Michael C. O'Malley
17	Matthew Zone
18	Jay Westbrook
19	Dona Brady
20	Martin J. Sweeney
21	Michael A. Dolan

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DIRECTORY OF CITY OFFICIALS

CITY COUNCIL – LEGISLATIVE

President of Council – Frank G. Jackson

Ward	Name	Residence	
1	Joseph T. Jones	4691 East 177th Street	44128
2	Robert J. White	9703 Cardwell Avenue	44105
3	Zachary Reed	3734 East 149th Street	44120
4	Kenneth L. Johnson	2948 Hampton Road	44120
5	Frank G. Jackson	2327 East 38th Street	44115
6	Patricia J. Britt	12402 Britton Drive	44120
7	Fannie M. Lewis	7416 Star Avenue	44103
8	Sabra Pierce Scott	9212 Kempton Avenue	44108
9	Kevin Conwell	10647 Ashbury Avenue	44106
10	Roosevelt Coats	1775 Cliffview Road	44112
11	Michael D. Polensek	17855 Brian Avenue	44119
12	Edward W. Rybka	6832 Indiana Avenue	44105
13	Joe Cimperman	3053 West 12th Street	44113
14	Nelson Cintron, Jr.	3004 Vega Avenue	44113
15	Merle R. Gordon	1700 Denison Avenue	44109
16	Michael C. O'Malley	6710 Brookside Drive	44144
17	Matthew Zone	1228 West 69th Street	44102
18	Jay Westbrook	1278 West 103rd Street	44102
19	Dona Brady	1272 West Boulevard	44102
20	Martin J. Sweeney	3632 West 133rd Street	44111
21	Michael A. Dolan	16519 West Park Road	44111

City Clerk, Clerk of Council – Valarie J. McCall, 216 City Hall, 664-2840
First Assistant Clerk – Sandra Franklin

MAYOR – Jane L. Campbell

Debra M. Janik, Chief of Staff
Darnell Brown, Chief Operating Officer
Timothy Mueller, Executive Assistant
Craig Tame, Executive Assistant
Galen L. Schuerlein, Executive Assistant
_____, Director, Office of Equal Opportunity
Margreat A. Jackson, Legislative Affairs Liaison
Erik Janas, Inter-Governmental Affairs Officer
Lorna Wisham, Chief Public Affairs Officer

DEPT. OF LAW – Subodh Chandra, Director, Teresa Beasley, Chief Counsel, Rm. 106
Karen E. Martines, Law Librarian, Room 100

DEPT. OF FINANCE – Robert H. Baker, Director, Room 104;
Frank Badalamenti, Manager, Internal Audit

DIVISIONS: Accounts – Alan Schneider, Commissioner, Room 19
Assessments and Licenses – Dedrick Stephens, Commissioner, Room 122
City Treasury – Algeron Walker, Treasurer, Room 115
Financial Reporting and Control – James Gentile, Controller, Room 18
Information Technology and Services – James S. Higgins, Commissioner, 1404 East 9th Street
Purchases and Supplies – Myrna Branche, Commissioner, Room 128
Printing and Reproduction – Michael Hewitt, Commissioner, 1735 Lakeside Avenue
Taxation – Nassim Lynch, Tax Administrator, 1701 Lakeside Avenue

DEPT. OF PUBLIC UTILITIES – Julius Ciaccia, Director, 1201 Lakeside Avenue

DIVISIONS – 1201 Lakeside Avenue
Cleveland Public Power – James F. Majer, Commissioner
Street Lighting Bureau – _____, Acting Chief
Utilities Fiscal Control – Dennis Nichols, Commissioner
Water – John Christopher Nielson, Commissioner
Water Pollution Control – Ollie Shaw, Commissioner

DEPT. OF PORT CONTROL – John C. Mok, Director

Cleveland Hopkins International Airport, 5300 Riverside Drive
Burke Lakefront Airport – Khalid Bahur, Commissioner
Cleveland Hopkins International Airport – Fred Szabo, Commissioner

DEPT. OF PUBLIC SERVICE – Mark Ricchiuto, Director, Room 113

DIVISIONS: Architecture – Kurt Wiebusch, Commissioner, Room 517
Engineering and Construction – Randall E. DeVaul, Commissioner, Room 518
Motor Vehicle Maintenance, Daniel A. Novak, Commissioner, Harvard Yards
Streets – Randall T. Scott, Commissioner, Room 25
Traffic Engineering – Robert Mavec, Commissioner, 4150 East 49th Street, Building #1
Waste Collection and Disposal – Ron Owens, Commissioner, 5600 Carnegie Avenue

DEPT. OF PUBLIC HEALTH – Matthew Carroll, Director, Mural Building, 1925 St. Clair Ave.

DIVISIONS: Air Quality – _____, Commissioner
Correction – Robert Taskey, Commissioner, Cleveland House of Corrections, 4041 Northfield Rd.
Environment – Willie Bess, Acting Commissioner, Mural Building, 1925 St. Clair Ave.
Health – Dr. Wendy Johnson, Acting Commissioner, Mural Building, 1925 St. Clair Ave.

DEPT. OF PUBLIC SAFETY – Sanford E. Watson, Director, Room 230

DIVISIONS: Dog Pound – John Baird, Chief Dog Warden, 2690 West 7th Street
Emergency Medical Service – Edward Eckart, Commissioner, 1708 South Pointe Drive
Fire – Paul A. Stubbs, Chief, 1645 Superior Avenue
Police – Edward F. Lohn, Chief, Police Hdqtrs. Bldg., 1300 Ontario Street

DEPT. OF PARKS, RECREATION & PROPERTIES – Natalie A. Ronayne, Director

Cleveland Convention Center, Clubroom A, 1220 East 6th Street
DIVISIONS: Convention Center & Stadium – James Glending, Commissioner
Public Auditorium, East 6th Street and Lakeside Avenue
Parking Facilities – Dennis Donahue, Commissioner
Public Auditorium, East 6th Street and Lakeside Avenue
Park Maintenance and Properties – Richard L. Silva, Commissioner
Public Auditorium – East 6th Street and Lakeside Avenue
Property Management – Tom Nagle, Commissioner, East 49th Street & Harvard
Recreation – Michael Cox, Commissioner, Room 8
Research, Planning & Development – Mark Fallon, Commissioner, 1501 N. Marginal Road
Burke Lakefront Airport

DEPT. OF COMMUNITY DEVELOPMENT – Daryl Rush, Director, 3rd Floor, City Hall

DIVISIONS: Administrative Services – Terrence Ross, Commissioner
Neighborhood Services – Louise V. Jackson, Commissioner
Neighborhood Development – Joseph A. Sidoti, Commissioner

DEPT. OF BUILDING AND HOUSING – James G. Williams, Director, Room 500

DIVISIONS: Code Enforcement – Tyrone L. Johnson, Commissioner
Construction Permitting – Timothy R. Wolosz, Commissioner

DEPT. OF PERSONNEL AND HUMAN RESOURCES – Gina Routen, Director, Room 121

DEPT. OF ECONOMIC DEVELOPMENT – Gregory G. Huth, Director, Room 210

DEPT. OF AGING – Jane E. Fumich, Director, Room 122

DEPT. OF CONSUMER AFFAIRS – Kenya Taylor, Director

COMMUNITY RELATIONS BOARD – Room 11, Jeffrey D. Johnson, Director; Mayor Jane

L. Campbell, Chairman Ex-Officio; Rev. Charles Lucas, Jr., Vice-Chairman; Councilman Kevin Conwell, Councilman Matthew Zone, City Council Representatives; Charles L. Patton, Jr., Paula Castleberry, Emmett Saunders, John Banno, Kathryn M. Hall, Evangeline Hardaway, Janet Jankura, Gia Hoa Ryan, Rev. Jesse Harris, Magda Gomez, Fred J. Livingstone, Margot James Copeland.

CIVIL SERVICE COMMISSION – Room 119, Reynaldo Galindo, President; Rev. Earl

Preston, Vice President; Jonalyn M. Krupka, Secretary; Members: Diane M. Downing, William Morrison.

SINKING FUND COMMISSION – Jane L. Campbell, President; Council President Frank

G. Jackson; Betsy Hruby, Asst. Sec'y.; Robert H. Baker, Director.

BOARD OF ZONING APPEALS – Room 516, Carol A. Johnson, Chairman; Members;

Margaret Hopkins, Ozell Dobbins, Joan Shaver Washington, Christopher Carmody, _____, Secretary.

BOARD OF BUILDING STANDARDS AND BUILDING APPEALS – Room 516, J. F. Denk,

Chairman; James Williams, Arthur Saunders, Alternate Members – D. Cox, P. Frank, E. P. O'Brien, Richard Pace, J.S. Sullivan.

BOARD OF REVISION OF ASSESSMENTS – Law Director Subodh Chandra, President;

Finance Director Robert H. Baker, Secretary; Council President Frank G. Jackson.

BOARD OF SIDEWALK APPEALS – Service Director Mark Ricchiuto; Law Director

Subodh Chandra; Councilman Martin J. Sweeney.

BOARD OF REVIEW – (Municipal Income Tax) – Law Director Subodh Chandra; Utilities

Director _____; Council President Frank G. Jackson.

CITY PLANNING COMMISSION – Room 501 – Christopher S. Ronayne, Director;

Anthony J. Coyne, Chairman; David Bowen, Lillian W. Burke, Lawrence A. Lumpkin, Gloria Jean Pinkney, Rev. Sam Edward Small, Councilman Joseph Cimperman.

FAIR EMPLOYMENT WAGE BOARD – Room 210 – Gerald Meyer, Chair; Angela Caldwell,

Vice Chair; Patrick Gallagher, Kathryn Jackson, Draydean McCaleb, Council Member Nelson Cintron, Ed Romero.

HOUSING ADVISORY BOARD – Room 310 – Keith Brown, Terri Hamilton Brown, Vickie

Eaton-Johnson, Mike Foley, Eric Hodderson, Janet Leohr, Mark McDermott, Marcia Nolan, David Perkowski, Joan Shaver Washington, Keith Sutton, Council Member Merle Gordon.

FAIR HOUSING BOARD – Charles See, Chair; Cindy Barber, Vice Chair; Michael Doud,

Doris Honsa, Richard Lenard.

CLEVELAND BOXING AND WRESTLING COMMISSION – Robert Jones, Chairman;

Clint Martin, Mark Rivera.

MORAL CLAIMS COMMISSION – Law Director Subodh Chandra; Chairman; Finance

Director Robert H. Baker; Council President Frank G. Jackson; Councilman Dona Brady; Councilman Martin J. Sweeney.

BOARD OF EXAMINERS OF ELECTRICIANS – Samuel Montfort, Chairman; Donald

Baulknight, Anton J. Eichmuller, J. Gilbert Steele, Raymond Ossovicki, Chief Electrical Inspector; Laszlo V. Kemes, Secretary to the Board.

BOARD OF EXAMINERS OF PLUMBERS – Joseph Gyorky, Chairman; Earl S. Bumgarner,

Alfred Fowler, Jozef Valencik, Lawrence Skule, Chief Plumbing Inspector; Laszlo V. Kemes, Secretary to the Board.

CLEVELAND LANDMARKS COMMISSION – Room 519 – Paul Volpe, Chair; Ted Sande,

Vice Chair; James Gibans, India Pierce Lee, Robert Madison, Randall B. Shorr, Chris Ronayne, N. Kurt Wiebusch, Council Member Joe Cimperman, Dwayne J. Simpson; Robert Keiser, Secretary.

CLEVELAND MUNICIPAL COURT JUSTICE CENTER – 1200 ONTARIO STREET JUDGE COURTROOM ASSIGNMENTS

Judge	Courtroom
Presiding and Administrative Judge Larry A. Jones	14B
Judge Ronald B. Adrine	15A
Judge Emanuella Groves	13A
Judge Mabel M. Jasper	14D
Judge Kathleen Ann Keough	13D
Judge Mary Eileen Kilbane	14C
Judge Anita Laster Mays	12C
Judge Lauren C. Moore	12B
Judge Raymond L. Pianka (Housing Court Judge)	13B
Judge Angela R. Stokes	15C
Judge Pauline H. Tarver	12A
Judge Robert J. Triozzi	14A
Judge Joseph J. Zone	13C

Earle B. Turner – Clerk of Courts, Michael E. Flanagan – Court Administrator, Paul J. Mizerak – Bailiff;
Regina Daniel – Chief Probation Officer, Gregory F. Clifford – Chief Magistrate

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OFFICIAL PUBLICATION OF THE COUNCIL OF THE CITY OF CLEVELAND

Vol. 91

WEDNESDAY, OCTOBER 27, 2004

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CITY COUNCIL

MONDAY, OCTOBER 25, 2004

The City Record

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Address all communications to

VALARIE J. McCALL

City Clerk, Clerk of Council
216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL 2002-2005

MONDAY

9:30 A.M. — **Public Parks, Property & Recreation Committee:** Johnson, Chairman; White, Vice Chairman; Cimperman, Dolan, Jones, Rybka, Sweeney.

MONDAY—Alternating

11:00 A.M. — **Public Service Committee:** Sweeney, Chairman; Jones, Vice Chairman; Brady, Cimperman, Johnson, O'Malley, Polensek, White, Zone.

11:00 A.M. — **Employment, Affirmative Action & Training Committee:** Lewis, Chairman; Conwell, Vice Chairman; Cintron, Coats, Johnson, Reed, Polensek.

MONDAY

2:00 P.M. — **Finance Committee:** Jackson, Chairman; Sweeney, Vice Chairman; Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White.

TUESDAY

9:30 A.M. — **Community and Economic Development Committee:** Gordon, Chairman; Cimperman, Vice Chairman; Cintron, Coats, Jones, Lewis, Reed, Pierce Scott, Zone.

TUESDAY—Alternating

1:00 P.M. — **Health & Human Services Committee:** Britt, Chairman; Zone, Vice Chairman; Cintron, Conwell, Gordon, Pierce Scott, Polensek.

1:30 P.M. — **Legislation Committee:** White, Chairman; Pierce Scott, Vice Chairman; Dolan, Gordon, Johnson, Rybka, Westbrook.

WEDNESDAY—Alternating

10:00 A.M. — **Aviation & Transportation Committee:** Westbrook, Chairman; Sweeney, Vice Chairman; Britt, Dolan, Gordon, Reed, Rybka.

10:00 A.M. — **Public Safety Committee:** Reed, Chairman; Britt, Vice Chairman; Brady, Cimperman, Coats, Conwell, Jones, White, Zone.

WEDNESDAY—Alternating

1:30 P.M. — **Public Utilities Committee:** Coats, Chairman; O'Malley, Vice Chairman; Brady, Cintron, Jones, Polensek, Sweeney, Westbrook, Zone.

1:30 P.M. — **City Planning Committee:** Cimperman, Chairman; Rybka, Vice Chairman; Conwell, Lewis, O'Malley, Pierce Scott, Westbrook.

The following Committees are subject to the Call of the Chairman:

Rules Committee: Jackson, Chairman; O'Malley, Reed, Sweeney, Westbrook.

Personnel and Operations Committee: Gordon, Chairman; Britt, Cimperman, Coats, Pierce Scott.

Mayor's Appointment Committee: Coats, Chairman; Cintron, Reed, Pierce Scott, Westbrook.

OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio

Monday, October 25, 2004

The meeting of the Council was called to order, The President, Frank G. Jackson, in the Chair.

Council Members present: Brady, Cimperman, Cintron, Coats, Conwell, Dolan, Gordon, Johnson, Jones, Lewis, O'Malley, Pierce Scott, Polensek, Reed, Rybka, Sweeney, Westbrook, White and Zone.

Also present were Chief Operating Officer Brown, Chief of Staff Janik, Directors Chandra, Baker, Mok, Richiuto, Carroll, Watson, N. Ronayne, Rush, Huth, Fumich, Taylor, Johnson, and Margaret Jackson, Legislative Affairs Liaison.

Pursuant to Ordinance No. 2926-76, prayer was offered by Minister Ricardo Oliver, Sr. of New Sardis P.E. Church, located at 11717 Jesse Avenue in Ward 2. Pledge of Allegiance.

MOTION

On the motion of Council Member Zone, the reading of the minutes of the last meeting was dispensed with and the journal approved. Seconded by Council Member Lewis.

COMMUNICATIONS

File No. 2078-04.

From the Cleveland Public Library — Director's Report, October 21, 2004. Received.

File No. 2079-04.

From the Prosecutor's Office — Memo regarding Filing Criminal Complaints. Received.

File No. 2080-04.

From the Cleveland Public Library — letter receipt of Resolution No. 1870-04. Received.

File No. 2081-04.

From the Department of Finance — five point plan to address outdoor payphones. Received.

File No. 2082-04.

From the Department of Economic Development — Recommendations of Tax Incentive Review Council. Received.

File No. 2083-04.

From Case Western Reserve University — CASE Magazine, fall issue. Received.

FROM DEPARTMENT OF LIQUOR CONTROL

File No. 2084-04.

Re: Transfer of Ownership Application — 2262235 — Doona Enterprises LLC, d.b.a. Bally Croy Inn, 1306 West 65th Street. (Ward 17). Received.

File No. 2085-04.

Re: Transfer of Ownership Application — 2779680 — Flextron, LLC, d.b.a. Gotcha Inn, 3232 Lakeside Avenue. (Ward 13). Received.

File No. 2086-04.

Re: Transfer of Ownership and Location Application — 5134334 — Le Oui Oui Cafe, Inc., 1881 Fulton Avenue & Patio. (Ward 13). Received.

STATEMENT OF WORK ACCEPTED

File No. 2087-04.

From the Department of Parks, Recreation and Properties — Contract No. 60652, Kenneth L. Johnson

Aquatic Playground & Site Improvements. Received.

CONDOLENCE RESOLUTIONS

The rules were suspended and the following Resolutions were adopted by a rising vote:

- Res. No. 2088-04**—Larry Hines.
- Res. No. 2089-04**—Cynthia Miller-McFall.
- Res. No. 2090-04** — Dorothy Lee Smith.
- Res. No. 2091-04**—Mary E. Childers.
- Res. No. 2092-04**—James Wilbert Pewitt, Sr.
- Res. No. 2093-04**—Minnie Harkness.
- Res. No. 2094-04**—Evelyn Logan.

CONGRATULATION RESOLUTIONS

The rules were suspended and the following Resolutions were adopted without objection:

- Res. No. 2095-04** — Rev. Sean E. Tucker.
- Res. No. 2096-04**—Villa Mercede Senior Center.
- Res. No. 2097-04** — Bishop Iran Whitthorne.

- Res. No. 2098-04**—Fatima Family Center.
- Res. No. 2099-04**—Gerald L. Mack.
- Res. No. 2100-04**—Michael Polichuk.
- Res. No. 2101-04**—Pastor Dr. Fred M. Caffie, Jr. & First Lady Marcela Caffie.
- Res. No. 2102-04**—Second St. John Missionary Baptist Church.

FIRST READING EMERGENCY ORDINANCES REFERRED

Ord. No. 2051-04.
By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the Director of Finance to enter into one or more contracts with Betty Montgomery, Ohio State Auditor, for professional services necessary to perform an assessment and to express the opinion of the City regarding the 2004 financial statements, and to complete two statements of Auditing Standards for the Divisions of Water and Taxation.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Finance is authorized to enter into one or more contracts with Betty Montgomery, Ohio State Auditor, for professional services necessary to complete an independent assessment and to express the opinion of the City whether the 2004 financial statements present fairly the financial position of the City and other things; and to authorize the auditor to complete two statements on Auditing Standards for the Divisions of Water and Taxation, in the total sum of \$400,000, for the Department of Finance. The contracts or contracts shall be paid from funds appropriated for this purpose in budget year 2005, Request No. 146219.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 2052-04.

By Council Member Jackson (by departmental request).

An emergency ordinance to make additional appropriations of One Hundred Seventy Thousand Four Hundred Nineteen Dollars (\$170,419) of the Special Revenue Funds and Seven Hundred Ninety Thousand Dollars (\$790,000) of the Enterprise Funds.

Whereas, there remains an unappropriated balance in the various funds, the sum of Nine Hundred Sixty Thousand Four Hundred Nineteen Dollars (\$960,419) which is available for additional appropriation; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That there is appropriated the additional revenue as set forth in the Amended Official Certificate of Estimated Resources previously unappropriated as follows:

SPECIAL REVENUE FUNDS	\$ 170,419
ENTERPRISE FUNDS	<u>\$ 790,000</u>
TOTAL ALL FUNDS	\$ 960,419

SPECIAL REVENUE FUNDS

Reserve Fund		\$ 170,419
II Other Expenses	\$ 170,419	
TOTAL SPECIAL REVENUE FUNDS	\$ 170,419	\$ 170,419

ENTERPRISE FUNDS

DEPARTMENT OF PUBLIC UTILITIES

Division of Utilities Administration		\$ 40,000
I Personnel and Related Expenses	\$ 40,000	
Division of Water Pollution Control		\$ 750,000
II Other Expenses	\$ 750,000	
TOTAL DEPARTMENT OF PUBLIC UTILITIES	\$ 790,000	\$ 790,000
TOTAL ENTERPRISE FUNDS	\$ 790,000	\$ 790,000
TOTAL ALL FUNDS	\$ 960,419	\$ 960,419

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 2053-04.

By Council Member Jackson (by departmental request).

An emergency ordinance to provide the transfer of Four Million Nine Hundred Sixty Eight Thousand Dollars (\$4,968,000) within various divisions of the General Fund; Two Hundred Thousand Dollars (\$200,000) within the Special Revenue Fund; Two Hundred Thirty Six Thousand Dollars (\$236,000) within the Enterprise Fund; and Two Hundred Thousand Dollars (\$200,000) within the Agency Fund.

Whereas, in accordance with Section 41 of the Charter, the Mayor has recommended in writing the within transfer; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the sum of Five Million Six Hundred Four Thousand Dollars (\$5,604,000) be the same and hereby transferred as follows:

GENERAL FUND	From	To
JUDICIAL BRANCH		
Judicial Division		
I Personnel and Related Expenses	\$ -	\$ 50,000
Clerks Division		
I Personnel and Related Expenses	\$ 300,000	\$ -
TOTAL JUDICIAL BRANCH	\$ 300,000	\$ 50,000
EXECUTIVE BRANCH		
DEPARTMENT OF PUBLIC SAFETY		
Public Safety Administration		
I Personnel and Related Expenses	\$ 150,000	\$ -
Division of Police		
I Personnel and Related Expenses	\$ 2,125,000	\$ -
II Other Expenses	\$ 630,000	\$ -
Division of Fire		
I Personnel and Related Expenses	\$ -	\$ 1,780,000
II Other Expenses	\$ 75,000	\$ -
Emergency Medical Services		
I Personnel and Related Expenses	\$ -	\$ 325,000
II Other Expense	\$ 16,000	\$ -
TOTAL DEPARTMENT OF PUBLIC SAFETY	\$ 2,996,000	\$ 2,105,000
Community Relations Board		
I Personnel and Related Expenses	\$ -	\$ 20,000
DEPARTMENT OF PUBLIC SERVICE		
Waste Collection and Disposal		
I Personnel and Related Expenses	\$ 325,000	\$ -
II Other Expenses	\$ -	\$ 400,000
Division of Traffic Engineering		
I Personnel and Related Expenses	\$ -	\$ 15,000
TOTAL DEPARTMENT OF PUBLIC SERVICE	\$ 325,000	\$ 415,000
DEPARTMENT OF PARKS, RECREATION & PROPERTIES		
Parks, Recreation and Properties Admin		
I Personnel and Related Expenses	\$ -	\$ 1,000
II Other Expenses	\$ -	\$ 10,000
Research, Planning and Development		
II Other Expenses	\$ -	\$ 25,000
Division of Recreation		
I Personnel and Related Expenses	\$ 460,000	\$ -
II Other Expenses	\$ -	\$ 220,000

Parking Facilities - On Street		
I Personnel and Related Expenses	\$ 50,000	\$ -
II Other Expenses	\$ -	\$ 20,000
Division of Property Management		
I Personnel and Related Expenses	\$ 100,000	\$ -
Park Maintenance and Properties		
I Personnel and Related Expenses	\$ 180,000	\$ -
II Other Expenses	\$ -	\$ 188,000
TOTAL DEPARTMENT OF PARKS, RECREATION & PROPERTIES	\$ 790,000	\$ 464,000
DEPARTMENT OF COMMUNITY DEVELOPMENT		
Director's Office		
I Personnel and Related Expenses	\$ 60,000	\$ -
TOTAL COMMUNITY DEVELOPMENT	\$ 60,000	\$ -
DEPARTMENT OF BUILDING AND HOUSING		
Director's Office		
II Other Expenses	\$ 30,000	\$ -
Division of Code Enforcement		
I Personnel and Related Expenses	\$ -	\$ 125,000
TOTAL DEPARTMENT OF BUILDING AND HOUSING	\$ 30,000	\$ 125,000
Economic Development		
I Personnel and Related Expenses	\$ 162,000	\$ -
Office of Equal Opportunity		
I Personnel and Related Expenses	\$ 120,000	\$ -
II Other Expenses	\$ -	\$ 60,000
City Planning Commission		
II Other Expenses	\$ -	\$ 5,000
DEPARTMENT OF PUBLIC HEALTH		
Health Administration		
I Personnel and Related Expenses	\$ -	\$ 30,000
Division of Corrections		
I Personnel and Related Expenses	\$ -	\$ 55,000
II Other Expenses	\$ -	\$ 120,000
Division of Health		
I Personnel and Related Expenses	\$ -	\$ 45,000
II Other Expenses	\$ -	\$ 25,000
Division of the Environment		
I Personnel and Related Expenses	\$ -	\$ 200,000
TOTAL DEPARTMENT OF PUBLIC HEALTH	\$ -	\$ 475,000
DEPARTMENT OF FINANCE		
Division of Assessments & Licenses		
I Personnel and Related Expenses	\$ 50,000	\$ -
Division of Treasury		
I Personnel and Related Expenses	\$ -	\$ 9,000
Bureau of Internal Audit		
I Personnel and Related Expenses	\$ -	\$ 20,000
II Other Expenses	\$ -	\$ 70,000
Financial Reporting & Control		
II Other Expenses	\$ 35,000	\$ -
TOTAL DEPARTMENT OF FINANCE	\$ 85,000	\$ 99,000

Office of Budget & Management		
II Other Expenses	\$ -	\$ 5,000
Law		
I Personnel and Related Expenses	\$ 100,000	-
II Other Expenses	\$ -	\$ 600,000
Office of Personnel		
I Personnel and Related Expenses	\$ -	\$ 15,000
II Other Expenses	\$ -	\$ 130,000
Non-Departmental - Other Administrative		
II Other Expenses	\$ -	\$ 400,000
Total Nondepartmental	\$ -	\$ 400,000
TOTAL EXECUTIVE BRANCH	\$ 4,668,000	\$ 4,918,000
TOTAL GENERAL FUND	\$ 4,968,000	\$ 4,968,000
Street Construction, Maintenance & Repair		
I Personnel and Related Expenses	\$ 200,000	\$ -
II Other Expenses	\$ --	\$ 200,000
TOTAL SPECIAL REVENUE FUNDS	\$ 200,000	\$ 200,000
ENTERPRISE FUNDS		
DEPARTMENT OF PARKS, RECREATION & PROPERTIES		
Division of Cemeteries		
I Personnel and Related Expenses	\$ 25,000	\$ -
II Other Expenses	\$ -	\$ 25,000
Golf Courses Fund		
I Personnel and Related Expenses	\$ 40,000	\$ -
II Other Expenses	\$ -	\$ 40,000
Convention Center		
I Personnel and Related Expenses	\$ -	\$ 140,000
II Other Expenses	\$ 140,000	\$ -
West Side Market		
I Personnel and Related Expenses	\$ -	\$ 30,000
II Other Expenses	\$ 30,000	\$ -
Property Management - East Side Market		
I Personnel and Related Expenses	\$ -	\$ 1,000
II Other Expenses	\$ 1,000	\$ -
TOTAL DEPARTMENT OF PARKS, RECREATION & PROPERTIES	\$ 236,000	\$ 236,000
TOTAL ENTERPRISE FUNDS	\$ 236,000	\$ 236,000
AGENCY FUND		
Central Collection Agency		
I Personnel and Related Expenses	\$ 200,000	\$ -
II Other Expenses	\$ -	\$ 200,000
TOTAL AGENCY FUNDS	\$ 200,000	\$ 200,000
TOTAL ALL FUNDS	\$ 5,604,000	\$ 5,604,000

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Finance, Law; Committee on Finance.

Ord. No. 2054-04.
By Council Members Westbrook, Cimperman, and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Port Control to enter into an amendment to Contract No. 55208 with Fins & Feathers Seafood & Poultry Market d/b/a English Concessions for the rental of various City-owned properties at Cleveland Hopkins International Airport for providing valet services in the form of a shoe shine concession, for an additional period of five years.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Director of Port Control is authorized to enter into an amendment to Contract No. 55208 with Fins & Feathers Seafood & Poultry Market d/b/a English Concessions ("English Concessions") for rental of various City-owned properties at Cleveland Hopkins International Airport for providing valet services in the form of a shoe shine concession. The locations for each station are identified on the map placed in File No. 2054-04-A.

The lease hold premises shall be approximately forty (40) square feet of space per station in the Airport Terminal Building and additional concourse spaces as shown on the map referred to above (collectively, "Premises").

Section 2. That the term of the amendment shall be for five years, commencing on the effective date of the amendment. The amendment can be terminated or cancelled on thirty (30) days written notice by the Director.

Section 3. That English Concessions shall pay to the City as rent for the Premises, the amount of \$9,600.00, payable in equal monthly installments, or ten percent (10%) of gross revenues realized by English Concessions from all sales other than merchandise, whichever is greater.

Section 4. That the amendment authorized shall be prepared by the Director of Law and shall contain additional terms and conditions as the Director deems necessary to protect and benefit the public interest.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Port Control, City Planning Commission, Finance, Law; Committees on Aviation and Transportation, City Planning, Finance.

Ord. No. 2055-04.
By Council Members Westbrook, White, and Jackson (by departmental request).

An emergency ordinance to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 571.88 relating to the Use of and Rental Fee Schedule for Meeting Room Space at Burke Lakefront Airport and Cleveland Hopkins International Airport.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section 571.88 to read as follows:

Section 571.88 Use of and Rental Fee Schedule for Meeting Room Space at Burke Lakefront Airport and Cleveland Hopkins International Airport

(a) Airport Management may rent meeting room space at the Airports to private Persons provided that such Persons pay the fees authorized in division (c) of this section and that the space is required for no greater than forty-eight (48) consecutive hours, and has an estimated rental cost of no greater than Twenty-Five Thousand Dollars (\$25,000).

(b) Airport Management may permit the following public parties to use meeting room space at the Airports at no cost provided that the meeting room space will not be used to raise money for political campaigns or political issues:

(1) Branches, departments or offices of the City of Cleveland if the use furthers the functions or goals of that branch, department, or office.

(2) Non-profit organizations and neighborhood organizations located in the City of Cleveland, including block clubs, street clubs, and ward clubs, if the use is to provide social services, including direct health and welfare services to individuals, or to address safety, building, or housing issues.

(3) Schools located in the City of Cleveland if the use furthers an educational or recreational purpose.

(c) Airport Management shall assess and collect fees for the rental of meeting room space at the Airports according to a Rental Fee Schedule, which Rental Fee Schedule shall be set by the Board of Control.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Port Control, Finance, Law; Committees on Aviation and Transportation, Legislation, Finance.

Ord. No. 2056-04.
By Council Members Sweeney, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the City of Cleveland to participate in a multi-community application allowing the City of Brook Park to apply for funding for the widening of West 150th Street between Brook Park Road and Industrial Parkway.

Whereas, the City's participation in a multi-community application for State Issue II funding is necessary in order to implement the improvement of widening West 150th Street between Brook Park Road and Industrial Parkway; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That this Council declares that the City wishes to participate in a multi-community application with the City of Brook Park necessary to acquire State Issue II funding for the widening of West 150th Street between Brook Park Road and Industrial Parkway (the "Improvement").

Section 2. That the City wishes to contribute the amount of Four Hundred Eighty-Nine Thousand Three Hundred Fifty Dollars (\$489,350) to represent the City's portion of funding necessary to acquire State Issue II funding for the above mentioned Improvement, payable from the fund or funds to which are credited the funds authorized for this purpose, and subject to annual appropriations.

Section 3. That the Director of Public Service is authorized to enter into any agreements or agreements with the City of Brook Park regarding the State Issue II multi-community application in order for the City of Brook Park to apply for and accept State Issue II funding for the Improvement.

Section 4. That the Director of Law shall approve any agreements and the agreements shall contain additional terms and conditions as he deems necessary to protect and benefit the public interest.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Public Service, City Planning Commission, Finance, Law; Committees on Public Service, City Planning, Finance.

Ord. No. 2057-04.
By Council Members Britt and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Ohio Department of Health for the HIV Prevention and Schools Initiative Program; and authorizing the director to employ one or more professional consultants to develop a comprehensive implementation plan to strengthen and expand HIV prevention services to all students attending 7th to 12th grades in the Cleveland Municipal School District.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$20,000, and any other funds that may become available during the grant term from the Ohio Department of Health to conduct the HIV Prevention and Schools Initiative Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the summary for the grant contained in the file described below.

Section 2. That the summary for the grant, File No. 2057-04-A, made a part of this ordinance as if fully rewritten, is approved in all respects.

Section 3. That the Director of Public Health shall have the authority to extend the term of the grant during the grant term.

Section 4. That the Director of Public Health is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to develop a comprehensive implementation plan to strengthen and expand HIV prevention services to all students attending 7th to 12th grades in the Cleveland Municipal School District.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Health from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Health for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Health, and certified by the Director of Finance.

Section 5. That the cost of contract or contracts authorized shall be paid from the fund or funds to which are credited the grant proceeds accepted under this ordinance.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Public Health, Finance, Law; Committees on Health and Human Services, Finance.

**Ord. No. 2058-04.
By Council Members Britt and Jackson (by departmental).**

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Ohio Department of Health for the Cleveland Infant Mortality Reduction Initiative Project; and to enter into one or more contracts with various agencies to implement the project.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$112,500, and any other funds as they may become available during the grant term, from the Ohio Department of Health, to conduct the Cleveland Infant Mortality Reduction Initiative Project; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes set forth in the administrative summary for the grant.

Section 2. That the administrative summary for the grant, File No. 2058-04-A, made a part as if fully rewritten, is approved in all respects.

Section 3. That the Director of Public Health is authorized to enter into one or more contracts with various agencies to implement the project as described in the file.

Section 4. That the cost of the contract or contracts shall be paid from the fund or funds which are credited the grant proceeds accepted under this ordinance.

Section 5. That the Director of Public Health shall have the authority to extend the term of the grant if other funds become available during the grant term. Notwithstanding the above, the Director of Public Health shall have the authority to extend the term of the grant if the extension does not involve an increase in the dollar amount of the grant specified above.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Public Health, Finance, Law; Committees on Health and Human Service, Finance.

**Ord. No. 2059-04.
By Council Members Johnson and Jackson (by departmental request).**

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to apply for and accept a grant from the Ohio Department of Natural Resources for the 2004 Inner City Tree Planting Program; and authorizing the purchase by one or more requirement contracts of the labor and materials necessary to plant trees in various locations throughout the City of Cleveland, for the Department of Parks, Recreation and Properties.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Parks, Recreation and Properties is authorized to apply for and accept a grant in the amount of \$18,212, from the Ohio Department of Natural Resources to conduct the 2004 Inner City Tree Planting Program; that the Director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes described in the draft agreement for the grant contained in the file described below.

Section 2. That the draft agreement for the grant, File No. 2059-04-A, made a part of this ordinance as if fully rewritten, including the obligation of the City of Cleveland to provide cash matching funds in the sum of \$18,212 payable from Fund No. 01-701201-639905, is approved in all respects.

Section 3. That the Director of Parks, Recreation and Properties is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements during the grant term of the necessary items of labor and materials necessary to plant trees in various locations throughout the City of Cleveland, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Parks, Recreation and Properties. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 4. That the costs of the contract or contracts shall be paid from the fund or funds which are credited the grant proceeds accepted under this ordinance and shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Parks, Recreation and Properties, Finance, Law; Committees on Public Parks, Property, and Recreation, Finance.

Ord. No. 2060-04.

By Council Members Britt, Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Community Development to apply for and accept a grant from the State of Ohio's Clean Ohio Assistance Fund, for a Clean Ohio Assistance Grant to conduct the remediation and demolition of the former St. Luke's Hospital property located at 11311 Shaker Boulevard to be used for future development; and authorizing the director to enter into one or more contracts with UHHS/CSAHS - Cuyahoga, Inc. & New Village Corporation to implement the project.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Community Development is authorized to apply for and accept a grant in an amount up to \$750,000, from the State of Ohio's Clean Ohio Assistance Fund, for a Clean Ohio Assistance Grant to conduct the remediation and demolition of part of the former St. Luke's Hospital property located at 11311 Shaker Boulevard to be used for future development, for the purposes described in the summary for the grant contained in the file described below. The director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes set forth in the summary for the grant contained in the file described below.

Section 2. That the summary for the grant, File No. 2060-04-A, made a part of this ordinance as if fully rewritten, is approved in all respects.

Section 3. That the Director of Community Development is authorized to enter into one or more contracts with UHHS/CSAHS - Cuyahoga, Inc. & New Village Corporation to implement the project as described in the summary.

Section 4. That the contract or contracts authorized by this ordinance shall be prepared by the Director of Law and may contain terms and conditions that the director deems necessary to protect and benefit the public interest.

Section 5. That the cost of the contract or contracts authorized shall be paid from the fund or funds that are accredited the proceeds of the grant accepted under this ordinance.

Section 6. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Community Development, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2061-04.

By Council Member White.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Matilda Avenue to Consuala Marie Haynes.

Whereas, the City of Cleveland has elected to adopt and implement the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 136-06-017, as more fully described below, to Consuala Marie Haynes.

Section 2. That the real property to be sold pursuant to this ordinance is more fully described as follows:

P. P. No. 136-06-017

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being all of Sublot No. 33 and the Westerly 7 feet of Sublot Nos. 34 and 35 of part of Original One Hundred Acre Lot No. 459, as shown by the recorded plat in Volume 94, Page 39 of Cuyahoga County Records, and together forming a parcel of land 95.13 feet front on the Southerly side of Matilda Avenue S.E. and extending back of equal width 82.17 feet, and having a rear line of 94.29 feet as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to zoning ordinances, if any.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 4. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain

such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Community Development, City Planning Commission, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2062-04.

By Council Member Reed.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Kingsbury Boulevard to Anthony Scott.

Whereas, the City of Cleveland has elected to adopt and implement the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 127-17-133, as more fully described below, to Anthony Scott.

Section 2. That the real property to be sold pursuant to this ordinance is more fully described as follows:

P. P. No. 127-17-133

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Block "F" of Herron Row at Kingsbury Subdivision of part of Original Newburg Township Lot Numbers 441, 442 and 443 as shown by the recorded plat in Volume 265 Page 11 and refilled in Volume 266 Page 8 of Cuyahoga County Records bounded and described as follows:

Beginning at a 1" iron pin monument box found at the centerline intersection of Kingsbury Blvd. (70 feet wide) and East 102nd Street (50 feet wide);

Thence South 00° 02' 24" East 48.85 feet along said East 102nd Street centerline to a point;

Thence South 89° 16' 15" West 26.71 feet to a 5/8" iron pin set on

the Westerly line of East 102nd Street and the principle place of beginning of land to be described herein;

Thence South 89° 16' 15" West 180.90 feet along the Northerly line of Sublot No. 13 in the said Herron Row Subdivision and along the Northerly lines of Sublots Nos. 47 and 46 in the J.E. Latimer Allotment recorded in Volume 16 Page 23 of the Cuyahoga County Records, to a 5/8" iron pin set;

Thence North 00° 50' 45" West 141.87 feet along the Easterly line of Sublot No. 12 of the said Herron Row Subdivision to a 5/8" iron pin set;

Thence North 72° 37' 55" West 8.67 feet along said Northerly line to a 5/8" iron pin set in the Southerly line of Easton Avenue (50 feet wide);

Thence along a curve deflecting to the right on a chord at South 85° 43' 32" East 15.26 feet an arc length of 15.28 feet with a radius of 85.50 feet on the Southerly line of Kingsbury Blvd. (70 feet wide) to a point;

Thence along a curve deflecting to the right on a chord of South 76° 22' 12" East 60.00 feet an arc length of 60.64 feet with a radius of 120.00 feet on the Southerly line of said Kingsbury Blvd. to a point;

Thence along a curve deflecting to the right on a chord of South 55° 03' 33" East 28.56 feet an arc length of 28.56 feet with a radius of 120.00 feet on the Southerly line of said Kingsbury Blvd. to a point;

Thence South 48° 13' 28" East 89.69 feet along the Southerly line of said Kingsbury Blvd. to a point;

Thence along a curve deflecting to the right on a chord of South 28° 23' 09" East 57.69 feet an arc length of 58.86 feet with a radius of 85.00 feet on the Southerly line of said Kingsbury Blvd. to the principal place of beginning and containing 0.4070 acres of land. As surveyed by Bemba K. Jones, Ohio Registered Surveyor #7343, for Bemba K. Jones & Associates, dated August 4, 2004. Bearings herein are to an assumed meridian and are used to denote angles only.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 4. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the

Board of Control, the Director of Community Development or the Director of Law.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Community Development, City Planning Commission, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2063-04.

By Council Member Cimperman. An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on West 7th Street to Parkhill Associates.

Whereas, the City of Cleveland has elected to adopt and implement the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 004-17-018, 004-17-020 and 004-17-022, as more fully described below, to Parkhill Associates.

Section 2. That the real property to be sold pursuant to this ordinance is more fully described as follows:

P. P. No. 004-17-018

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot Nos. 167 and 168 in William Slades Allotment of a part of Original Brooklyn Township Lot No. 87 as the same appears on record in the map records of said county Volume 1, Page 23 and bounded and described as follows:

Beginning at the Westerly side of University Street (now West 7th Street) at a point 50 feet Southerly from the intersection of the Westerly line of University Street (now West 7th Street) with the Southerly line of Jefferson Avenue, S.W.; thence Southerly along the Westerly line of University Street (now West 7th Street) 44 1/2 feet; thence Southwesterly at right angles with University Street (now West 7th Street) 142 feet to the Westerly line of said Sublot No. 167; thence Northwesterly along the Westerly line of said Sublot No. 167, 44 1/2 feet to a

point 50 feet Southerly at right angles from the Southerly line of Jefferson Avenue, S.W.; thence Easterly and parallel with the Southerly line of Jefferson Avenue, S.W. 142 feet to the Westerly line of University Street (now West 7th Street) and being a parcel of land 44 1/2 feet in width and 142 feet deep. As appears by said plat, be the same more or less, but subject to all legal highways.

Right of way contained in the instrument dated July 15, 1892, and recorded in Volume 525, Page 396 of Cuyahoga County Records.

Subject to Zoning Ordinances, if any.

P. P. No. 004-17-020

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot Nos. 167 and 168 in William Slade Jr.'s Allotment of part of Original Brooklyn Township Lot No. 87, as shown by the recorded plat in Volume 1 of Maps, Page 23 of Cuyahoga County Records, and bounded and described as follows:

Beginning at a point 129 feet distant from the Southerly corner of the intersection of Jefferson Avenue, S.W. and West 7th Street (formerly University Street), at a point on the Northeasterly line of Sublot No. 168; thence Southeasterly along the Northeasterly line of Sublot No. 168, 33 feet to a stake; thence Southwesterly at right angles with the Northeasterly line of Sublot No. 168, 160 feet to the Southwesterly line of Sublot No. 167; thence Northwesterly along the Southwesterly line of Sublot No. 167, 33 feet; thence Northeasterly parallel with the Jefferson Avenue, S.W., 160 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to easement recorded in Volume 1044, Page 145 of Cuyahoga County Records.

Subject to zoning ordinances, if any.

P. P. No. 004-17-022

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Northwesterly 153.5 feet on the Northwesterly one-half of Sublot No. 165 in William Slade Jr.'s University Heights Allotment of part of Original Brooklyn Township Lot No. 87, as shown by the recorded plat in Volume 1 of Maps, Page 23 of Cuyahoga County Records and being 33 feet front on the Southwesterly side of West 7th Street (formerly University Street), and extending back of equal width 153.5 feet as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to Zoning Ordinances, if any.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 4. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Community Development, City Planning Commission, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2064-04.

By Council Members Conwell, Gordon, and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to consent to the assignment of UDAG Contract No. 42832 from The Lakeview and Superior Development Group Limited Partnership to Lakeview Square I, Ltd. and Lakeview Square II, Ltd.; and authorizing the director to enter into an Amendment to the assigned UDAG Contract regarding certain terms.

Whereas, under Ordinance No. 2633-87, passed November 23 1987, this Council authorized the Director of Economic Development to enter into UDAG Contract No. 42832 with the Lakeview and Superior Development Group Limited Partnership ("the Partnership") to assist with the acquisition of a project site and the construction of a supermarket; and

Whereas, the Partnership is willing to allow Lakeview Square I, Ltd. to assume the obligations of UDAG Contract No. 42832; and

Whereas, the Partnership has requested consent of the City to the assignment of the Contract to Lakeview Square I, Ltd.; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Economic Development is authorized to consent to the request of the Partnership to assign the obligations of UDAG Contract No. 42832 to Lakeview Square I, Ltd.

Section 2. That the Director of Economic Development is authorized to enter into an Amendment to the UDAG Contract, assigned by Section 1 of this ordinance ("Amend-

ment), with Lakeview Square I, Ltd. and Lakeview Square II, Ltd. containing the following terms:

a. Authorize the release of approximately four (4) acres of the Project Site ("Outlot"), as defined in UDAG Contract No. 42832, and transfer the Outlot to Lakeview Square II, Ltd., provided that the Outlot is developed with approximately 5,000 square feet of new retail structures within 36 months of execution of the Amendment.

In the event the Outlot is not developed as required, the Outlot shall again become subject to a mortgage in favor of the City and securing repayment under the Amendment authorized by this ordinance.

In the event any portion of the Outlot is sold prior to termination of the Amendment authorized by this ordinance, Lakeview Square II, Ltd. shall pay the City a release price of \$50,000 per acre;

b. Extend the term of UDAG Contract No. 42832, to December 31, 2012 from March 1, 2006. Provided that the term of the UDAG Contract shall expire March 31, 2011 if Tops Markets, LLC extends the term of its lease at the Project Site;

c. Reduce the Contingent Interest Payment, as defined in UDAG Contract No. 42832, from 25% to 10%; and

d. Accept the personal guarantees of Mark J. Jablonski and James D. Romer as security for payment under the Amendment, in addition to the mortgage on the balance of the Project Site.

Section 2. That the Director of Economic Development is authorized to execute all documents and do all things necessary and appropriate to effect the consent to the Assignment and amendments authorized by this legislation. A copy of the Assignment shall be filed in the office of the Commissioner of Accounts.

Section 3. That the Amendment shall be prepared by the Director of Law and shall contain any additional provisions that he deems necessary to protect and benefit the public interest.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Economic Development, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2068-04.

By Council Member Dolan.

An emergency ordinance authorizing the Director of Public Service to issue a permit to Ganley Chevrolet to encroach into the right-of-way of Lorain Avenue for the construction, use, and maintenance of a landscape buffer zone.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Service is authorized to issue a permit, revocable at the will of Council, and assignable by the Permittee with the written consent of the Director of Public Service to Ganley Chevrolet, 15810 Lorain Avenue, Cleveland, Ohio, for the construction, use, and maintenance of a landscape buffer zone which will encroach into the public right-of-way of Lorain Avenue.

Section 2. That said landscape buffer zone will be placed within the public right-of-way as aforesaid in Section 1, and will be constructed in accordance with the plans and specifications approved by the Commissioner of Engineering and Construction. That all other required permits, including a building permit, shall be obtained before said landscape buffer zone is constructed.

Section 3. That the permit herein authorized shall reserve right of ingress and egress to the City of Cleveland and that said Permit shall require the Permittee to provide Commercial General Liability Insurance and that the Permittee shall pay any applicable taxes and assessments due and owing on the permitted encroachment area.

Section 4. That the permit herein authorized shall be prepared by the Director of Law and shall be issued only when, in the opinion of the Director of Law, the City of Cleveland has been properly indemnified against any and all loss which may result from said permit.

Section 5. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Public Service, City Planning Commission, Finance, Law; Committees on Public Service, City Planning, Finance.

Ord. No. 2070-04.

By Council Member Jones.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 143rd Street and Maplerow Avenue to Lenzie Dantigance.

Whereas, the City of Cleveland has elected to adopt and implement the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 138-22-084, 138-22-085 and 138-22-118, as more fully described below, to Lenzie Dantigance.

Section 2. That the real property to be sold pursuant to this ordinance is more fully described as follows:

P. P. No. 138-22-084

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as Sublot No. 16 in The City Gardens Company's Park Subdivision No. 6, as shown by the recorded plat in Volume 91 of Maps, Page 6 of Cuyahoga County Records.

Subject to all legal highways and also subject to the following conditions and restrictions as contained in the Deed from The City Garden Company to Janina Konieczka, same being Land Title Registration Document No. 27633, to-wit:

"Said premises may be used for residence, apartment or business purposes only, factory buildings excluded, provided if used for business purposes, then the buildings thereon are of brick or stone structure and shall cost not less than Five Thousand (\$5,000.00) Dollars each."

P. P. No. 138-22-085

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 17 in the City Gardens Realty Company's Cranwood Park Subdivision No. 6 of part of Original Warrensville Township Lot No. 81, as shown by the recorded plat in Volume 91 of Maps, Page 6 of Cuyahoga County Records and being 40 feet front on the Westerly side of East 143rd Street and extending back between parallel lines 115.25 feet deep on the Northerly line, 115.31 feet deep on the Southerly line and being 40 feet wide in the rear, be the same more or less but, subject to all legal highways.

P. P. No. 138-22-118

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as Sublot No. 18 in the City Gardens Realty Company's Cranwood Park Subdivision No. 6, as shown by the recorded plat in Volume 91 of Maps, Page 6 of Cuyahoga County Records. Subject to all legal highways. Also subject to the agreement with the City of Cleveland, shown on the recorded plat provided that the building lines shown thereon shall be enforced.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 4. That the consideration for the subject parcel shall be established by the Board of Control and

shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Community Development, City Planning Commission, Finance, Law; Committees on Community and Economic Development, Finance.

FIRST READING EMERGENCY RESOLUTION REFERRED

Res. No. 2065-04.

By Council Member Cintron (by departmental request).

An emergency resolution declaring the intention to vacate a portion of Brevier Avenue S.W.

Whereas, this Council is satisfied that there is good cause to vacate a portion of Brevier Avenue S.W., as described; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council declares its intention to vacate a portion of the following described real property:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being all that portion of Brevier Avenue, S.W. (60 & 66 feet wide) extending Northwesterly from the Northwesterly line of Train Avenue, S.W. (60 feet wide) (formerly Walton Avenue, S.W.) to the Southeasterly line of the Conrail right of way.

Description approved by Greg Esber, Acting Section Chief, Plats, Surveys and House Numbering Section.

Section 2. That this resolution is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Referred to Directors of Public Service, City Planning Commission, Finance, Law; Committees on Public Service, City Planning, Finance.

FIRST READING EMERGENCY ORDINANCES READ IN FULL AND PASSED

Ord. No. 487-A-04 (As a substitute for Ord. No. 487-04).

By Council Members Westbrook and Dolan.

An emergency ordinance to repeal Sections 611.01 to 611.10 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances; and to supplement the codified ordinances by enacting new Sections 611.01 to 611.12 regarding gambling.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976,

Sections 611.01 and 611.02, as amended by Ordinance No. 184-02, passed June 10, 2002,

Section 611.03, as amended by Ordinance No. 1475-78, passed October 9, 1978,

Section 611.04, as amended by Ordinance No. 1667-95, passed January 8, 1996,

Section 611.05, as amended by Ordinance No. 1414-86, passed November 3, 1986,

Sections 611.06 and 611.07, as amended by Ordinance No. 90-96, passed March 18, 1996,

Section 611.08, as amended by Ordinance No. 1475-78, passed October 9, 1978,

Section 611.09, as amended by Ordinance No. 90-96, passed March 18, 1996, and

Section 611.10, as amended by Ordinance No. 1475-78, passed October 9, 1978,

are repealed.

Section 2. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 611.01 and 611.12 to read as follows:

Section 611.01 Definition

As used in this chapter:

(a) "Bookmaking" means the business of receiving or paying off bets.

(b) "Bet" means the hazarding of anything of value upon the result of an event, undertaking, or contingency, but does not include a bona fide business risk.

(c) "Scheme of chance" means a slot machine, lottery, numbers game, pool conducted for profit, or other scheme in which a participant gives a valuable consideration for a chance to win a prize, but does not include bingo, a skill-based amusement machine, or a pool not conducted for profit.

(d) "Game of chance" means poker, craps, roulette, or other game in which a player gives anything of value in the hope of gain, the outcome of which is determined largely by chance, but does not include bingo.

(e) "Game of chance conducted for profit" means any game of chance designed to produce income for the person who conducts or operates the game of chance, but does not include bingo.

(f) "Gambling device" means any of the following:

(1) A book, totalizer, or other equipment for recording bets;

(2) A ticket, token, or other device representing a chance, share, or interest in a scheme of chance or evidencing a bet;

(3) A deck of cards, dice, gaming table, roulette wheel, slot machine, or other apparatus designed for use in connection with a game of chance;

(4) Any equipment, device, apparatus, or paraphernalia specially designed for gambling purposes;

(5) Bingo supplies sold or otherwise provided, or used, in violation of this chapter.

(g) "Gambling offense" means any of the following:

(1) A violation of Sections 611.02 to 611.10 or Sections 2915.02 to 2915.11 of the Revised Code;

(2) A violation of an existing or former municipal ordinance or law of this or any other state or the United States substantially equivalent to any section listed in division (g)(1) of this section or a violation of Section 2915.06 of the Revised Code as it existed prior to July 1, 1996;

(3) An offense under an existing or former municipal ordinance or law of this or any other state or the United States, of which gambling is an element;

(4) A conspiracy or attempt to commit, or complicity in committing, any offense under division (g) of this section.

(h) Except as otherwise provided in this chapter, "charitable organization" means any tax exempt religious, educational, veteran's, fraternal, sporting, service, nonprofit medical, volunteer rescue service, volunteer firefighter's, senior citizen's, historic railroad educational, youth athletic, amateur athletic, or youth athletic park organization. An organization is tax exempt if the organization is, and has received from the internal revenue service a determination letter that currently is in effect stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19) of the Internal Revenue Code, or if the organization is a sporting organization that is exempt from federal income taxation under subsection 501(a) and is described in subsection 501(c)(7) of the Internal Revenue Code. To qualify as a charitable organization, an organization, except a volunteer rescue service or volunteer fire fighter's organization, shall have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a bingo license under Section 2915.08 of the Revised Code or the conducting of any game of chance as provided in division (D) of Section 2915.02 of the Revised Code. A charitable organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is created by a veteran's organization, a fraternal organization, or a sporting organization does not have to have been in continuous existence as such in this state for a period of two years immediately preceding either the making of an application for a

bingo license under Section 2915.08 of the Revised Code or the conducting of any game of chance as provided in division (D) of Section 2915.02 of the Revised Code.

(i) "Religious organization" means any church, body of communicants, or group that is not organized or operated for profit and that gathers in common membership for regular worship and religious observances.

(j) "Educational organization" means any organization within this state that is not organized for profit, the primary purpose of which is to educate and develop the capabilities of individuals through instruction by means of operating or contributing to the support of a school, academy, college, or university.

(k) "Veteran's organization" means any individual post or state headquarters of a national veteran's association or an auxiliary unit of any individual post of a national veteran's association, which post, state headquarters, or auxiliary unit has been in continuous existence in this state for at least two years and incorporated as a nonprofit corporation and either has received a letter from the state headquarters of the national veteran's association indicating that the individual post or auxiliary unit is in good standing with the national veteran's association or has received a letter from the national veteran's association indicating that the state headquarters is in good standing with the national veteran's association. As used in this division, "national veteran's association" means any veteran's association that has been in continuous existence as such for a period of at least five years and either is incorporated by an act of the United States congress or has a national dues-paying membership of at least five thousand persons.

(l) "Volunteer firefighter's organization" means any organization of volunteer firefighters, as defined in Section 146.01 of the Revised Code, that is organized and operated exclusively to provide financial support for a volunteer fire department or a volunteer fire company and that is recognized or ratified by a county, municipal corporation, or township.

(m) "Fraternal organization" means any society, order, state headquarters, or association within this state, except a college or high school fraternity, that is not organized for profit, that is a branch, lodge, or chapter of a national or state organization, that exists exclusively for the common business or sodality of its members, and that has been in continuous existence in this state for a period of five years.

(n) "Volunteer rescue service organization" means any organization of volunteers organized to function as an emergency medical service organization, as defined in Section 4765.01 of the Revised Code.

(o) "Service organization" means either of the following:

(1) Any organization, not organized for profit, that is organized and operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or

have any other mental or physical defect or those organized and operated exclusively to protect, or to contribute to the support of organizations or institutions organized and operated exclusively to protect, animals from inhumane treatment or provide immediate shelter to victims of domestic violence;

(2) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code and that is an organization, nor organized for profit, that is organized and operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, medical and therapeutic services for persons who are crippled, born with birth defects, or have any other mental or physical defect.

(p) "Nonprofit medical organization" means either of the following:

(1) Any organization that has been incorporated as a nonprofit corporation for at least five years and that has continuously operated and will be operated exclusively to provide, or to contribute to the support of organizations or institutions organized and operated exclusively to provide, hospital, medical, research, or therapeutic services for the public;

(2) Any organization that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code, that has been incorporated as a nonprofit corporation for at least five years, and that has continuously operated and will be operated primarily to provide, or to contribute to the support of organizations or institutions organized and operated primarily to provide, hospital, medical, research, or therapeutic services for the public.

(q) "Senior citizen's organization" means any private organization, not organized for profit, that is organized and operated exclusively to provide recreational or social services for persons who are fifty-five years of age or older and that is described and qualified under subsection 501(c)(3) of the Internal Revenue Code.

(r) "Charitable bingo game" means any bingo game described in division (s)(1) or (2) of this section that is conducted by a charitable organization that has obtained a license under Section 2915.08 of the Revised Code and the proceeds of which are used for a charitable purpose.

(s) "Bingo" means either of the following:

(1) A game with all of the following characteristics:

A. The participants use bingo cards or sheets, including paper formats and electronic representation or image formats, that are divided into twenty-five spaces arranged in five horizontal and five vertical rows of spaces, with each space, except the central space, being designated by a combination of a letter and a number and with the central space being designated as a free space.

B. The participants cover the spaces on the bingo cards or sheets

that correspond to combinations of letters and numbers that are announced by a bingo game operator.

C. A bingo game operator announces combinations of letters and numbers that appear on objects that a bingo game operator selects by chance, either manually or mechanically, from a receptacle that contains seventy-five objects at the beginning of each game, each object marked by a different combination of a letter and a number that corresponds to one of the seventy-five possible combinations of a letter and a number that can appear on the bingo cards or sheets.

D. The winner of the bingo game includes any participant who properly announces during the interval between the announcements of letters and numbers as described in division (s)(1)C. of this section, that a predetermined and preannounced pattern of spaces has been covered on a bingo card or sheet being used by the participant.

(2) Instant bingo, punch boards, and raffles.

(t) "Conduct" means to back, promote, organize, manage, carry on, sponsor, or prepare for the operation of bingo or a game of chance.

(u) "Bingo game operator" means any person, except security personnel, who performs work or labor at the site of bingo, including, but not limited to, collecting money from participants, handing out bingo cards or sheets or objects to cover spaces on bingo cards or sheets, selecting from a receptacle the objects that contain the combination of letters and numbers that appear on bingo cards or sheets, calling out the combinations of letters and numbers, distributing prizes, selling or redeeming instant bingo tickets or cards, supervising the operation of a punch board, selling raffle tickets, selecting raffle tickets from a receptacle and announcing the winning numbers in a raffle, and preparing, selling, and serving food or beverages.

(v) "Participant" means any person who plays bingo.

(w) "Bingo session" means a period that includes both of the following:

(1) Not to exceed five continuous hours for the conduct of one or more games described in division (s)(1) of this section, instant bingo, and seal cards;

(2) A period for the conduct of instant bingo and seal cards for not more than two hours before and not more than two hours after the period described in division (w)(1) of this section.

(x) "Gross receipts" means all money or assets, including admission fees, that a person receives from bingo without the deduction of any amounts for prizes paid out or for the expenses of conducting bingo. "Gross receipts" does not include any money directly taken in from the sale of food or beverages by a charitable organization conducting bingo, or by a bona fide auxiliary unit or society of a charitable organization conducting bingo, provided all of the following apply:

(1) The auxiliary unit or society has been in existence as a bona fide auxiliary unit or society of the charitable organization for at least two years prior to conducting bingo.

(2) The person who purchases the food or beverage receives nothing of value except the food or beverage and items customarily received with the purchase of that food or beverage.

(3) The food and beverages are sold at customary and reasonable prices.

(y) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, township constable, or member of an organized police department of a municipal corporation or has successfully completed a peace officer's training course under Sections 109.71 to 109.79 of the Revised Code and who is hired to provide security for the premises on which bingo is conducted.

(z) "Charitable purpose" means that the net profit of bingo, other than instant bingo, is used by, or is given, donated, or otherwise transferred to, any of the following:

(1) Any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

(2) A veteran's organization that is a post, chapter, or organization of veterans, or an auxiliary unit or society of, or a trust or foundation for, any such post, chapter, or organization organized in the United States or any of its possessions, at least seventy-five per cent of the members of which are veterans and substantially all of the other members of which are individuals who are spouses, widows, or widowers of veterans, or such individuals, provided that no part of the net earnings of such post, chapter, or organization inures to the benefit of any private shareholder or individual, and further provided that the net profit is used by the post, chapter, or organization for the charitable purposes set forth in division (B)(12) of Section 5739.02 of the Revised Code, is used for awarding scholarships to or for attendance at an institution mentioned in division (B)(12) of Section 5739.02 of the Revised Code, is donated to a governmental agency, or is used for nonprofit youth activities, the purchase of United States or Ohio flags that are donated to schools, youth groups, or other bona fide nonprofit organizations, promotion of patriotism, or disaster relief;

(3) A fraternal organization that has been in continuous existence in this state for fifteen years and that uses the net profit exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, if contributions for such use would qualify as a deductible charitable contribution under subsection 170 of the Internal Revenue Code;

(4) A volunteer firefighter's organization that uses the net profit for the purposes set forth in division (1) of this section.

(aa) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as now or hereafter amended.

(bb) "Youth athletic organization" means any organization, not orga-

nized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are twenty-one years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

(cc) "Youth athletic park organization" means any organization, not organized for profit, that satisfies both of the following:

(1) It owns, operates, and maintains playing fields that satisfy both of the following:

A. The playing fields are used at least one hundred days per year for athletic activities by one or more organizations, not organized for profit, each of which is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are eighteen years of age or younger by means of sponsoring, organizing, operating, or contributing to the support of an athletic team, club, league, or association.

B. The playing fields are not used for any profit-making activity at any time during the year.

(2) It uses the proceeds of bingo it conducts exclusively for the operation, maintenance, and improvement of its playing fields of the type described in division (cc)(1) of this section.

(dd) "Amateur athletic organization" means any organization, not organized for profit, that is organized and operated exclusively to provide financial support to, or to operate, athletic activities for persons who are training for amateur athletic competition that is sanctioned by a national governing body as defined in the "Amateur Sports Act of 1978," 90 Stat. 3045, 36 U.S.C.A. 373.

(ee) "Bingo supplies" means bingo cards or sheets; instant bingo tickets or cards; electronic bingo aids; raffle tickets; punch boards; seal cards; instant bingo ticket dispensers; and devices for selecting or displaying the combination of bingo letters and numbers or raffle tickets. Items that are "bingo supplies" are not gambling devices if sold or otherwise provided, and used, in accordance with this chapter. For purposes of this chapter, "bingo supplies" are not to be considered equipment used to conduct a bingo game.

(ff) "Instant bingo" means a form of bingo that uses folded or banded tickets or paper cards with perforated break-open tabs, a face of which is covered or otherwise hidden from view to conceal a number, letter, or symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners. "Instant bingo" includes seal cards. "Instant bingo" does not include any device that is activated by the insertion of a coin, currency, token, or an equivalent, and that contains as one of its components a video display monitor that is capable of displaying numbers, letters, symbols, or characters in winning or losing combinations.

(gg) "Seal card" means a form of instant bingo that uses instant bingo tickets in conjunction with a board or placard that contains one or more seals that, when removed or opened, reveal predesignated winning numbers, letters, or symbols.

(hh) "Raffle" means a form of bingo in which the one or more prizes are won by one or more persons who have purchased a raffle ticket. The one or more winners of the raffle are determined by drawing a ticket stub or other detachable section from a receptacle containing ticket stubs or detachable sections corresponding to all tickets sold for the raffle.

(ii) "Punch board" means a board containing a number of holes or receptacles of uniform size in which are placed, mechanically and randomly, serially numbered slips of paper that may be punched or drawn from the hole or receptacle when used in conjunction with instant bingo. A player may punch or draw the numbered slips of paper from the holes or receptacles and obtain the prize established for the game if the number drawn corresponds to a winning number or, if the punch board includes the use of a seal card, a potential winning number.

(jj) "Gross profit" means gross receipts minus the amount actually expended for the payment of prize awards.

(kk) "Net profit" means gross profit minus expenses.

(ll) "Expenses" means the reasonable amount of gross profit actually expended for all of the following:

(1) The purchase or lease of bingo supplies;

(2) The annual license fee required under Section 2915.08 of the Revised Code;

(3) Bank fees and service charges for a bingo session or game account described in Section 2915.10 of the Revised Code;

(4) Audits and accounting services;

(5) Safes;

(6) Cash registers;

(7) Hiring security personnel;

(8) Advertising bingo;

(9) Renting premises in which to conduct a bingo session;

(10) Tables and chairs;

(11) Expenses for maintaining and operating a charitable organization's facilities, including, but not limited to, a post home, club house, lounge, tavern, or canteen and any grounds attached to the post home, club house, lounge, tavern, or canteen;

(12) Any other product or service directly related to the conduct of bingo that is authorized in rules adopted by the attorney general under division (B)(1) of Section 2915.08 of the Revised Code.

(mm) "Person" has the same meaning as in Section 1.59 of the Revised Code and includes any firm or any other legal entity, however organized.

(nn) "Distributor" means any person who purchases or obtains bingo supplies and who does either of the following:

(1) Sells, offers for sale, or otherwise provides or offers to provide the bingo supplies to another person for use in this state.

(2) Modifies, converts, adds to, or removes parts from the bingo supplies to further their promotion or sale for use in this state.

(oo) "Manufacturer" means any person who assembles completed bingo supplies from raw materials, other items, or subparts or who mod-

ifies, converts, adds to, or removes parts from bingo supplies to further their promotion or sale.

(pp) (1) "Electronic bingo aid" means an electronic device used by a participant to monitor bingo cards or sheets purchased at the time and place of a bingo session and that does all of the following:

A. It provides a means for a participant to input numbers and letters announced by a bingo caller.

B. It compares the numbers and letters entered by the participant to the bingo faces previously stored in the memory of the device.

C. It identifies a winning bingo pattern.

(2) "Electronic bingo aid" does not include any device into which a coin, currency, token, or an equivalent is inserted to activate play.

(qq) (1) "Slot" machine means either of the following:

A. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player who gives the thing of value in the hope of gain, the outcome of which is determined largely or wholly by chance;

B. Any mechanical, electronic, video, or digital device that is capable of accepting anything of value, directly or indirectly, from or on behalf of a player to conduct or dispense bingo or a scheme or game of chance.

(2) "Slot machine" does not include a skill-based amusement machine.

(rr) "Historic railroad educational organization" means an organization that is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, that owns in fee simple the tracks and the right of way of a historic railroad that the organization restores or maintains and on which the organization provides excursions as part of a program to promote tourism and educate visitors regarding the role of railroad transportation in Ohio history, and that received as donations from a charitable organization that holds a license to conduct bingo under this chapter an amount equal to at least fifty per cent of that licensed charitable organization's net proceeds from the conduct of bingo during each of the five years preceding June 30, 2003. "Historic railroad" means all or a portion of the tracks and right of way of a railroad that was owned and operated by a for profit common carrier in this state at any time prior to January 1, 1950.

(ss) (1) "Skill-based amusement machine" means a skill-based amusement device, such as a mechanical, electronic, video, or digital device, or machine, whether or not the skill-based amusement machine requires payment for use through a coin or bill validator or other payment of consideration or value to participate in the machine's offering or to activate the machine, provided that all of the following apply:

A. The machine involves a task, game, play, contest, competition, or tournament in which the player actively participates in the task, game, play, contest, competition, or tournament.

B. The outcome of an individual's play and participation is not determined largely or wholly by chance.

C. The outcome of play during a game is not controlled by a person not actively participating in the game.

(2) All of the following apply to any machine that is operated as described in division (aaa)(1) of this section:

A. As used in this section, "task," "game," and "play" mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single task, game, play, contest, competition, or tournament may be awarded prizes based on the results of play.

B. Advance play for a single task, game, play, contest, competition, or tournament participation may be purchased. The cost of the contest, competition, or tournament participation may be greater than a single non-contest, competition, or tournament play.

C. To the extent that the machine is used in a contest, competition, or tournament, that contest, competition, or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of prizes that are stated prior to the start of the contest, competition, or tournament.

(tt) "Pool not conducted for profit" means a scheme in which a participant gives a valuable consideration for a chance to win a prize and the total amount of consideration wagered is distributed to a participant or participants.

(uu) "Sporting organization" means a hunting, fishing, or trapping organization, other than a college or high school fraternity or sorority, that is not organized for profit, that is affiliated with a state or national sporting organization, including but not limited to, the Ohio League of sportsmen, and that has been in continuous existence in this state for a period of three years.

(vv) "Charitable game of chance operator" means any person, except security personnel, who perform work or labor at the site of a charitable game of chance, including, but not limited to, distributing or collecting money, chips, cards, or dice from participants, distributing anything of value to winners of the charitable game of chance, and serving food or beverages.

Section 611.02 Gambling; Exceptions for Charitable Organizations

(a) No person shall do any of the following:

(1) Engage in bookmaking, or knowingly engage in conduct that facilitates bookmaking;

(2) Establish, promote, or operate or knowingly engage in conduct that facilitates any game of chance conducted for profit or any scheme of chance;

(3) Knowingly procure, transmit, exchange, or engage in conduct that facilitates the procurement, transmission, or exchange of information for use in establishing odds or determining winners in connection with bookmaking or with any game of

chance conducted for profit or any scheme of chance;

(4) Engage in betting or in playing any scheme or game of chance as a substantial source of income or livelihood;

(5) With purpose to violate this section, acquire, possess, control, or operate any gambling device.

(b) For purposes of division (a)(1) of this section, a person facilitates bookmaking if the person in any way knowingly aids an illegal bookmaking operation, including, without limitation, placing a bet with a person engaged in or facilitating illegal bookmaking. For purposes of division (a)(2) of this section, a person facilitates a game of chance conducted for profit or a scheme of chance if the person in any way knowingly aids in the conduct or operation of any such game or scheme, including, without limitation, playing any such game or scheme.

(c) This section does not prohibit conduct in connection with gambling expressly permitted by law.

(d) This section does not apply to any of the following:

(1) Games of chance, if all of the following apply:

A. The games of chance are not craps for money or roulette for money.

B. The games of chance are conducted by a charitable organization that is, and has received from the internal revenue service a determination letter that is currently in effect, stating that the organization is, exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code.

C. The games of chance are conducted at festivals of the charitable organization that are conducted either for a period of four consecutive days or less and not more than twice a year or for a period of five consecutive days not more than once a year, and are conducted on premises owned by the charitable organization for a period of no less than one year immediately preceding the conducting of the games of chance, on premises leased from a governmental unit, or on premises that are leased from a veteran's or fraternal organization and that have been owned by the lessor veteran's or fraternal organization for a period of no less than one year immediately preceding the conducting of the games of chance.

A charitable organization shall not lease premises from a veteran's or fraternal organization to conduct a festival described in division (d)(1)C. of this section if the veteran's or fraternal organization already has leased the premises four times during the preceding year to charitable organizations for that purpose. If a charitable organization leases premises from a veteran's or fraternal organization to conduct a festival described in division (d)(1)C. of this section, the charitable organization shall not pay a rental rate for the premises per day of the festival that exceeds the rental rate per bingo session that a charitable organization may pay under division (B)(1) of Section 2915.09 of the Revised Code when it leases premises from another charitable organization to conduct bingo games.

D. All of the money or assets received from the games of chance after deduction only of prizes paid out during the conduct of the games of chance are used by, or given, donated, or otherwise transferred to, any organization that is described in subsection 509(a)(1), 509(a)(2), or 509(a)(3) of the Internal Revenue Code and is either a governmental unit or an organization that is tax exempt under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code;

E. The games of chance are not conducted during, or within ten hours of, a bingo game conducted for amusement purposes only under Section 2915.12 of the Revised Code

No person shall receive any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, for operating or assisting in the operation of any game of chance.

(2) Any tag fishing tournament operated under a permit issued under Section 1533.92 of the Revised Code, as "tag fishing tournament" is defined in Section 1531.01 of the Revised Code.

(3) Bingo conducted by a charitable organization that holds a license issued under Section 2915.08 of the Revised Code.

(e) Division (d) of this section shall not be construed to authorize the sale, lease, or other temporary or permanent transfer of the right to conduct games of chance, as granted by that division, by any charitable organization that is granted that right.

(f) Whoever violates this section is guilty of gambling, a misdemeanor of the first degree. This section shall not apply in any case in which the conduct constitutes a felony under the laws of the State of Ohio.

Section 611.03 Charitable Games of Chance; Hours and Operators

(a) No charitable organization shall conduct a charitable game of chance or charitable scheme of chance between the hours of midnight and 10:00 a.m. on Mondays through Fridays, and no charitable organization shall conduct a charitable game of chance or charitable scheme of chance between the hours of 1:00 a.m. and 10:00 a.m. on Saturdays and Sundays.

(b) No person who has been convicted for a felony or gambling offense in any jurisdiction shall serve as a charitable game of chance operator.

(c) No person who is under the age of 18 years shall serve as a charitable game of chance operator.

(d) Whoever violates any provision of this section is guilty of a misdemeanor of the first degree. Each day upon which a violation occurs shall constitute a separate offense.

Section 611.04 Registration Required for Charitable Games of Chance; Fee

(a) No charitable organization shall conduct a charitable game of chance, as defined in the Revised Code, without first registering with the Director of Public Safety in accordance with this section.

(b) The registration to conduct a charitable game of chance shall be furnished by the Director of Public

Safety and shall contain the following information:

(1) the name and address of the charitable organization;

(2) an affirmation that the charitable organization is a charitable organization;

(3) the location at which the charitable organization will conduct the game of chance;

(4) the days of the week and the times on each of such days when a game of chance will be conducted;

(5) a sworn statement that charitable organization will comply with all of the requirements for conducting a game of chance under Section 2915.02 of the Revised Code;

(6) a sworn statement that it will take reasonable steps to ensure that all of the charitable game of chance operators are volunteers, are over the age of 18 and are not felons, and that none of the volunteers will be paid. A signed affidavit from each charitable game of chance operator attesting to these facts is a reasonable step. The Director of Public Safety shall provide sample affidavits to any charitable organization requesting them;

(7) a sworn statement that the charitable organization is receiving 100% of the proceeds less any costs or expenses allowed by law;

(8) identification of the source of the equipment and supplies for the operation of the charitable game of chance.

(c) A five dollar (\$5.00) fee for each charitable game of chance shall accompany each registration application.

(d) Registration of a charitable game of chance shall be made at least twenty-one (21) days prior to the proposed date of the charitable game of chance.

(e) Registration shall not be required for a charitable game of chance involving the sale of raffle tickets when the sale of raffle tickets may occur at more than one location.

(f) The Director of Public Safety, upon receiving a completed registration form, shall issue to the applicant a proof of registration. This proof of registration shall be kept at the gambling site during all hours of operation and shall be shown to any Cleveland law enforcement officer who asks to see it.

(g) Whoever violates division (a) of this section is guilty of a fourth degree misdemeanor.

Section 611.05 Operating a Gambling House

(a) No person, being the owner or lessee, or having custody, control, or supervision of premises, shall:

(1) Use or occupy such premises for gambling in violation of Section 611.02 or Section 2915.02 of the Revised Code;

(2) Recklessly permit such premises to be used or occupied for gambling in violation of Section 611.02 or Section 2915.02 of the Revised Code.

(b) Whoever violates this section is guilty of operating a gambling house, a misdemeanor of the first degree. This section shall not apply in any case in which the conduct constitutes a felony under the laws of the State of Ohio.

(c) Premises used or occupied in violation of this section constitute a nuisance subject to abatement under

Sections 3767.01 to 3767.99 of the Revised Code.

Section 611.06 Public Gaming

(a) No person, while at a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall make a bet or play any game of chance or scheme of chance.

(b) No person, being the owner or lessee, or having custody, control, or supervision, of a hotel, restaurant, tavern, store, arena, hall, or other place of public accommodation, business, amusement, or resort shall recklessly permit those premises to be used or occupied in violation of division (a) of this section.

(c) Divisions (a) and (b) of this section do not prohibit conduct in connection with gambling expressly permitted by law.

(d) Whoever violates this section is guilty of public gaming. Except as otherwise provided in this division, public gaming is a minor misdemeanor. If the offender previously has been convicted of any gambling offense, public gaming is a misdemeanor of the fourth degree.

(e) Premises used or occupied in violation of division (b) of this section constitute a nuisance subject to abatement under Chapter 3767 of the Revised Code.

Section 611.07 Cheating

(a) No person, with purpose to defraud or knowing that the person is facilitating a fraud, shall engage in conduct designed to corrupt the outcome of any of the following:

(1) The subject of a bet;

(2) A contest of knowledge, skill, or endurance that is not an athletic or sporting event;

(3) A scheme or game of chance;

(b) Whoever violates division (a) of this section is guilty of cheating. Cheating is a misdemeanor of the first degree. This section shall not apply in any case in which the conduct constitutes a felony under the laws of the State of Ohio.

Section 611.08 Methods of Conducting a Licensed Bingo Game; Prohibitions

(a) No charitable organization that conducts bingo shall fail to do any of the following:

(1) Own all of the equipment used to conduct bingo or lease that equipment from a charitable organization that is licensed to conduct bingo for a rental rate that is not more than is customary and reasonable for that equipment;

(2) Except as otherwise provided in division (a)(3) of this section, use all of the gross receipts from bingo for paying prizes, for reimbursement of expenses for or for renting premises in which to conduct a bingo session, for reimbursement of expenses for or for purchasing or leasing bingo supplies used in conducting bingo, for reimbursement of expenses for or for hiring security personnel, for reimbursement of expenses for or for advertising bingo, or for reimbursement of other expenses or for other expenses listed in division (LL) of Section 2915.01 of the Revised Code, provided that the amount of the receipts so spent is not more than is customary and reasonable for a similar purchase, lease, hiring, adver-

tising, or expense. If the building in which bingo is conducted is owned by the charitable organization conducting bingo and the bingo conducted includes a form of bingo described in division (S)(1) of Section 3915.01 of the Revised Code, the charitable organization may deduct from the total amount of the gross receipts from each session a sum equal to the lesser of six hundred dollars or forty-five per cent of the gross receipts from the bingo described in that division as consideration for the use of the premises.

(3) Use, or give, donate, or otherwise transfer, all of the net profit derived from bingo, other than instant bingo, for a charitable purpose listed in its license application and described in division (Z) of Section 2915.01 of the Revised Code.

(b) No charitable organization that conducts a bingo game described in division (S)(1) of Section 611.01 of the Revised Code shall fail to do any of the following:

(1) Conduct the bingo game on premises that are owned by the charitable organization, on premises that are owned by another charitable organization and leased from that charitable organization for a rental rate not in excess of the lesser of six hundred dollars per bingo session or forty-five per cent of the gross receipts of the bingo session, on premises that are leased from a person other than a charitable organization for a rental rate that is not more than is customary and reasonable for premises that are similar in location, size, and quality but not in excess of four hundred fifty dollars per bingo session, or on premises that are owned by a person other than a charitable organization, that are leased from that person by another charitable organization, and that are subleased from that other charitable organization by the charitable organization for a rental rate not in excess of four hundred fifty dollars per bingo session. If the charitable organization leases from a person other than a charitable organization the premises on which it conducts bingo sessions, the lessor of the premises shall provide only the premises to the organization and shall not provide the organization with bingo game operators, security personnel, concessions or concession operators, bingo supplies, or any other type of service or equipment. A charitable organization shall not lease or sublease premises that it owns or leases to more than one other charitable organization per calendar week for the purpose of conducting bingo sessions on the premises. A person that is not a charitable organization shall not lease premises that it owns, leases, or otherwise is empowered to lease to more than one charitable organization per calendar week for conducting bingo sessions on the premises. In no case shall more than two bingo sessions be conducted on any premises in any calendar week.

(2) Display its license conspicuously at the premises where the bingo session is conducted;

(3) Conduct the bingo session in accordance with the definition of bingo set forth in division (S)(1) of Section 2915.01 of the Revised Code.

(c) No charitable organization that conducts a bingo game

described in division (S)(1) of Section 2915.01 of the Revised Code shall do any of the following:

(1) Pay any compensation to a bingo game operator for operating a bingo session that is conducted by the charitable organization or for preparing, selling, or serving food or beverages at the site of the bingo session, permit any auxiliary unit or society of the charitable organization to pay compensation to any bingo game operator who prepares, sells, or serves food or beverages at a bingo session conducted by the charitable organization, or permit any auxiliary unit or society of the charitable organization to prepare, sell, or serve food or beverages at a bingo session conducted by the charitable organization, if the auxiliary unit or society pays any compensation to the bingo game operators who prepare, sell, or serve the food or beverages;

(2) Pay consulting fees to any person for any services performed in relation to the bingo session;

(3) Pay concession fees to any person who provides refreshments to the participants in the bingo session;

(4) Except as otherwise provided in division (c)(4) of this section, conduct more than two bingo sessions in any seven-day period. A volunteer firefighter's organization or a volunteer rescue service organization that conducts not more than five bingo sessions in a calendar year may conduct more than two bingo sessions in a seven-day period after notifying the attorney general when it will conduct the sessions.

(5) Pay out more than three thousand five hundred dollars in prizes for bingo games described in division (s)(1) of Section 2915.01 of the Revised Code during any bingo session that is conducted by the charitable organization. "Prizes" does not include awards from the conduct of instant bingo.

(6) Conduct a bingo session at any time during the ten-hour period between midnight and ten a.m., at any time during, or within ten hours of, a bingo game conducted for amusement only under Section 2915.12 of the Revised Code, at any premises not specified on its license, or on any day of the week or during any time period not specified on its license. Division (a)(6) of this section does not prohibit the sale of instant bingo tickets beginning at nine a.m. for a bingo session that begins at ten a.m. If circumstances make it impractical for the charitable organization to conduct a bingo session at the premises, or on the day of the week or at the time, specified on its license or if a charitable organization wants to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license, the charitable organization may apply in writing to the attorney general for an amended license under division (F) of Section 2915.08 of the Revised Code. A charitable organization may apply twice in each calendar year for an amended license to conduct bingo sessions on a day of the week or at a time other than the day or time specified on its license. If the amended license is granted, the organization may conduct bingo sessions at the premises, on the day

of the week, and at the time specified on its amended license.

(7) Permit any person whom the charitable organization knows, or should have known, is under the age of eighteen to work as a bingo game operator;

(8) Permit any person whom the charitable organization knows, or should have known, has been convicted of a felony or gambling offense in any jurisdiction to be a bingo game operator;

(9) Permit the lessor of the premises on which the bingo session is conducted, if the lessor is not a charitable organization, to provide the charitable organization with bingo game operators, security personnel, concessions, bingo supplies, or any other type of service or equipment;

(10) Purchase or lease bingo supplies from any person except a distributor issued a license under Section 2915.081 of the Revised Code;

(11) A. Use or permit the use of electronic bingo aids except under the following circumstances:

1. For any single participant, not more than ninety bingo faces can be played using an electronic bingo aid or aids.

2. The charitable organization shall provide a participant using an electronic bingo aid with corresponding paper bingo cards or sheets.

3. The total price of bingo faces played with an electronic bingo aid shall be equal to the total price of the same number of bingo faces played with a paper bingo card or sheet sold at the same bingo session but without an electronic bingo aid.

4. An electronic bingo aid cannot be part of an electronic network other than a network that includes only bingo aids and devices that are located on the premises at which the bingo is being conducted or be interactive with any device not located on the premises at which the bingo is being conducted.

5. An electronic bingo aid cannot be used to participate in bingo that is conducted at a location other than the location at which the bingo session is conducted and at which the electronic bingo aid is used.

6. An electronic bingo aid cannot be used to provide for the input of numbers and letters announced by a bingo caller other than the bingo caller who physically calls the numbers and letters at the location at which the bingo session is conducted and at which the electronic bingo aid is used.

(12) Permit any person the charitable organization knows, or should have known, to be under eighteen years of age to play bingo described in division (S)(1) of Section 2915.01 of the Revised Code.

(d) (1) Except as otherwise provided in division (d)(3) of this section, no charitable organization shall provide to a bingo game operator, and no bingo game operator shall receive or accept, any commission, wage, salary, reward, tip, donation, gratuity, or other form of compensation, directly or indirectly, regardless of the source, for conducting bingo or providing other work or labor at the site of bingo during a bingo session.

(e) Notwithstanding division (b)(1) of this section, a charitable organization that, prior to December

6, 1977, has entered into written agreements for the lease of premises it owns to another charitable organization or other charitable organizations for the conducting of bingo sessions so that more than two bingo sessions are conducted per calendar week on the premises, and a person that is not a charitable organization and that, prior to December 6, 1977, has entered into written agreements for the lease of premises it owns to charitable organizations for the conducting of more than two bingo sessions per calendar week on the premises, may continue to lease the premises to those charitable organizations, provided that no more than four sessions are conducted per calendar week, that the lessor organization or person has notified the attorney general in writing of the organizations that will conduct the sessions and the days of the week and the times of the day on which the sessions will be conducted, that the initial lease entered into with each organization that will conduct the sessions was filed with the attorney general prior to December 6, 1977, and that each organization that will conduct the sessions was issued a license to conduct bingo games by the attorney general prior to December 6, 1977.

(f) This section does not prohibit a bingo licensed charitable organization or a game operator from giving any person an instant bingo ticket as a prize.

(g) Except as otherwise provided in this division, whoever violates division (a)(1) or (3), (b)(1), (2), or (3), (c)(1) to (12), or (d) of this section is guilty of a minor misdemeanor. If the offender previously has been convicted of a violation of division (a)(1) or (3), (b)(1), (2), or (3), (c)(1) to (11), or, (d) of this section, a violation of division (a)(1) or (3), (b)(1), (2), or (3), (c), or (d) of this section is a misdemeanor of the first degree. Whoever violates division (d)(12) of this section is guilty of a misdemeanor of the first degree. This section shall not apply in any case in which the conduct constitutes a felony under the laws of the State of Ohio.

Section 611.09 Records to be Maintained; Enforcement; Prohibitions

(a) No charitable organization that conducts bingo or a game of chance pursuant to division (D) of Section 2915.02 of the Revised Code shall fail to maintain the following records for at least three years from the date on which the bingo or game of chance is conducted:

(1) An itemized list of the gross receipts of each bingo session, each game of instant bingo by serial number, each raffle, each punch board game, and each game of chance, and an itemized list of the gross profits of each game of instant bingo by serial number;

(2) An itemized list of all expenses, other than prizes, that are incurred in conducting bingo or instant bingo, the name of each person to whom the expenses are paid, and a receipt for all of the expenses;

(3) A list of all prizes awarded during each bingo session, each raffle, each punch board game, and each game of chance conducted by the charitable organization, the total prizes awarded from each game of instant bingo by serial

number, and the name, address, and social security number of all persons who are winners of prizes of six hundred dollars or more in value;

(4) An itemized list of the recipients of the net profit of the bingo or game of chance, including the name and address of each recipient to whom the money is distributed, and if the organization uses the net profit of bingo, or the money or assets received from a game of chance, for any charitable or other purpose set forth in division (Z) of Section 2915.01, division (D) of Section 2915.02, or Section 2915.101 of the Revised Code, a list of each purpose and an itemized list of each expenditure for each purpose;

(5) The number of persons who participate in any bingo session or game of chance that is conducted by the charitable organization;

(6) A list of receipts from the sale of food and beverages by the charitable organization or one of its auxiliary units or societies, if the receipts were excluded from gross receipts under division (X) of Section 2915.01 of the Revised Code;

(7) An itemized list of all expenses incurred at each bingo session, each raffle, each punch board game, or each game of instant bingo conducted by the charitable organization in the sale of food and beverages by the charitable organization or by an auxiliary unit or society of the charitable organization, the name of each person to whom the expenses are paid, and a receipt for all of the expenses.

(b) A charitable organization shall keep the records that it is required to maintain pursuant to division (a) of this section at its principal place of business in this state or at its headquarters in this state and shall notify the attorney general of the location at which those records are kept.

(c) The gross profit from each bingo session or game described in division (S)(1) or (2) of Section 2915.01 of the Revised Code shall be deposited into a checking account devoted exclusively to the bingo session or game. Payments for allowable expenses incurred in conducting the bingo session or game and payments to recipients of some or all of the net profit of the bingo session or game shall be made only by checks drawn on the bingo session or game account.

(d) Each charitable organization shall conduct and record an inventory of all of its bingo supplies as of the first day of November of each year.

(e) The attorney general may adopt rules in accordance with Chapter 119 of the Revised Code that establish standards of accounting, record keeping, and reporting to ensure that gross receipts from bingo or games of chance are properly accounted for.

(f) A distributor shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing to another person bingo supplies for use in this state. The record shall include all of the following for each instance:

(1) The name of the manufacturer from which the distributor pur-

chased the bingo supplies and the date of the purchase;

(2) The name and address of the charitable organization or other distributor to which the bingo supplies were sold or otherwise provided;

(3) A description that clearly identifies the bingo supplies;

(4) Invoices that include the non-repeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each charitable organization.

(g) A manufacturer shall maintain, for a period of three years after the date of its sale or other provision, a record of each instance of its selling or otherwise providing bingo supplies for use in this state. The record shall include all of the following for each instance:

(1) The name and address of the distributor to whom the bingo supplies were sold or otherwise provided;

(2) A description that clearly identifies the bingo supplies, including serial numbers;

(3) Invoices that include the non-repeating serial numbers of all paper bingo cards and sheets and all instant bingo deals sold or otherwise provided to each distributor.

(h) The attorney general or any law enforcement agency may do all of the following:

(1) Investigate any charitable organization or any officer, agent, trustee, member, or employee of the organization;

(2) Examine the accounts and records of the organization;

(3) Conduct inspections, audits, and observations of bingo or games of chance;

(4) Conduct inspections of the premises where bingo or games of chance are conducted;

(5) Take any other necessary and reasonable action to determine if a violation of any provision of Sections 2915.01 to 2915.13 of the Revised Code has occurred and to determine whether Section 2915.11 of the Revised Code has been complied with.

If any law enforcement agency has reasonable grounds to believe that a charitable organization or an officer, agent, trustee, member, or employee of the organization has violated any provision of this chapter, the law enforcement agency may proceed by action in the proper court to enforce this chapter, provided that the law enforcement agency shall give written notice to the attorney general when commencing an action as described in this division.

(i) No person shall destroy, alter, conceal, withhold, or deny access to any accounts or records of a charitable organization that have been requested for examination, or obstruct, impede, or interfere with any inspection, audit, or observation of bingo or a game of chance or premises where bingo or a game of chance is conducted, or refuse to comply with any reasonable request of, or obstruct, impede, or interfere with any other reasonable action undertaken by, the attorney general or a law enforcement agency pursuant to division (h) of this section.

(j) Whoever violates this section is guilty of a misdemeanor of the first degree.

Section 611.10 Minor and Felon Not to Work at Bingo Session

(a) No person shall be a bingo game operator unless he is eighteen years of age or older.

(b) No person who has been convicted of a felony or a gambling offense in any jurisdiction shall be a bingo game operator.

(c) Whoever violates division (a) of this section is guilty of a misdemeanor of the third degree.

(d) Whoever violates division (b) of this section is guilty of a misdemeanor of the first degree.

Section 611.11 Game for Amusement Only Excepted; Conditions; Enforcement; Offense

(a) Sections 2915.07 to 2915.11 of the Revised Code do not apply to bingo games that are conducted for the purpose of amusement only. A bingo game is conducted for the purpose of amusement only if it complies with all of the requirements specified in either division (a)(1) or (2) of this section:

(1) A. The participants do not pay any money or any other thing of value including an admission fee, or any fee for bingo cards or sheets, objects to cover the spaces, or other devices used in playing bingo, for the privilege of participating in the bingo game, or to defray any costs of the game, or pay tips or make donations during or immediately before or after the bingo game.

B. All prizes awarded during the course of the game are nonmonetary, and in the form of merchandise, goods, or entitlements to goods or services only, and the total value of all prizes awarded during the game is less than one hundred dollars.

C. No commission, wages, salary, reward, tip, donation, gratuity, or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.

D. The bingo game is not conducted either during or within ten hours of any of the following:

1. A bingo session during which a charitable bingo game is conducted under Sections 2915.07 to 2915.11 of the Revised Code;

2. A scheme or game of chance, or bingo described in division (S)(2) of Section 2915.01 of the Revised Code.

E. The number of players participating in the bingo game does not exceed fifty.

(2) A. The participants do not pay money or any other thing of value as an admission fee, and no participant is charged more than twenty-five cents to purchase a bingo card or sheet, objects to cover the spaces, or other devices used in playing bingo.

B. The total amount of money paid by all of the participants for bingo cards or sheets, objects to cover the spaces, or other devices used in playing bingo does not exceed one hundred dollars.

C. All of the money paid for bingo cards or sheets, objects to cover spaces, or other devices used in playing bingo is used only to pay winners monetary and nonmonetary prizes and to provide refreshments.

D. The total value of all prizes awarded during the game does not exceed one hundred dollars.

E. No commission, wages, salary, reward, tip, donation, gratuity, or other form of compensation, either directly or indirectly, and regardless of the source, is paid to any bingo game operator for work or labor performed at the site of the bingo game.

F. The bingo game is not conducted during or within ten hours of either of the following:

1. A bingo session during which a charitable bingo game is conducted under Sections 2915.07 to 2915.11 of the Revised Code;

2. A scheme of chance or game of chance, or bingo described in division (S)(2) of Section 2915.01 of the Revised Code.

G. All of the participants reside at the premises where the bingo game is conducted.

H. The bingo games are conducted on different days of the week and not more than twice in a calendar week.

(b) The attorney general or any local law enforcement agency may investigate the conduct of a bingo game that purportedly is conducted for purposes of amusement only if there is reason to believe that the purported amusement bingo game does not comply with the requirements of either division (a)(1) or (2) of this section. A local law enforcement agency may proceed by action in the proper court to enforce this section if the local law enforcement agency gives written notice to the attorney general when commencing the action.

Section 611.12 Permitting Unlawful Coin Machines

(a) No person shall exhibit, operate or permit the operation of any machine, device or instrument, whether or not it purports to vend or distribute merchandise or to furnish recreation or amusement, which is operated by the insertion of any token, slug or disc, or exhibit, operate or permit the operation of any machine, device or instrument which is operated by the insertion of any coin, whether such machine, device or instrument purports to vend or distribute merchandise or to furnish recreation or amusement, which as a result of such operation discharges one or more coins, tokens, slugs or discs, or other memorandum of the result of operation which makes it possible for one user to receive more value than another user inserting a similar coin.

(b) Whoever violates this section is guilty of permitting unlawful coin machines, a misdemeanor of the third degree.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Without objection, substitute ordinance agreed to. Ordinance No. 487-04 laid on the table.

Motion to suspend rules. Charter and statutory provisions and place on final passage.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 2066-04.
By Council Members Sweeney, Cimperman, and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Service to enter into an agreement with the Cuyahoga County Commissioners to accept funds for the purpose of installing a sprinkler system at Aviation High School; determining the method of making the public improvement of installing the sprinkler system; and authorizing the Director of Public Service to enter into one or more public improvement contracts for the making of the improvement.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Service is authorized to enter into an agreement with the Cuyahoga County Commissioners to accept funds in the amount of \$25,000 for the purpose of installing a sprinkler system at Aviation High School. The agreement shall be prepared by the Director of Law and shall contain additional terms and conditions as he deems necessary to protect and benefit the public interest.

Section 2. That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of installing a sprinkler system at Aviation High School, for the Division of Architecture, Department of Public Service, by one or more contracts duly let to the lowest responsible bidder or bidders after competitive bidding for a gross price for the improvement.

Section 3. That the Director of Public Service is authorized to enter into one or more contracts for the making of the public improvement with the lowest responsible bidder or bidders after competitive bidding for a gross price for the improvement, provided, however, that each separate trade and each distinct component part of the improvement may be treated as a separate improvement, and each, or any combination, of the trades or components may be the subject of a separate contract for a gross price. On request of the director the contractor shall furnish a correct schedule of unit prices, including profit and overhead, for all items constituting units of the improvement.

Section 4. That the cost of the improvement authorized shall be paid from Fund Nos. 20 SF 183, 20 SF 191, 20 SF 300, 20 SF 310, 20 SF 320, 20 SF 331, 20 SF 340, 20 SF 351, 20 SF 362, 20 SF 371, 20 SF 381, 11 SF 006, 01-400100-693000, additional funding sources to be determined by the Director of Finance, and from the fund or funds which are deposited the cash contribution from the Cuyahoga County Commissioners under the agreement authorized by this ordinance and which funds are appropriated for this purpose, Request No. 115271.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final passage.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 2067-04.
By Council Member Brady.
An emergency ordinance authorizing certain persons to engage in peddling in Ward 19. (Irene Sakellis)

Whereas, pursuant to Section 675.07 of the Codified Ordinances of Cleveland, Ohio, 1976, (the "Codified Ordinances") the consent of Council expressed by ordinance is a prerequisite to peddling upon public rights of way outside of the Central Business District; and

Whereas, this Council has considered the requests of certain persons to engage in peddling outside of the Central Business District, and has determined that it is in the public interest to allow each of said persons to peddle in Ward 19; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That this Council consents, as required by, Section 675.07 of the Codified Ordinances to allow each persons named: Irene Sakellis on the corner of West 117th Street and Western Avenue.

Section 2. That all of the requirements of Chapter 675 of the Codified Ordinances shall apply to the persons named in Section 1 of this ordinance.

Section 3. That the privilege granted may be revoked at any time by this Council.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final passage.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 2069-04.
By Council Member Jackson
An emergency ordinance authorizing the Clerk of Council to cause payment of registration fees, travel expenses, and hotel expenses necessary for members and employee's of Cleveland City Council to attend National League of Cities.

Whereas, National League of Cities coordinates an annual convention to assist municipal legislators in serving their constituents; and

Whereas, this convention includes educational sessions on issues and concerns affecting local governments; and

Whereas, members and employees of Cleveland City Council have traditionally attended this annual convention; and

Whereas, Cleveland City Council hosted the National League of Cities 2004 National Black Caucus of Local Elected Officials summer meeting in August of this year; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Clerk of Council is hereby authorized to cause payment of registration fees, travel expenses, and hotel expenses necessary for members and employees of Cleveland City Council to attend National League of Cities.

Section 2. That the payments hereby authorized shall be paid from Fund No. 01 SF 001.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final passage.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 2071-04.
By Council Members Conwell and Pierce Scott.

An emergency ordinance amending the Title and Section 1 of Ordinance No. 1971-04 passed October 11, 2004 as it pertains to the Ashbury Senior Computer Community Center through the use of Ward 8 and 9 Neighborhood Equity Funds.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Title and Section 1 of Ordinance No. 1971-04 passed October 11, 2004 are hereby amended to read as follow:

An emergency ordinance authorizing the Director of Community Development to enter into an agreement with the **Northeast Neighborhood Development Corporation** for the Ashbury Senior Computer Community Center **Program** for the public purpose of providing computer training classes to City of Cleveland residents through the use of Wards 8 and 9 Neighborhood Equity Funds.

Section 1. That the Director of Community Development is authorized to enter into an agreement with the **Northeast Neighborhood Development Corporation** for the Ashbury Senior Computer Community Center **Program** for the public purpose of providing computer training classes to City of Cleveland residents through the use of Wards 8 and 9 Neighborhood Equity Funds.

Section 2. That the Title and Section 1 of Ordinance No. 1971-04 passed October 11, 2004 are hereby repealed.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final passage.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 2072-04.

By Council Member Johnson.

An emergency ordinance authorizing and directing the Director of Public Service to issue a permit to The Coral Company to stretch banners in Shaker Square on the east and west corner of Shaker Blvd., for the period from November 10, 2004 to November 22, 2004, inclusive, publicizing the 75th Birthday Celebration of Shaker Square.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding the provision of Section 623.13 of the Codified Ordinances, of Cleveland, Ohio, 1976, the Director of the Department of Public Service is hereby authorized and directed to issue a permit to The Coral Company to install, maintain and remove banners in Shaker Square on the east and west corner of Shaker Blvd., for the period from November 10, 2004 to November 22, 2004, inclusive. Said banner shall be approved by the Director of Public Service, in consultation with the Director of Public Safety, as to type, method of affixing and location so as not to interfere with any sign erected and maintained under the requirements of law or ordinance. The permission of the owner of any pole from which a banner will be hung must be obtained prior to issuance of the permit. No commercial advertising shall be printed or permitted on said banner and said banner shall be removed promptly upon the expiration of said permit.

Section 2. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of

all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final passage.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

FIRST READING EMERGENCY RESOLUTIONS READ IN FULL AND ADOPTED

Res. No. 2073-04.

By Council Member Britt.

An emergency resolution objecting to the transfer of ownership of a C2 and C2X Liquor Permit at 1930 East 79th Street.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a C2 and C2X Liquor Permit from Cascians Corporation, Inc., DBA Quik Pik Market, 1930 East 79th Street, Cleveland, Ohio 44103, Permanent Number 1302675 to Chesters All Service Mart, Inc., DBA Quik Pik Market, 1930 East 79th Street, Cleveland, Ohio 44103, Permanent Number 1421706; and

Whereas, the granting of this application for a liquor permit to this high crime area, which is already saturated with other liquor outlets, is contrary to the best interests of the entire community; and

Whereas, the applicant does not qualify to be a permit holder and/or has demonstrated that he has operated his liquor business in disregard of the laws, regulations or local ordinances of this state or any other state; and

Whereas, the place for which the permit is sought has not conformed to the building, safety or health requirements of the governing body of this County or City; and

Whereas, the place for which the permit is sought is so arranged or constructed that law enforcement officers or agents of the Department of Liquor Control are prevented reasonable access to the establishment; and

Whereas, the place for which the permit is sought is so located with respect to the neighborhood that it substantially interferes with public decency, sobriety, peace or good order; and

Whereas, this objection is based on other legal grounds as set forth in Revised Code Section 4303.292; and

Whereas, this resolution constitutes an emergency measure providing for the immediate preservation of the public peace, prosperity, safety and welfare pursuant to Section 4303.26 of the Ohio Revised Code. Council's objection to said permit must be received by the Director of Liquor Control within 30 days of notification; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That Council does hereby record its objection to the transfer of ownership of a C2 and C2X Liquor Permit from Cascians Corporation, Inc., DBA Quik Pik Market, 1930 East 79th Street, Cleveland, Ohio 44103, Permanent Number 1302675 to Chesters All Service Mart, Inc., DBA Quik Pik Market, 1930 East 79th Street, Cleveland, Ohio 44103, Permanent Number 1421706; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

Section 2. That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final adoption.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Adopted. Yeas 20. Nays 0.

Res. No. 2074-04.

By Council Member Dolan.

An emergency resolution objecting to a New C1 Liquor Permit at 4217 Rocky River Drive.

Whereas, Council has been notified by the Department of Liquor Control of an application for a New C1 Liquor Permit at Culvers Trucking, Inc., DBA Autocare Unlimited, 4217 Rocky River Drive, Cleveland, Ohio 44111, Permanent Number 1849017; and

Whereas, the granting of this application for a liquor permit to this high crime area, which is already saturated with other liquor outlets, is contrary to the best interests of the entire community; and

Whereas, the applicant does not qualify to be a permit holder and/or has demonstrated that he has operated his liquor business in disregard of the laws, regulations or local ordinances of this state or any other state; and

Whereas, the place for which the permit is sought has not conformed to the building, safety or health requirements of the governing body of this County or City; and

Whereas, the place for which the permit is sought is so arranged or constructed that law enforcement officers or agents of the Department of Liquor Control are prevented reasonable access to the establishment; and

Whereas, the place for which the permit is sought is so located with respect to the neighborhood that it substantially interferes with public decency, sobriety, peace or good order; and

Whereas, this objection is based on other legal grounds as set forth in Revised Code Section 4303.292; and

Whereas, this resolution constitutes an emergency measure providing for the immediate preservation of the public peace, prosperity, safety and welfare pursuant to Section 4303.26 of the Ohio Revised Code. Council's objection to said permit must be received by the Director of Liquor Control within 30 days of notification; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That Council does hereby record its objection to a New C1 Liquor Permit at Culvers Trucking, Inc., DBA Autocare Unlimited, 4217 Rocky River Drive, Cleveland, Ohio 44111, Permanent Number 1849017; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

Section 2. That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final adoption.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Adopted. Yeas 20. Nays 0.

Res. No. 2075-04.

By Council Member Johnson.

An emergency resolution objecting to a New C1 Liquor Permit at 10017 Sophia Avenue.

Whereas, Council has been notified by the Department of Liquor Control of an application for a New C1 Liquor Permit at Hayfa, Inc., DBA Sophia Food Market, 10017 Sophia Avenue, Cleveland, Ohio 44104, Permanent Number 3693704; and

Whereas, the granting of this application for a liquor permit to this high crime area, which is already saturated with other liquor outlets, is contrary to the best interests of the entire community; and

Whereas, the applicant does not qualify to be a permit holder and/or has demonstrated that he has operated his liquor business in disregard of the laws, regulations or local ordinances of this state or any other state; and

Whereas, the place for which the permit is sought has not conformed to the building, safety or health requirements of the governing body of this County or City; and

Whereas, the place for which the permit is sought is so arranged or constructed that law enforcement officers or agents of the Department of Liquor Control are prevented reasonable access to the establishment; and

Whereas, the place for which the permit is sought is so located with respect to the neighborhood that it substantially interferes with public decency, sobriety, peace or good order; and

Whereas, this objection is based on other legal grounds as set forth in Revised Code Section 4303.292; and

Whereas, this resolution constitutes an emergency measure providing for the immediate preservation of the public peace, prosperity, safety and welfare pursuant to Section 4303.26 of the Ohio Revised Code. Council's objection to said permit must be received by the Director of Liquor Control within 30 days of notification; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That Council does hereby record its objection to a New C1 Liquor Permit at Hayfa, Inc., DBA Sophia Food Market, 10017 Sophia Avenue, Cleveland, Ohio 44104, Permanent Number 3693704; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

Section 2. That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final adoption.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Adopted. Yeas 20. Nays 0.

Res. No. 2076-04.

By Council Member Polensek.

An emergency resolution objecting to the transfer of ownership of a C1 Liquor Permit at 15222 Waterloo Road.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a C1 Liquor Permit from Clark Retail Enterprises, Inc., DBA Clark Store #1267, 15222 Waterloo Road, Cleveland, Ohio 44110, Permanent Number 15255111267 to Tap Stations Investments, LLC, 15222 Waterloo Road, Cleveland, Ohio 44110, Permanent Number 87987000175; and

Whereas, the granting of this application for a liquor permit to this high crime area, which is already saturated with other liquor outlets, is contrary to the best interests of the entire community; and

Whereas, the applicant does not qualify to be a permit holder and/or has demonstrated that he has operated his liquor business in disregard of the laws, regulations or local ordinances of this state or any other state; and

Whereas, the place for which the permit is sought has not conformed to the building, safety or health requirements of the governing body of this County or City; and

Whereas, the place for which the permit is sought is so arranged or constructed that law enforcement officers or agents of the Department of Liquor Control are prevented reasonable access to the establishment; and

Whereas, the place for which the permit is sought is so located with respect to the neighborhood that it substantially interferes with public decency, sobriety, peace or good order; and

Whereas, this objection is based on other legal grounds as set forth in Revised Code Section 4303.292; and

Whereas, this resolution constitutes an emergency measure providing for the immediate preservation of the public peace, prosperity, safety and welfare pursuant to Section 4303.26 of the Ohio Revised Code. Council's objection to said permit must be received by the Director of Liquor Control within 30 days of notification; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That Council does hereby record its objection to the transfer of ownership of a C1 Liquor Permit from Clark Retail Enterprises, Inc., DBA Clark Store #1267, 15222 Waterloo Road, Cleveland, Ohio 44110, Permanent Number 15255111267 to Tap Stations Investments, LLC, 15222 Waterloo Road, Cleveland, Ohio 44110, Permanent Number 87987000175; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

Section 2. That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final adoption.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Adopted. Yeas 20. Nays 0.

Res. No. 2077-04.

By Council Members Zone, Westbrook, Gordon, Jackson, Brady, Britt, Cimperman, Cintron, Coats, Conwell, Dolan, Johnson, Jones, Lewis, O'Malley, Pierce Scott, Polensek, Rybka, Sweeney, White.

An emergency resolution expressing this Council's strong opposition to State Issue 1; urging the citizens of the City of Cleveland to vote NO on State Issue 1 on November 2, 2004; and supporting political, business, labor and community leaders in opposition to the constitutional amendment and working to ensure its defeat and assisting in all ways possible.

Whereas, Cleveland City Council seeks to promote a strong economy and protect the health, welfare and rights of all of its citizens; and

Whereas, the Ohio Constitution should never be used to deny or take away rights to its citizens, but rather should only be used to protect our citizens from governmental interference with constitutional rights; and

Whereas, current state law already defines marriage; and

Whereas, State Issue 1 is an extreme and detrimental proposal that would prohibit the City of Cleveland and all other public and private employers from offering benefits or protections to unmarried employees in relationships; and

Whereas, State Issue 1 would jeopardize property, health benefits, and inheritance rights for all unmarried couples in the City of Cleveland and the State of Ohio; and

Whereas, State Issue 1 is opposed by a broad coalition of political, business, labor, and citizen advocacy groups and leaders including, the Cleveland Federation of Labor, COSE, Congresswoman Stephanie Tubbs Jones, Congressman Dennis Kucinich, Governor Bob Taft, United States Senator George Voinovich, United States Senator Michael DeWine, Attorney General Jim Petro, the Mayors of all of Ohio's major cities, AARP, the Ohio League of Women Voters, The Cleveland Plain Dealer, and numerous religious and civic leaders; and

Whereas, this resolution constitutes an emergency measure for the immediate preservation of public peace, property, health, or safety, now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council strongly opposes State Issue 1 and urges the citizens of the City of Cleveland to vote NO on State Issue 1 on November 2, 2004.

Section 2. That this Council urges political, business, labor and community leaders to voice their opposition to the constitutional amendment and work to ensure its defeat and assist in all ways possible to defeat State Issue 1.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Motion to suspend rules. Charter and statutory provisions and place on final adoption.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Adopted. Yeas 20. Nays 0.

SECOND READING EMERGENCY ORDINANCES PASSED

Ord. No. 1467-04.

By Council Members Coats and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to enter into one or more contracts with Datamatic, Ltd. for professional services necessary to provide maintenance and repair of meter reading, collections, investigations and meter maintenance systems, including hardware and software-support based, for the Division of Water, Department of Public Utilities.

Approved by Directors of Public Utilities, Finance, Law; Passage recommended by Committees on Public Utilities, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1468-04.

By Council Members Coats and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to enter into one or more contracts with High Line Corporation dba CASNET for professional services necessary to provide maintenance and on-site support for various Bell & Howell flatbed scanners and one Panasonic color scanner, for a two year period.

Approved by Directors of Public Utilities, Finance, Law; Passage recommended by Committees on Public Utilities, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1469-04.

By Council Members Coats and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to enter into one or more contracts with Kronos Incorporated for professional services necessary for installing, designing, training, implementing, testing, and providing technical support, necessary to upgrade the current time and attendance workforce system, including software, hardware, and maintenance, for a period of three years.

Approved by Directors of Public Utilities, Finance, Law; Passage recommended by Committees on Public Utilities, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1471-04.

By Council Members Coats and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials for maintenance of uninterruptable power supply systems, backup generators, components, appurtenances, and specialized batteries, for the Division of Water, Department of Public Utilities, for a period of two years.

Approved by Directors of Public Utilities, Finance, Law; Passage rec-

ommended by Committees on Public Utilities, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1473-04.

By Council Members Coats and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials necessary to maintain and repair water pumps, including electric motors, controls and appurtenances, for the Division of Water, Department of Public Utilities, for a two-year period.

Approved by Directors of Public Utilities, Finance, Law; Passage recommended by Committees on Public Utilities, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1489-04.

By Council Members Reed and Jackson (by departmental request).

An emergency ordinance to extend the retirement dates of various police personnel, for a one year period for the Division of Police, Department of Public Safety.

Approved by Directors of Public Safety, Finance, Law; Passage recommended by Committees on Public Safety, Finance; when amended as follows:

1. In the title, lines 3 and 4, strike "Division of Police" and insert "Divisions of Police and Fire".

2. In the first whereas clause, line 2, strike "Division of Police" and insert "Division of Police and Fire"; in line 3, after "Police Chief" insert "or Fire Chief".

3. Insert a new third whereas clause to read as follows:

"Whereas, Lieutenant Gary G. Ivins and Battalion Chief Frank Mulanax possess great wealth of knowledge and expertise and have proven invaluable in attaining the goals of the Division of Fire, Department of Public Safety; and"

4. In the third existing whereas clause, line 2, after "police" insert "and fire".

5. Insert new Sections 10 and 11 to read as follows:

"Section 10. That Lieutenant Gary G. Ivins of the Division of Fire, Department of Public Safety, shall continue on active duty for a one (1) year period beginning on April 1, 2004, and that this continuation is approved by Council.

Section 11. That Battalion Chief Frank Mulanax of the Division of Fire, Department of Public Safety, shall continue on active duty for a one (1) year period beginning on February 18, 2004, and that this continuation is approved by Council."

6. Renumber existing Section 10 to new "Section 12".

Amendments agreed to.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 19. Nays 1.

Those voting yea: Council Members Jackson, Brady, Cimperman, Coats, Conwell, Dolan, Gordon, Johnson, Jones, Lewis, O'Malley, Pierce Scott, Polensek, Reed, Rybka, Sweeney, Westbrook, White and Zone.

Those voting nay: Council Member Cintron.

Absent: Council Member Britt.
In compliance with Section 33 of the Charter, a copy of the legislation was furnished to each member of Council before final passage.

Ord. No. 1659-04.

By Council Member Jackson (by departmental request).

An emergency ordinance to amend the title and Section 1 of Ordinance No. 1923-02, passed December 16, 2002, relating to employing one or more professional consultants to develop and conduct functional and technical training on the PeopleSoft Financial Management System and to develop and conduct other IT functional and technical training for a term not to exceed five years.

Approved by Directors of Finance, Law; Passage recommended by Committee on Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1667-04.

By Council Members Dolan, Sweeney, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Service to enter into an amendment to Contract No. 62167 with E. G. & G. Inc. to provide the detail design of the Kamm's Corner streetscape improvement project.

Approved by Directors of Public Service, City Planning Commission, Finance, Law; Relieved of Committees on Public Service, City Planning; Passage recommended by Committee on Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1671-04.

By Council Members Johnson, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to enter into an amendment to the lease with the Ohio Department of Natural Resources for the use of the former Civilian Conservation Corps facility located within Kirtland Park.

Approved by Directors of Public Service, City Planning Commission, Finance, Law; Relieved of Committees on Public Service, City Planning; Passage recommended by Committee on Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1673-04.

By Council Members Coats and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to enter into one or more contracts with ACCELA for professional services necessary to provide maintenance, including all software upgrades, documentation, and technical support, for licensed ACCELA products, for a period of five years, for the Division of Water, Department of Public Utilities.

Approved by Directors of Public Utilities, Finance, Law; Passage recommended by Committees on Public Utilities, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read

third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1675-04.

By Council Member Jackson.
An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Central Avenue and East 39th and 40th Streets to Burten, Bell, Carr Development, Inc. or designee.

Approved by Directors of Community Development, City Planning Commission, Finance, Law; Passage recommended by Committees on Community and Economic Development, Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1769-04.

By Council Member Jackson (by departmental request).

An emergency ordinance providing for the issuance and sale of bonds in the maximum principal amount of \$15,000,000 for the purpose of refunding the City's Nontax Revenue Bonds, Series 1999 (Cleveland Stadium Project).

Approved by Directors of Finance, Law; Passage recommended by Committee on Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1853-04.

By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance accepting the recommendation of the Tax Incentive Review Council regarding enterprise zone tax exemption agreements.

Approved by Directors of Economic Development, Finance, Law; Relieved of Committee on Community and Economic Development; Passage recommended by Committee on Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

Ord. No. 1963-04.

By Council Members Cimperman, Gordon and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into an amendment to Contract No. 53381 originally with Flats Realty, LTD, a holding company for Cleveland Granite & Marble to change certain terms of the agreement.

Approved by Directors of Economic Development, City Planning Commission, Finance, Law; Relieved of Committee on Community and Economic Development, City Planning; Passage recommended by Committee on Finance.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

**THIRD READING
ORDINANCE PASSED**

Ord. No. 1519-04.

By Council Members Coats and Jackson (by departmental request).

An ordinance authorizing the transfer of the franchise for the transmission and supply of steam and water for heating, cooling, and

power purposes from Dominion Cleveland Thermal, Inc. to CT Acquisitions I Inc.

Read third time in full. Passed. Yeas 20. Nays 0.

LAID ON THE TABLE

Ord. No. 782-04.

By Council Members Reed, White, Jackson and Gordon (by departmental request).

An emergency ordinance to amend Sections 623.04, 627.01, 627.02, 627.04, 627.09 and 627.10 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by various ordinances, relating to updating the Codified Ordinances to reflect the state of Ohio's concealed-carry handgun law.

Ord. No. 1270-04.

By Council Members Reed and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the Ohio Emergency Management Agency, for the Ohio State Homeland Security Program; authorizing the director to employ one or more professional consultants to implement the grant; authorizing the director to enter into one or more requirement contracts for the purchase of equipment, services, and software; and authorizing the director to enter into one or more agreements with the Cuyahoga County Commissioners and other public and private entities necessary to implement the grant.

Res. No. 821-03.

By Council Members Coats, Lewis and Jackson (by departmental request).

An emergency resolution urging the Public Utilities Commission of Ohio to amend the applicable provisions of the Ohio Administrative Code to allow authorized agents for the collection of payments for and processing of utility bills to charge customers the actual cost of collecting payments and processing utility bills.

Without objection, Ordinance No. 782-04, Ordinance No. 1270-04 and Resolution No. 821-03, were relieved of further consideration of all committees and laid on the table pursuant to Rules of Council.

The rules were suspended. Yeas 21. Nays 0. Ordinance No. 782-04, Ordinance No. 1270-04 and Resolution No. 821-03 Laid on the Table.

MOTION

By Council Member Zone, seconded by Council Member Lewis and unanimously carried, that the absence of Council Member Patricia J. Britt be and is hereby authorized.

MOTION

The Council Meeting adjourned at 7:53 p.m. to meet on Monday, November 8, 2004 at 7:00 p.m. in the Council Chambers.



City Clerk, Clerk of Council

THE CALENDAR

The following measures will be on their final passage at the next meeting:

NONE

BOARD OF CONTROL

October 20, 2004

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, October 20, 2004, at 10:30 a.m. with Mayor Campbell presiding.

Present: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, and Acting Director Vilkas.

Absent: Director Taylor.

Others: Mike Abouserhal, Acting Commissioner, Purchases and Supplies.

Collette Appolito, Director, Office of Equal Opportunity.

On motions, the following resolutions were adopted, except as may be otherwise noted:

Resolution No. 589-04.

By Director Ciaccia.

Resolved by the Board of Control of the City of Cleveland that the bid of Veemost Technologies for the following: Computer Hardware, all items, for the Division of Cleveland Public Power, Department of Public Utilities, received on the 26th day of August 2004, pursuant to the authority of Ordinance No. 758-04, passed June 7, 2004 which on the basis of the order quantity would amount to \$34,000.00 (Net 30 Days), is hereby approved as the lowest and best bid, and the Director of Public Utilities is hereby requested to enter into contract for such items.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 590-04.

By Director Ciaccia.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Smart Solutions, Inc. for the following: standard business software and upgrades, including implementation, if necessary, Section A, items 1, 2, 4, 5, 6, 11, 13, 20, 22-25, 27-30, 32, 38, 44, 48, and 53; Section B, items 4, 5, and 6, for the Divisions of Water and Cleveland Public Power, Department of Public Utilities, received on May 21, 2004, pursuant to the authority of Ordinance No. 1950-01, passed on February 11, 2002, pursuant to the authority of Ordinance No. 1068-98, passed on August 19, 1998, as amended by Ordinance No. 1565-02, passed on August 14, 2002, which on the basis of the order quantity would amount to Four Hundred Ninety Thousand One Hundred Forty Four Dollars

and 00 Cents (\$490,144.00) (0%), is approved as the lowest and best bid, and the Director of Public Utilities is requested to enter into contract for such items.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 591-04.

By Director Ciaccia.

Be it resolved, by the Board of Control of the City of Cleveland that all bids received on May 21, 2004 for an estimated quantity of standard business software and upgrades, including implementation, if necessary, Section A items 10, 26, and 45; and Section B item 9, for the Divisions of Water and Cleveland Public Power, Department of Public Utilities, pursuant to the authority of Ordinance No. 1950-01, passed on February 11, 2002, pursuant to the authority of Ordinance No. 1068-98, passed on August 19, 1998, as amended by Ordinance No. 1565-02, passed on August 14, 2002, are hereby rejected.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 592-04.

By Director Mok.

Whereas, under Ordinance Nos. 823-01, passed June 19, 2001, and Board of Control Resolution No. 903-01, adopted December 12, 2001, the City, through its Director of Port Control, entered into City Contract No. 59059 with Baker and Associates, for the purpose of providing professional engineering design services for the design and preparation of plans for the Concourse C Ramp Rehabilitation project at Cleveland Hopkins International Airport for the Department of Port Control; and

Whereas, the City has determined to modify the scope of work to include design and construction services related to the change in grade of the apron pavement to meet the latest National Fire Prevention Code standards, design services related to the extension of Taxiway Alpha, design services and construction services related to the relocation of Taxiway Juliet and the relocation of four oil/water separators and associated drainage outfall for the Concourse C Ramp Rehabilitation project; and

Whereas, Consultant has proposed by its letter dated July 9, 2004 to perform the additional services necessary; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that the Director of Port Control is authorized to enter into a First Modification to the agreement between the City of Cleveland and Baker and Associates, City Contract No. 59059, to include additional design and construction services for the Concourse C Ramp Rehabilitation project at

Cleveland Hopkins International Airport, based on Consultant's proposal dated July 9, 2004. The amount to be paid for the additional services shall not exceed Four Hundred Fifty-Three Thousand Three Hundred Forty-Nine and 00/100 Dollars (\$453,349.00), thereby increasing the total contract amount to Two Million Five Hundred Ninety-Two Thousand Seven Hundred Sixty-Six and 00/100 Dollars (\$2,592,766.00).

Be it further resolved that Board of Control Resolution No. 903-01, adopted December 12, 2001, affirming and approving a professional service agreement to Baker and Associates, is amended by changing the M/FBE subcontractor participation for KS Associates to 8.58% FBE (\$222,614.00), Central Engineering to 9.16% MBE (\$237,749.00) and for Polytech, Inc. to 15.76% MBE (\$408,815.00).

Be it further resolved that all other terms of said Resolution No. 903-01 not expressly amended hereby shall remain unchanged and in full force and effect.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 593-04.

By Director Ricchiuto.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of NozzleNew, Inc. for an estimated quantity of stationary generator repair, for the Division of Motor Vehicle Maintenance, Department of Public Service, for the period of two (2) year beginning with the date of execution of a contract, received on September 3, 2004, pursuant to the authority of Ordinance No. 1972-03, passed by the Council of the City of Cleveland on October 27, 2003, which on the basis of the estimated quantity would amount to Two Hundred Forty Seven Thousand and no/100 Dollars (\$247,000.00) (2% 10 Days), is hereby affirmed and approved as the lowest and best bid, and the Director of Public Service is hereby requested to enter into a requirement contract for such goods and/or services, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 153959 which shall be certified against such contract in the sum of Fifteen Thousand and no/100 Dollars (\$15,000.00).

Said requirement contract shall further provide that the Contractor shall furnish the remainder of the City's requirements for such goods and/or services, whether more or less than said estimated quantity, as may be ordered under subsequent requisitions separately certified against said contract.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 594-04.

By Director Ricchiuto.

Resolved by the Board of Control of the City of Cleveland, that all bids received on September 15, 2004, for cab/chassis with fuel tanker body, for the various divisions of City government, pursuant to the authority of Ordinance No. 1683-03, passed by the Council of the City of Cleveland on September 22, 2003, are hereby rejected.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 595-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program ("Program") in accordance with the provisions of Chapter 5722 of the Ohio Revised Code; and

Whereas, under said Program, the City has acquired Permanent, Parcel No. 004-17-131 located at Thurman Avenue in Ward 13; and

Whereas, Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976 authorizes the Commissioner of Purchases and Supplies, when directed by the Director of Community Development and when certain specified conditions have been met, to sell Land Reutilization Program parcels to adjacent or abutting landowners; and

Whereas, Carol Kirk, abutting/adjacent landowner, has proposed to the City to purchase and develop said parcel; and

Whereas, the following conditions exist:

1. The member of Council from Ward 13 has consented to the proposed sale;

2. The parcel is either less than 4,800 square feet or less than 40 feet frontage;

3. The proposed purchaser of said parcel is neither tax delinquent nor in violation of the Building and Housing Code; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to Section 183.021 of Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is authorized, when directed by the Director of Community Development, and the Mayor is hereby requested to execute an Official Deed for and on behalf of the City of Cleveland, with Carol Kirk for the sale and development of Permanent Parcel No. 004-17-131 located at Thurman Avenue, in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcel shall be \$1.00, which amount is hereby determined to be not less than the Fair Market value of said parcel for uses in accordance with said Program.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting

Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 596-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No. 113-14-082, located at Corsica Avenue under said Land Reutilization Program; and

Whereas, Ordinance No. 1515-04 passed October 11, 2004, authorized the sale of said parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Northeast Shores Development Corporation has proposed to the City to purchase and develop said parcel; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 1515-04 passed October 11, 2004, by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Northeast Shores Development Corporation for the sale and development of Permanent Parcel No. 113-14-082, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcel shall be \$100.00, which amount is hereby determined to be not less than the fair market value of said parcel for uses in accordance with the Land Reutilization Program.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 597-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel Nos. 006-22-028 and 006-22-029, located at Fenwick Avenue under said Land Reutilization Program; and

Whereas, Ordinance No. 1517-04 passed October 11, 2004, authorized the sale of said parcels for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Stockyard Redevelopment Organization has proposed to the City to purchase and develop said parcels; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 1517-04 passed October

11, 2004, by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Stockyard Redevelopment Organization for the sale and development of Permanent Parcel Nos. 006-22-028 and 006-22-029, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcels shall be \$100.00 each, which amount is hereby determined to be not less than the fair market value of said parcels for uses in accordance with the Land Reutilization Program.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

Resolution No. 598-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel Nos. 126-22-041, 126-22-042, 126-22-043, 126-22-044 and 126-22-059, located at Tennyson Road and East 89th Street under said Land Reutilization Program; and

Whereas, Ordinance No. 1512-04 passed October 11, 2004, authorized the sale of said parcels for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Blessed Hope Missionary Baptist Church has proposed to the City to purchase and develop said parcels; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 1512-04 passed October 11, 2004, by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Blessed Hope Missionary Baptist Church for the sale and development of Permanent Parcel Nos. 126-22-041, 126-22-042, 126-22-043, 126-22-044 and 126-22-059, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

Be it further resolved that the consideration for said parcels shall be \$100.00 each, which amount is hereby determined to be not less than the fair market value, of said parcels for uses in accordance with the Land Reutilization Program.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Directors McGuirk, McGraw, Directors Ricchiuto, Carroll, Acting Director Smith, Directors Ronayne, Rush, Routen, Huth, Fumich, Acting Director Vilkas.

Nays: None.

Absent: Director Taylor.

JEFFREY B. MARKS,
Secretary

CIVIL SERVICE NOTICES

General Information

Application blanks and information, regarding minimum entrance qualifications, scope of examination, and suggested reference materials may be obtained at the office of the Civil Service Commission, Room 119, City Hall, East 6th Street, and Lakeside Avenue.

Application blanks must be properly filled out on the official form prescribed by the Civil Service Commission and filed at the office of the commission not later than the final closing date slated in the examination announcement.

EXAMINATION RESULTS: Each applicant whether passing or failing will be notified of the results of the examination as soon as the commission has graded the papers. Thereafter, eligible lists will be established which will consist of the names of those candidates who have been successful in all parts of the examination.

PHYSICAL EXAMINATION: All candidates for original entrance positions who are successful in other parts of the examinations must submit to a physical examination.

REYNALDO GALINDO,
President

CIVIL SERVICE NOTICE

**ANNOUNCEMENTS - 2004
11/1/04 - 11/5/04**

Announcement No.	Type Exam	Classification
130A	WR	Parking Attendant

PROOF OF CITY RESIDENCY

Any applicant wishing to receive residency credit will be asked to show that he/she is a bona fide resident of the City of Cleveland. The following list gives examples of items that an applicant may present **at the time of filing**. The Civil Service Commission requires a minimum of three items from at least three **different** categories, where applicable. All items must be **current**. Please note that presentation of these items does not constitute conclusive proof of bona fide residency. Acceptable categories include, but are not limited to, the following:

Lease - from rental agency.

Lease - from independent party. Must include copy of cancelled check or money order receipts for previous rent and/or security deposit, and fully executed; otherwise, it is unacceptable.

Utility bills bearing the property address **and** your name.

Post Office change of address form properly date stamped.

Official documents relating to home ownership including deed, purchase agreement, or insurance policy.

Bank statements (Within last three months).

School registration of children.

Car insurance documents.

Car registration **or** Driver's License **or** Ohio I.D. (**One only**).

Loans and credit card statements (Within last three months).

Rental contracts (e.g.: furniture, tools, car, etc.).

Current bills not listed above (Within last three months).

The following are examples of **unacceptable** categories of proof:

Library cards.

Voter registration cards.

Birth certificates.

Notarized letters or affidavits.

Social Security card.

Rental receipts from independent party without cancelled checks or money order receipt.

**APPROVED C.S.C MINUTES
ANNOUNCEMENT NO. 130A**

PARKING ATTENDANT (OPEN)

Public notice is hereby given by the Civil Service Commission of Cleveland, Ohio of an Open examination for the above mentioned classification.

SALARY

The prevailing salary range for this position as established by Ordinance of the Council of the City of Cleveland is \$9.20 - \$14.54 per hour.

FILING OF APPLICATION

Application must be made on the regular application form available at the Office of the Civil Service Commission, 601 Lakeside Avenue, Room 119. No other form will be accepted. **APPLICATIONS WILL BE RECEIVED FOR ENTRANCE TO THE EXAMINATION FROM 8:30 A.M. ON MONDAY, NOVEMBER 1, 2004 UNTIL 4:30 P.M. ON FRIDAY NOVEMBER 5, 2004.**

NOTE: APPLICATIONS WILL NOT BE ACCEPTED AFTER 4:30 P.M ON FRIDAY, NOVEMBER 5, 2004.

THE CIVIL SERVICE COMMISSION'S POLICY IS THAT NOT LATE FILING WILL BE ALLOWED.

EXAMINATION INFORMATION

TYPE: WRITTEN EXAMINATION

EXAMINATION DATE:

Tuesday, November 30, 2004 at 3:00 P.M., Cleveland City Hall- Room 6, 601 Lakeside Ave.

NOTE: THE CIVIL SERVICE COMMISSION RESERVES THE RIGHT TO REVIEW AND EVALUATE ANY AND ALL INFORMATION CONTAINED IN THE APPLICATION OR

RESUME. LACK OF HONESTY WILL RESULT IN IMMEDIATE REMOVAL FROM THE ELIGIBLE LIST.

DUTIES OF THE POSITION

Under supervision, serves as attendant in parking areas, with responsibility for enforcing parking regulations, seeing that the control gate devices are operating properly, and makes periodic inspections of parking areas. Also collects parking fees, making change and accounts for collected money; insuring that funds in their possession are safely guarded. Has responsibility for removing trash and debris from the parking areas and clearing parking areas of snow and ice. May be required to operate a shuttle bus to and from parking areas. Assist in moving cars obstructing parking operations, operates vehicles when necessary, places and removes barricades to control traffic, answers routine questions on parking regulations and traffic hours, gives directions, and performs duties as required.

MINIMUM QUALIFICATIONS FOR ENTRANCE TO THIS EXAMINATION AS ESTABLISHED BY THE CIVIL SERVICE COMMISSION OF THE CITY OF CLEVELAND ARE AS FOLLOWS:

A High School Diploma or G.E.D. is required. Excellent verbal, math and interpersonal communication skills are required. Must be able to lift a minimum of (30) thirty lbs. Must possess a valid State of Ohio Driver's License.

NOTE: Applicants will be required to pay a \$10.00 (TEN DOLLARS) filing fee. Applicants who are currently employed in this position with the City of Cleveland are exempt. However, that when an applicant is disqualified from taking an examination on the basis of age, education or failure to meet other minimum entrance requirements, the fee paid by such applicant shall be refunded to such applicant upon the applicant's request in writing made within ten (10) days after the date of examination.

NOTE: All copies of diplomas, licenses, certificates, and resumes must be presented at the time of filing. Civil Service Commission will make copies for a standard fee.

NOTE: Any applicant who resigns or is dismissed from employment with the City of Cleveland will have his/her name removed from the eligible list.

NOTE: Those persons who are residents of the City of Cleveland and who received passing Scores shall have ten (10) additional points added to their grades. See accompanying list of acceptable forms of proof of residency applicants need to present at the time of filing.

AN EQUAL OPPORTUNITY EMPLOYER

REYNALDO GALINDO,
President

October 27, 2004

**SCHEDULE OF THE BOARD
OF ZONING APPEALS**

MONDAY, NOVEMBER 8, 2004

9:30 A.M.

Calendar No. 04-239: 11402 Avon Avenue (Ward 2)

Artsy Ford, owner, appeals to change the use of an existing two-story, frame one family dwelling house to a correctional halfway house with referrals from and pursuant to contracts with governmental entities, either the federal or the state, the local government, or any other governmental entity with jurisdiction to provide correctional services, situated on a 42' x 363' lot in a Two-Family District on the south side of Avon Avenue at 11402 Avon Avenue; subject to Section 347.15(c) in Specific Uses Regulated, no Certificate of Occupancy for establishment or expansion of a correctional halfway house shall be issued without the review and approval of the Board of Zoning Appeals; and by the limitations of Section 347.15(d), the change of use is first permitted in a General Retail Business District, but only if it is located 500' from a Residence District; and Section 347.15(f) requires that there be a minimum of 200 s/f of habitable floor area provided, on average, for each resident including staff members normally on the premises after 11:00 p.m. and no correctional halfway house may operate with a total resident population of less than 20 persons, which may include individuals not subject to correctional oversight; and an application to establish a correctional halfway house must include specifically required information as outlined in Section 347.15(j)(1 through 13), and that information has not been provided; and there is a limitation on the Board of Zoning Appeals variance powers to allow uses other than those listed in the Zoning Code as permitted in the use district next lower in order of restrictiveness to the district in which such use/lot is located as stated in Section 329.03(d)(3) of the Codified Ordinances.

Calendar No. 04-241: 2240 St. Clair Avenue (Ward 13)

2240 St. Clair, Inc., owner c/o John Hickey, agent, appeals to change from a machine shop to a mixed use, with the first floor for business use and the second floor for residential condominiums, an existing two-story brick and masonry building, situated on an approximate 66' x 140' irregular lot in a Semi-Industry District on the south side of St. Clair Avenue at 2240 St. Clair Avenue; contrary to the Area Regulations for residence buildings in all use districts, an approximate gross floor area of 12,020 s/f is proposed where the maximum gross floor area allowed, or one-half the of lot size, is 6,060 s/f, as stated in Section 355.04(b) of the Codified Ordinances.

Calendar No. 04-242: 4025 West 144th Street (Ward 21)

Kevin Moody, owner, appeals to erect a 10' x 14' wolmanized wood-en deck to the front of an existing

one and a half story frame, single family dwelling, situated on a 55' x 125' lot in an A1 One-Family District on the south side of West 144th Street at 4025 West 144th Street; contrary to the Regulations for Yards and Courts, there is a 10' encroachment provided and not more than 6' is allowed as stated in Section 357.13(b)(4) of the Codified Ordinances.

Calendar No. 04-243: 705-707 East 159th Street (Ward 11)

Courts of Praise c/o Pastor David Mathis, owner, appeal to change the use of an existing 45' x 90' one-story private club building and basement into a Community Center and Day Care Center all situated on an 80' x 138' lot located in a Multi-Family District on the east side of East 159th Street at 705-707 East 159th Street; contrary to Section 337.08, the proposed use is required to be 15' from any adjoining premises in a Residence District not used for a similar purpose and contrary to Section 349.04 of the Requirements for Off-Street Parking and Loading, 11 parking spaces are proposed and 13 spaces are required; and a 6' high wooden fence is proposed on East 160th Street, where a fence in the front yard of a Residential District shall not exceed a 4' height and shall be at least 50% open, as stated in Section 358.04(a) of the Codified Ordinances; and a lot consolidation approved by the Division of Engineering and Construction is required.

Calendar No. 04-244: 7904 Cedar Avenue (Ward 6)

Jaber Mahmoud, owner, appeals to replace an existing cabinet sign and to add a cabinet sign with it on an existing free-standing 19'-2" sign pole, located on the east side of a retail sales building and parking lot, situated on a 152' x 118' corner lot in a Local Retail Business District on the southeast corner of Cedar Avenue and East 79th Street at 7904 Cedar Avenue; contrary to Section 350.14(b) of the Sign Regulations, the existing free-standing sign pole exceeds the allowed maximum height of 12' and the proposed square footage with the additional sign is 64 s/f, where the maximum square footage permitted is 50 s/f; and the expansion of a nonconforming use requires the Board of Zoning Appeals approval as stated in Section 359.01 of the Codified Ordinances.

Calendar No. 04-245: 13905 Tyler Avenue (Ward 20)

Edward Warren, owner, appeals to erect a 24' x 36' "L" shaped, rear room addition to a 25' x 25' two-story, single family dwelling, situated on a 40' x 125' lot in an A1 One-Family District on the south side of Tyler Avenue at 13905 Tyler Avenue; contrary to the requirements for interior side yards, a distance of 6' is proposed, where the total of both side yards shall not be less than 10' as stated in Section 357.09(b)(2) of the Codified Ordinances.

Secretary

**REPORT OF THE BOARD
OF ZONING APPEALS**

MONDAY, OCTOBER 25, 2004

At the meeting of the Board of Zoning Appeals on Monday, October 25, 2004, the following appeals were heard by the Board:

The following appeals were **Approved:**

Calendar No. 04-227: 2225 West 38th Street

Frank Torres appealed to erect a 16' x 12' open wooden porch with a roof at the front of a one family dwelling in a Two-Family District.

Calendar No. 04-228: 3789 Ridge Road
Mike Weiss, d.b.a. A & C Auto appealed to change from storage to an auto wrecking yard a one-story building in a Semi-Industry District; subject to conditions.

Calendar No. 04-229: 3805 Ridge Road
Mike Weiss, d.b.a. A & C Auto appealed to change from a machine shop to an office and storage, accessory to a wrecking yard, two one-story buildings in a Semi-Industry District; subject to conditions.

Calendar No. 04-230: 3819 Ridge Road
Mike Weiss d.b.a., A & C Auto appealed to change from manufacturing to an office and storage, accessory to a wrecking yard, a one-story building in a Semi-Industry District; subject to conditions.

Calendar No. 04-212: 1537 East 31st Street

Pak Sun Lui appealed to erect a 6' x 15' one and a half frame, bedroom addition to a dwelling house in a Two-Family District.

The following appeal was **Denied:**

Calendar No. 04-234: 3267 West 82nd Street

Irma Mitchell appealed to establish a Type A Day Care in a one family dwelling in an A1 One-Family District.

The following appeals were **Postponed:**

Calendar No. 04-226: 11507 Miles Avenue postponed to November 22, 2004.

Calendar No. 04-219: 11920 Buckeye Road postponed to November 22, 2004.

The following appeal was **Withdrawn:**

Calendar No. 04-189: 6500 Harvard Avenue

Robert Todys, owner, and George Kanaan, prospective purchaser, appealed to erect a 7,915 s/f retail stores building in split zoning for a General Retail Business District and a Two-Family District.

The following appeal was **Dismissed:**

Calendar No. 04-204: 2927 Bridge Avenue

The 2927 Bridge Ltd, owner, and Argile Jani, tenant, appealed to use

the second floor to expand the occupancy of an existing nonconforming restaurant in a Two-Family District.

In Executive Session on October 25, 2004, the following appeals heard by the Board on October 18, 2004 were adopted and approved.

The following appeal was **Approved**:

Calendar No. 04-221: 5702 Tillman Avenue

Jack Myers-Kiousis appealed to erect a 34' x 51' two-story single family dwelling on a 68' x 138' irregular shaped lot in a Two-Family District.

The following appeals were **Denied**:

Calendar No. 04-220: 16920 Eldamere Avenue

Laurent Berry appealed to establish a Type A day care in a two-story, one family dwelling in an A1 One-Family District.

Calendar No. 04-246: Violation Notice 5100 Pearl Road

Alexander Solomon appealed from a Notice of Violation issued on September 17, 2004 by the Building and Housing Department.

Secretary

**REPORT OF THE BOARD
OF BUILDING STANDARDS
AND BUILDING APPEALS**

Re: Report of the Meeting of
October 20, 2004

As required by the provisions of Section 3103.20(2) of the Codified Ordinances of the City of Cleveland, Ohio 1976, the following brief of action of the subject meeting is given for publication in The City Record:

* * *

Docket A-54-04.

RE: Appeal of Raymond Perry, Owner of the Two Story Frame Mixed Use Property located on the premises known as 1210 East 79th Street from a 7 DAY VACATE ORDER of the Director of the Department of Building and Housing, dated May 24, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, That the ruling of the Board is to modify the Director's 7 DAY VACATE ORDER and LETTER OF INTENTION TO DEMOLISH by upholding the Vacate Order until the hardwired smoke detection system is installed and approved by the Building Department; and that there will be further discussion of issues, including the sprinkler system, at the subsequent hearing on November 3, 2004; the conditions are to be as described in

the October 15th, 2004 letter by Robert Vilkas, Acting Director of the Department of Building and Housing. Upon passage of this motion, this matter shall be REMANDED at this time to the Director of the Department of Building and Housing for supervision and any required further action. All other provisions of the 7 DAY VACATE ORDER and LETTER OF INTENTION TO DEMOLISH not modified by this decision shall remain in full force and effect, including the provisions that the City may abate the nuisance conditions of the premises by means of demolition. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab. Nays: None. Absent: Mr. Bradley.

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Docket A-82-04.

RE: Appeal of Tenille Robertson, Owner of the Four Dwelling units/Two Story Masonry Property located on the premises known as 660 East 99th Street from a 30 DAY VACATE ORDER/EXTERIOR MAINTENANCE/30 DAY CONDEMNATION ORDER — MS of the Director of the Department of Building and Housing, dated July 19, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, That the ruling of the Board is to modify the Director's 30 DAY VACATE ORDER / EXTERIOR MAINTENANCE/30 DAY CONDEMNATION ORDER — MS and LETTER OF INTENTION TO DEMOLISH by permitting occupancy of Unit No. 4 under the conditions outlined in the letter dated October 15th, 2004 by Robert Vilkas, Acting Director of the Department of Building and Housing, with the provision that the City is to confirm that these requirements have been met and to note that the Appellant intends to comply with the other conditions cited in the letter of October 15th, 2004, and with the provision that the sprinkler system and any other issues the Appellant wishes to appeal can be brought up at a subsequent hearing. Upon passage of this motion, this matter shall be REMANDED at this time to the Director of the Department of Building and Housing for supervision and any required further action. All other provisions of the 30 DAY VACATE ORDER/EXTERIOR MAINTENANCE/30 DAY CONDEMNATION ORDER — MS and LETTER OF INTENTION TO DEMOLISH not modified by this decision shall remain in full force and effect, including the provisions that the City may abate the nuisance conditions of the premises by means of demolition. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab. Nays: None. Absent: Mr. Bradley.

Docket A-90-04.

RE: Appeal of Third Federal Savings & Loan Association of Cleveland, Mortgagee of the Two & One-half Story Frame Residential Property located on the premises known as 3044 West 104th Street from a 30 DAY CONDEMNATION ORDER — MS/CONDEMNATION ORDER — YARD CLEAN-UP of the Commissioner of the Department of Building and Housing, dated August 2, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to REMAND the property at 3044 West 104th Street to the Department of Building and Housing for supervision and any required further action; the property is to remain boarded and secured and the grounds debris free during this period of time, noting that the sale of the property is anticipated approximately in April of 2005. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saunders.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab. Nays: None. Absent: Mr. Bradley.

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Docket A-91-04.

RE: Appeal of Vicki Sandell, Owner of the Two & One-half Story Frame Residential Property located on the premises known as 3908 Cypress Avenue from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE of the Commissioner of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

BE IT RESOLVED, a motion is in order at this time to require the appellant to provide a methods of draining the pool nd back washing that does not put the water into the ground or on the grounds where it will drain onto the adjacent property; the inspector is requested to examine the final installed; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Gallagher.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab. Nays: None. Absent: Mr. Saunders.

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Docket A-92-04.

RE: Appeal of Chris Vamvilis, Owner of the Two Story Frame Commercial Property located on the premises known as 7826 St. Clair Avenue (aka 7826-28 St. Clair Avenue) from a NOTICE OF VIOLATION — EXTERIOR MAINTENANCE, of the Director of the Department of Building and Housing, dated August 06, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the Appellant ninety (90) days in which to abate all the violations on the property; the property is not to be reoccupied for business until it has been approved by the City inspectors; the property is REMANDED at this time to the Department of Building and Housing for supervision and any require further action. Motion so in order. Motioned by Mr. Gallagher and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab. Nays: None. Absent: Mr. Bradley.

* * *

Docket A-99-04.

RE: Appeal of I-X Center Corporation, Owner of the Property located on the premises known as 6200 Riverside Drive from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated August 13, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance and permit the structure to remain with the provision that sprinkler heads be dropped above the roof of the structure to provide ordinary hazard sprinkler protection tot hat area; and to require that sprinklers be installed with a permit by a certified sprinkler contractor. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saunders, Gallagher, Saab. Nays: None. Absent: Mr. Bradley.

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Docket A-100-04.

RE: Appeal of American Community Developers, Inc., Owner of the Property located on the premises known as 10322 Elk Avenue from a NOTICE OF VIOLATION — HVAC of the Director of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

No action this date, the docket is rescheduled for November 3, 2004.

* * *

Docket A-101-04.

RE: Appeal of American Community Developers, Inc., Owner of the Property located on the premises known as 797 East 90th Street from a NOTICE OF VIOLATION — HVAC of the Director of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

No action this date, the docket is rescheduled for November 3, 2004.

Docket A-102-04.

RE: Appeal of American Community Developers, Inc., Owner of the Property located on the premises known as 10415 Colonial Avenue from a NOTICE OF VIOLATION— HVAC of the Director of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

No action this date, the docket is rescheduled for November 3, 2004.

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Docket A-103-04.

RE: Appeal of American Community Developers, Inc., Owner of the Property located on the premises known as 10318 Elk Avenue from a NOTICE OF VIOLATION — HVAC of the Director of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

No action this date, the docket is rescheduled for November 3, 2004.

* * *

Docket A-104-04.

RE: Appeal of American Community Developers, Inc., Owner of the Property located on the premises known as 10400 Elk Avenue from a NOTICE OF VIOLATION — HVAC of the Director of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

No action this date, the docket is rescheduled for November 3, 2004.

* * *

Docket A-105-04.

RE: Appeal of American Community Developers, Inc., Owner of the Property located on the premises known as 594 East 105th Street from a NOTICE OF VIOLATION — HVAC of the Director of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

No action this date, the docket is rescheduled for November 3, 2004.

* * *

Docket A-106-04.

RE: Appeal of American Community Developers, Inc., Owner of the Property located on the premises known as 10421 Colonial Avenue from a NOTICE OF VIOLATION — HVAC of the Director of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

No action this date, the docket is rescheduled for November 3, 2004.

Docket A-107-04.

RE: Appeal of American Community Developers, Inc., Owner of the Property located on the premises known as 799 East 9th Street from a NOTICE OF VIOLATION — HVAC of the Director of the Department of Building and Housing, dated August 10, 2004, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Basic Building Code (OBBC).

No action this date, the docket is rescheduled for November 3, 2004.

* * *

APPROVAL OF RESOLUTIONS:

Separate motions were entered by Mr. Saab and seconded by Mr. Saunders for Approval and Adoption of the Resolutions, as presented by the Secretary for the following Dockets respectively, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

- A-9-04—Day Electric Company Inc.
- A-69-04—Tomie Smith.
- A-88-04—Joseph S. Quirino.
- A-93-04—One Playhouse Square Investors, Ltd.
- A-95-04—National Church Residences.
- A-97-04—American National Group.
- A-98-04—Sherwin Bolivar, LLC.

Yeas: Messrs. Denk, Saunders, Saab. Nays: None. Absent: Mr. Bradley. Not Voting: Mr. Gallagher.

* * *

APPROVAL OF MINUTES:

Separate motions were entered by Mr. Bradley and seconded by Mr. Saab for Approval and Adoption of the Minutes as presented by the Secretary for the following Dockets respectively, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

October 6, 2004

Yeas: Messrs. Denk, Saunders, Saab. Nays: None. Absent: Mr. Bradley. Not Voting: Mr. Gallagher.

**INFORMAL HEARING:
RALPH TYLER COMPANIES**

RE: CASE WESTERN RESERVE UNIVERSITY — SCIENCE BUILDING (Variance for earthquake force for the addition to the existing Science Building).

* * *

Secretary

PUBLIC NOTICE

NONE

NOTICE OF PUBLIC HEARING

NONE

CITY OF CLEVELAND BIDS

For All Departments

Sealed bids will be received at the office of the Commissioner of Purchases and Supplies, Room 128, City Hall, in accordance with the appended schedule, and will be opened and read in Room 128, City Hall, immediately thereafter.

Each bid must be made in accordance with the specifications and must be submitted on the blanks supplied for the purpose, all of which may be obtained at the office of the said Commissioner of Purchases and Supplies, but no bid will be considered unless delivered to the office of the said commissioner previous to 12:00 noon (Eastern Standard Time) on the date specified in the schedule.

187.10 Negotiated contracts; Notice required in Advertisement for Bids.

Where invitations for bids are advertised, the following notice shall be included in the advertisement: "Pursuant to the MBE/FBE Code, each prime bidder, each minority business enterprise ("MBE") and each female business enterprise ("FBE") must be certified before doing business with the City. Therefore, any prime contractor wishing to receive credit for using an MBE or FBE should ensure that applications for certification as to MBE or FBE status compliance with the Code, affirmative action in employment and, if applicable, joint venture status, are submitted to the Office of Equal Opportunity ("OEO") prior to the date of bid opening or submission of proposals or as specified by the Director. Failure to comply with the business enterprise code or with representations made on these forms may result in cancellation of the contract or other civil or criminal penalties."

THURSDAY, NOVEMBER 4, 2004

Storefront Renovation Tremont Health Centers, for the Various Health Centers, Department of Public Health, as authorized by Ordinance No. 1224-01, passed by the Council of the City of Cleveland, July 18, 2001.

THERE WILL BE A **REFUNDABLE FEE OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER.**

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING, THURSDAY, OCTOBER 28, 2004, AT 2:00 P.M., TREMONT HEALTH CENTER, 23581 PROFESSOR AVENUE, CLEVELAND, OHIO 44113.**

Reclaimed or Virgin Asphalt Concrete, (BID CANCELLED), for the Division of Streets, Department of Public Service, as authorized by Ordinance No. 768-04, passed by the Council of the City of Cleveland, May 17, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING, MONDAY, OCTOBER 25, 2004, AT 10:30 A.M., DIVISION OF STREETS, ROOM 25, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

October 20, 2004 and October 27, 2004

FRIDAY, NOVEMBER 5, 2004

Rental of Large Capacity Trucks with Operators, (BID CANCELLED), for the Division of Streets, Department of Public Service, as authorized by Ordinance No. 767-04, passed by the Council of the City of Cleveland, May 17, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING, MONDAY, OCTOBER 25, 2004, AT 11:00 A.M., DIVISION OF STREETS, ROOM 25, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

October 20, 2004 and October 27, 2004

WEDNESDAY, NOVEMBER 10, 2004

Grinding of Pavement, (BID CANCELLED), for the Division of Streets, Department of Public Service, as authorized by Ordinance No. 771-04, passed by the Council of the City of Cleveland, May 17, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING, MONDAY, NOVEMBER 1, 2004, AT 10:00 A.M., DIVISION OF STREETS, ROOM 25, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

October 20, 2004 and October 27, 2004

FRIDAY, NOVEMBER 12, 2004

Powdered Activated Carbon, for the Division of Water, Department of Public Utilities, as authorized by Section 129.24, of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING, WEDNESDAY, OCTOBER 27, 2004, AT 1:30 P.M., DIVISION OF WATER, ROOM, CROWN WATER PLANT, 955 CLAGUE ROAD, WESTLAKE, OHIO 44145.**

Disposal of Debris at Landfill, for the Division of Water, Cleveland Public Power, and Water Pollution Control, Department of Public Utilities, as authorized by Ordinance No. 1474-04, passed by the Council of the City of Cleveland, October 11, 2004.

THERE WILL BE A **MANDATORY PRE-BID MEETING, WEDNESDAY, NOVEMBER 3, 2004, AT 11:00 A.M., CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

THE CITY WILL NOT CONSIDER THE BID OF ANYONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

October 20, 2004 and October 27, 2004

WEDNESDAY, NOVEMBER 17, 2004

Rebuild of Longterm Parking Garage, for the Division of Cleveland Hopkins International Airport, Department of Port Control, as authorized by Ordinance No. 2375-02, passed by the Council of the City of Cleveland, May 12, 2003.

THERE WILL BE A **NON-REFUNDABLE FEE FOR PLANS/SPECIFICATIONS IN THE AMOUNT OF SIXTY DOLLARS (\$60.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER.**

October 20, 2004 and October 27, 2004

THERE WILL BE A **MANDATORY PRE-BID MEETING THURSDAY, NOVEMBER 4, 2004 AT 10:00 A.M., CLEVELAND HOPKINS INTERNATIONAL AIRPORT'S CENTRAL ENGINEERING BUILDING, 19501 FIVE POINTS ROAD, CLEVELAND, OHIO 44135.**

THE CITY WILL NOT CONSIDER THE BID OF ANYONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

October 20, 2004 and October 27, 2004

WEDNESDAY, NOVEMBER 24, 2004

Fire, Boiler, Machinery and Extended Insurance, for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 1078-02, passed by the Council of the City of Cleveland, June 17, 2002.

THERE WILL BE A **MANDATORY PRE-BID MEETING, THURSDAY, NOVEMBER 4, 2004, AT 11:00 A.M., CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

THE CITY WILL NOT CONSIDER THE BID OF ANYONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

October 20, 2004 and October 27, 2004

THURSDAY, NOVEMBER 11, 2004

Hot Water Heaters, for the Division of Convention Center and Stadium, Department of Parks, Recreation, and Properties, as authorized by Ordinance No. 1273-04, passed by the Council of the City of Cleveland, August 11, 2004.

THERE WILL BE A **MANDATORY PRE-BID, THURSDAY, NOVEMBER 12, 2004 AT 9:00 A.M., CLEVELAND CONVENTION CENTER, 500 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

THE CITY WILL NOT CONSIDER THE BID OF ANYONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

October 27, 2004 and November 3, 2004

WEDNESDAY, NOVEMBER 17, 2004

Income Tax Forms, for the Division of Taxation, Department of Finance, as authorized by Ordinance No. 987-04, passed by the Council of the City of Cleveland, June 7, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING THURSDAY, NOVEMBER 4, 2004 AT 10:00 A.M., DIVISION OF TAXATION, CONFERENCE ROOM, 1701 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

October 27, 2004 and November 3, 2004

FRIDAY, NOVEMBER 19, 2004

Uniform Clothing Supplies — 2005, for the Division of Police, Department of Public Safety, as authorized by Section 135.06, of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING THURSDAY, NOVEMBER 11, 2004 AT 10:00 A.M., CLEVELAND POLICE ACADEMY, 1300 ON-**

TARIO STREET, 7TH FLOOR, ROOM 2, CLEVELAND, OHIO 44113.

Miscellaneous Test Equipment, Repair & Testing, for the Division of Cleveland Public Power, Department of Public Utilities as authorized by Ordinance No. 247-04, passed by the Council of the City of Cleveland, May 3, 2004.

THERE WILL BE A MANDATORY PRE-BID, THURSDAY, NOVEMBER 12, 2004 AT 9:00 A.M., CLEVELAND CONVENTION CENTER, 500 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

THE CITY WILL NOT CONSIDER THE BID OF ANYONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

October 27, 2004 and November 3, 2004

ADOPTED RESOLUTIONS AND ORDINANCES

Res. No. 2020-04.

By Council Member Zone.

An emergency resolution expressing this Council's support of the plan by the Detroit Shoreway Community Development Organization to develop a neighborhood park at 5726 Bridge Avenue.

Whereas, Detroit Shoreway Community Development Organization is applying for a grant through the Cuyahoga County Brownfield Redevelopment Fund Community Assessment Initiative; and

Whereas, this grant will provide environmental site assessment services including Phase I and Phase II assessments; and

Whereas, this grant is being requested to assist with the redevelopment of 5726 Bridge Avenue; and

Whereas, the redevelopment plans for 5726 Bridge Avenue include the creation of a park for use by neighborhood residents; and

Whereas, this park would be developed in conjunction with Detroit Shoreway Community Development Organization's Bridge Avenue Phase III town home development; and

Whereas, the grant would provide services to determine the extent of any contamination on the site from the presence of old underground gasoline storage tanks; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council expresses its support of the plan by the Detroit Shoreway Community Development Organization to develop a neighborhood park at 5726 Bridge Avenue.

Section 2. That the Clerk of Council is hereby directed to transmit a copy of this resolution to the Director of the Detroit Shoreway Community Development Organization.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council,

it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted October 18, 2004.

Effective October 26, 2004.

Res. No. 2021-04.

By Council Member Zone.

An emergency resolution expressing this Council's support of the plan by the Detroit Shoreway Community Development Organization to develop residential housing at the MarshAllan factory site located at the intersection of West 85th Street and Madison Avenue.

Whereas, Detroit Shoreway Community Development Organization is applying for a grant through the Cuyahoga County Brownfield Redevelopment Fund Community Assessment Initiative; and

Whereas, this grant will provide environmental site assessment services including Phase I and Phase II assessments; and

Whereas, this grant is being requested to assist with the redevelopment of the MarshAllan factory site at the intersection of West 85th Street and Madison Avenue; and

Whereas, the MarshAllan factory includes 4.4 acres of vacant and deteriorated buildings and vacant lots; and

Whereas, the property has been vacant since 1997 and represents an opportunity for residential development; and

Whereas, the grant would provide services to determine the extent of any environmental hazards at the site; and

Whereas, proposed plans call for the rehabilitation of two structures and the demolition of one structure to create a minimum of fifty (50) for-sale housing units; and

Whereas, Detroit Shoreway Community Development Organization plans to solicit proposals for redevelopment from private developers and form a partner in the redevelopment of the site; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That this Council expresses its support of the plan by the Detroit Shoreway Community Development Organization to develop residential housing at the MarshAllan factory site located at the intersection of West 85th Street and Madison Avenue.

Section 2. That the Clerk of Council is hereby directed to transmit a copy of this resolution to the Director of the Detroit Shoreway Community Development Organization.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted October 18, 2004.

Effective October 26, 2004.

Res. No. 2024-04.

By Council Member Johnson.

An emergency resolution withdrawing objection to the transfer of ownership of a C2 and C2X Liquor Permit at 2892 East 116th Street and repealing Resolution No. 1331-04, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a C2 and C2X Liquor Permit to 2892 East 116th Street by Resolution No. 1331-04 adopted by the Council on July 14, 2004; and

Whereas, this Council wishes to withdraw its objection to the above transfer and consents to said transfer; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That objection to the transfer of ownership of a C2 and C2X Liquor Permit to HNS Grocery, Inc., DBA Foodtown Supermarket, 2892 East 116th Street, Cleveland, Ohio 44120, Permanent Number 3471866 be and the same is hereby withdrawn and Resolution No. 1331-04, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate transfer thereof.

Section 2. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted October 18, 2004.

Effective October 26, 2004.

Res. No. 2025-04.

By Council Member Reed.

An emergency resolution withdrawing objections to the renewal of a D1, D2, D3 and D3A Liquor Permit at 3695-97 East 131st Street and repealing Resolution Nos. 1680-02, 1348-03 and 1346-04, objecting to said renewal.

Whereas, this Council objected to a D1, D2, D3 and D3A Liquor Permit to 3695-97 East 131st Street by Resolution No. 1680-02 adopted August 14, 2002, Resolution No. 1348-03 adopted July 16, 2003 and Resolution No. 1346-04 adopted July 14, 2004; and

Whereas, this Council wishes to withdraw its objections to the above renewal and consents to said renewal; and

Whereas, this resolution constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That objections to a D1, D2, D3 and D3A Liquor Permit to VCH, Inc., DBA Side by Side Bar & Deli, 3695-97 East 131st Street, Cleveland, Ohio 44120, Permanent Number 9179589 be and the same is hereby withdrawn and Resolution Nos. 1680-02, 1348-03 and 1346-04, containing such objections, be and the same is hereby repealed and that this Coun-

cil consents to the immediate renewal thereof.

Section 2. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted October 18, 2004.

Effective October 26, 2004.

Res. No. 2026-04.

By Council Member Sweeney.

An emergency resolution objecting to the transfer of ownership of a C1 and C2 Liquor Permit at 14016 Triskett Road.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a C1 and C2 Liquor Permit from Mr. Z's Beverage & Wine, Inc., DBA Mo Zie In Beverage, 14016 Triskett Road, Cleveland, Ohio 44111, Permanent Number 6209845 to A & O Beverage, Inc., DBA Mo Zie In Beverage, 14016 Triskett Road, Cleveland, Ohio 44111, Permanent Number 0006233; and

Whereas, the granting of this application for a liquor permit to this high crime area, which is already saturated with other liquor outlets, is contrary to the best interests of the entire community; and

Whereas, the applicant does not qualify to be a permit holder and/or has demonstrated that he has operated his liquor business in disregard of the laws, regulations or local ordinances of this state or any other state; and

Whereas, the place for which the permit is sought has not conformed to the building, safety or health requirements of the governing body of this County or City; and

Whereas, the place for which the permit is sought is so arranged or constructed that law enforcement officers or agents of the Department of Liquor Control are prevented reasonable access to the establishment; and

Whereas, the place for which the permit is sought is so located with respect to the neighborhood that it substantially interferes with public decency, sobriety, peace or good order; and

Whereas, this objection is based on other legal grounds as set forth in Revised Code Section 4303.292; and

Whereas, this resolution constitutes an emergency measure providing for the immediate preservation of the public peace, prosperity, safety and welfare pursuant to Section 4303.26 of the Ohio Revised Code. Council's objection to said permit must be received by the Director of Liquor Control within 30 days of notification; now, therefore,

Be it resolved by the Council of the City of Cleveland:

Section 1. That Council does hereby record its objection to the transfer of ownership of a C1 and C2 Liquor Permit from Mr. Z's Beverage & Wine, Inc., DBA Mo Zie In Beverage, 14016 Triskett Road, Cleveland, Ohio 44111, Permanent

Number 6209845 to A & O Beverage, Inc., DBA Mo Zie In Beverage, 14016 Triskett Road, Cleveland, Ohio 44111, Permanent Number 0006233; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

Section 2. That the Clerk of Council be and she is hereby directed to transmit two certified copies of this resolution, together with two copies of a letter of objection and two copies of a letter requesting that the hearing be held in Cleveland, Cuyahoga County.

Section 3. That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Adopted October 18, 2004.

Effective October 26, 2004.

Ord. No. 269-04.

By Council Member O'Malley.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located at 4817 Biddulph Avenue to Ronald Ziegler.

Whereas, the City of Cleveland has elected to adopt and implement the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed of by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 012-15-017, as more fully described below, to Ronald Ziegler.

Section 2. That the real property to be sold pursuant to this ordinance is more fully described as follows:

P. P. No. 012-15-017

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Easterly 10 feet of Sublot No. 9 and the Westerly 30 feet of Sublot No. 8 in the Lowrie Brothers Forestdale Subdivision of part of Original Brooklyn Township Lots Nos. 42 and 59, as shown by the recorded plat in Volume 41, Page 8 of Cuyahoga County Records, and together forming a parcel of land 40 feet front on the Southerly side of Biddulph Avenue, S.W. and extending back of

equal width 155.48 feet as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to all zoning ordinances, if any.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 4. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 540-04.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance to amend the title and Section 1 of Ordinance No. 1690-03, passed October 27, 2003, relating to a Lease Agreement with AirSports Aviation, LTD for the lease of office space at Burke Lakefront Airport; to supplement the ordinance by adding new sections 2 and 3; and to renumber existing sections 2 and 3 to new Sections 4 and 5.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the title and Section 1 of Ordinance No. 1690-03, passed October 27, 2003, are amended to read as follows:

An emergency ordinance authorizing the Director of Port Control to enter into a Lease Agreement with AirSports Aviation, LTD for the lease of office space at Burke Lakefront Airport, for the Department of Port Control; and authorizing the

Director to issue rent credits to AirSports Aviation, LTD.

Section 1. That the Director of Port Control is authorized to enter into a Lease Agreement ("Lease") with AirSports Aviation, LTD ("Lessee") for use and occupancy of approximately 1,550 square feet located in Rooms 108 and 149, and approximately 438 square feet of space located behind Room 149 of the terminal building at Burke Lakefront Airport ("Leased Premises"). The term of the Lease shall be for a two year period, effective March 1, 2004. For use of the Leased Premises, Lessee shall pay the City an annual rate of Eighteen Thousand Six Hundred Dollars (\$18,600.00) which is equal to \$12.00 per square foot.

Section 2. That the title and Section 1 of Ordinance No. 1690-03, passed October 27, 2003, are repealed.

Section 3. That Ordinance No. 1690-03, passed October 27, 2003, is supplemented by adding new Sections 2 and 3 to read as follows:

Section 2. That the Director of Port Control is authorized to issue a rent credit to Lessee for a rent overpayment paid to the City for the use and occupancy of approximately 1,674 square feet of office space located in rooms 108, 127 and 149, and approximately 438 square feet of space located behind room 149. The rent credit amount will equal the actual rent overpayment paid to the City, from October 29, 2003 to February 29, 2004.

Section 3. That the Director of Port Control is authorized to execute any additional documents necessary and appropriate to issue the rent credit.

Section 4. That existing Sections 2 and 3 of Ordinance No. 1690-03, passed October 27, 2003, are renumbered to new "Section 4" and "Section 5".

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.
Effective October 26, 2004.

Ord. No. 711-04.
By Council Member Zone.

An emergency ordinance to amend Section 433.01 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 835-03, passed June 10, 2003, relating to reducing the concentration of alcohol necessary to convict a person of Driving While Under the Influence of Alcohol or Drugs.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That Section 433.01 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 835-03, passed June 10, 2003, is amended to read as follows:

Section 433.01 Driving While Under the Influence of Alcohol or Drugs; Tests; Presumptions; Penalties

(a) No person shall operate any vehicle, streetcar, or trackless trolley within this City, if, at the time of the operation, any of the following apply:

(1) The person is under the influence of alcohol, a drug of abuse, or a combination of them.

(2) The person has a concentration of eight-hundredths of one per cent or more but less than seventeen-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(3) The person has a concentration of ninety-six thousandths of one per cent or more but less than two hundred four-thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(4) The person has a concentration of eight-hundredths of one gram or more but less than seventeen-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(5) The person has a concentration of eleven-hundredths of one gram or more but less than two hundred thirty-eight-thousandths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(6) The person has a concentration of seventeen-hundredths of one per cent or more by weight per unit volume of alcohol in the person's whole blood.

(7) The person has a concentration of two hundred four-thousandths of one per cent or more by weight per unit volume of alcohol in the person's blood serum or plasma.

(8) The person has a concentration of seventeen-hundredths of one gram or more by weight of alcohol per two hundred ten liters of the person's breath.

(9) The person has a concentration of two hundred thirty-eight-thousandths of one gram or more by weight of alcohol per one hundred milliliters of the person's urine.

(b) No person under twenty-one years of age shall operate any vehicle, streetcar, or trackless trolley within this City, if, at the time of the operation, any of the following apply:

(1) The person has a concentration of at least two-hundredths of one per cent but less than eight-hundredths of one per cent by weight per unit volume of alcohol in the person's whole blood.

(2) The person has a concentration of at least three-hundredths of one per cent but less than ninety-six thousandths of one per cent by weight per unit volume of alcohol in the person's blood serum or plasma.

(3) The person has a concentration of at least two-hundredths of one gram but less than eight-hundredths of one gram by weight of alcohol per two hundred ten liters of the person's breath.

(4) The person has a concentration of at least twenty-eight one-thousandths of one gram but less than eleven-hundredths of one gram by weight of alcohol per one hundred milliliters of the person's urine.

(c) In any proceeding arising out of one incident, a person may be charged with a violation of division

(a)(1) and a violation of division (b)(1), (2), or (3) of this section, but the person may not be convicted of more than one violation of these divisions.

(d) (1) In any criminal prosecution or juvenile court proceeding for a violation of division (a) or (b) of this section or for an equivalent offense, the court may admit evidence on the concentration of alcohol, drugs of abuse, or a combination of them in the defendant's whole blood, blood serum or plasma, breath, urine, or other bodily substance at the time of the alleged violation as shown by chemical analysis of the substance withdrawn within two hours of the time of the alleged violation. When a person submits to a blood test at the request of a law enforcement officer under Section 4511.191 of the Revised Code, only a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist shall withdraw blood for the purpose of determining the alcohol, drug, or alcohol and drug content of the whole blood, blood serum, or blood plasma. This limitation does not apply to the taking of breath or urine specimens. A person authorized to withdraw blood under this division may refuse to withdraw blood under this division, if in that person's opinion, the physical welfare of the person would be endangered by the withdrawing of blood. The bodily substance withdrawn shall be analyzed in accordance with methods approved by the Ohio Director of Health by an individual possessing a valid permit issued by the Director pursuant to Section 3701.143 of the Revised Code.

(2) In a criminal prosecution or juvenile court proceeding for a violation of division (a) of this section or for an equivalent offense, if there was at the time the bodily substance was withdrawn a concentration of less than the applicable concentration of alcohol specified in divisions (a)(2), (3), (4), and (5) of this section, that fact may be considered with other competent evidence in determining the guilt or innocence of the defendant. This division does not limit or affect a criminal prosecution or juvenile court proceeding for a violation of division (b) of this section or for an equivalent offense that is substantially equivalent to that division.

(3) Upon the request of the person who was tested, the results of the chemical test shall be made available to the person or the person's attorney, immediately upon the completion of the chemical test analysis. The person tested may have a physician, a registered nurse, or a qualified technician, chemist, or phlebotomist of the person's own choosing administer a chemical test or tests, at the person's expense, in addition to any administered at the request of a law enforcement officer. The form to be read to the person to be tested, as required under Section 4511.192 of the Revised Code, shall state that the person may have an independent test performed at the person's expense. The failure or inability to obtain an additional chemical test by a person shall not preclude the admission of evidence relating to the chemical test or tests taken at the request of a law enforcement officer.

(4) A. As used in divisions (d)(4)B. and C. of this section, "national highway traffic safety administration" means the national highway traffic safety administration established as an administration of the United States department of transportation under 96 Stat. 2415 (1983), 49 U.S.C.A. 105.

B. In any criminal prosecution or juvenile court proceeding for a violation of division (a) or (b) of this section, of a municipal ordinance relating to operating a vehicle while under the influence of alcohol, a drug of abuse, or alcohol and a drug of abuse, or of a municipal ordinance relating to operating a vehicle with a prohibited concentration of alcohol in the blood, breath, or urine, if a law enforcement officer has administered a field sobriety test to the operator of the vehicle involved in the violation and if it is shown by clear and convincing evidence that the officer administered the test in substantial compliance with the testing standards for any reliable, credible, and generally accepted field sobriety tests that were in effect at the time the tests were administered, including, but not limited to, any testing standards then in effect that were set by the national highway traffic safety administration, all of the following apply:

1. The officer may testify concerning the results of the field sobriety test so administered.

2. The prosecution may introduce the results of the field sobriety test so administered as evidence in any proceedings in the criminal prosecution or juvenile court proceeding.

3. If testimony is presented or evidence is introduced under division (d)(4)B.1. or 2. of this section and if the testimony or evidence is admissible under the Rules of Evidence, the court shall admit the testimony or evidence and the trier of fact shall give it whatever weight the trier of fact considers to be appropriate.

C. Division (d) (4)B. of this section does not limit or preclude a court, in its determination of whether the arrest of a person was supported by probable cause or its determination of any other matter in a criminal prosecution or juvenile court proceeding of a type described in that division, from considering evidence or testimony that is not otherwise disallowed by division (d)(4)B. of this section.

(e)(1) Subject to division (e)(3) of this section, in any criminal prosecution or juvenile court proceeding for a violation of division (a)(2), (3), (4), (5), (6), (7), (8), or (9) or (b)(1), (2), (3), or (4) of this section or for an equivalent offense that is substantially equivalent to any of those divisions, a laboratory report from any forensic laboratory certified by the Ohio Department of Health that contains an analysis of the whole blood, blood serum or plasma, breath, urine, or other bodily substance tested and that contains all of the information specified in this division shall be admitted as prima-facie evidence of the information and statements that the report contains. The laboratory report shall contain all of the following:

A. The signature, under oath, of any person who performed the analysis;

B. Any findings as to the identity and quantity of alcohol, a drug of abuse, or a combination of them that was found;

C. A copy of a notarized statement by the laboratory director or a designee of the director that contains the name of each certified analyst or test performer involved with the report, the analyst's or test performer's employment relationship with the laboratory that issued the report, and a notation that performing an analysis of the type involved is part of the analyst's or test performer's regular duties;

D. An outline of the analyst's or test performer's education, training, and experience in performing the type of analysis involved and a certification that the laboratory satisfies appropriate quality control standards in general and, in this particular analysis, under rules of the Ohio Department of Health.

(2) Notwithstanding any other provision of law regarding the admission of evidence, a report of the type described in division (e)(1) of this section is not admissible against the defendant to whom it pertains in any proceeding, other than a preliminary hearing or a grand jury proceeding, unless the prosecutor has served a copy of the report on the defendant's attorney or, if the defendant has no attorney, on the defendant.

(3) A report of the type described in division (e)(1) of this section shall not be prima-facie evidence of the contents, identity, or amount of any substance if, within seven days after the defendant to whom the report pertains or the defendant's attorney receives a copy of the report, the defendant or the defendant's attorney demands the testimony of the person who signed the report. The judge in the case may extend the seven-day time limit in the interest of justice.

(f) Except as otherwise provided in this division, any physician, registered nurse, or qualified technician, chemist, or phlebotomist who withdraws blood from a person pursuant to this section, and any hospital, first-aid station, or clinic at which blood is withdrawn from a person pursuant to this section, is immune from criminal liability and civil liability as provided in Section 4511.19(F) of the Revised Code.

(g) (1) Whoever violates any provision of divisions (a)(1) to (9) of this section is guilty of operating a vehicle under the influence of alcohol, a drug of abuse, or a combination of them. The court shall sentence the offender under this section unless the offense constitutes a felony under the laws of the State of Ohio, in which case this section shall not apply, and except as otherwise authorized or required by divisions (g)(1)A. to E. of this section:

A. Except as otherwise provided in division (g)(1)B., C., D., or E. of this section, the offender is guilty of a misdemeanor of the first degree, and the court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of division (a)(1), (2), (3), (4), or (5) of this section, a mandatory jail term of three consecutive days. As used in this division, three consecutive days means seventy-two consecutive hours. The court may sentence an offender to

both an intervention program and a jail term. The court may impose a jail term in addition to the three-day mandatory jail term or intervention program. However, in no case shall the cumulative jail term imposed for the offense exceed six months. The court may suspend the execution of the three-day jail term under this division if the court, in lieu of that suspended term, places the offender under a community control sanction pursuant to Section 2929.25 of the Revised Code and requires the offender to attend, for three consecutive days, a drivers' intervention program certified under section 3793.10 of the Revised Code. The court also may suspend the execution of any part of the three-day jail term under this division if it places the offender under a community control sanction pursuant to section 2929.25 of the Revised Code for part of the three days, requires the offender to attend for the suspended part of the term a drivers' intervention program so certified, and sentences the offender to a jail term equal to the remainder of the three consecutive days that the offender does not spend attending the program. The Court may require the offender, as a condition of community control and in addition to the required attendance at a drivers' intervention program, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter 3793 of the Revised Code by the Director of Alcohol and Drug Addiction Services that the operators of the drivers' intervention program determine that the offender should attend and to report periodically to the court on the offender's progress in the programs. The court also may impose on the offender any other conditions of community control that it considers necessary.

2. If the sentence is being imposed for a violation of division (a)(6), (7), (8), or (9) of this section, except as otherwise provided in this division, a mandatory jail term of at least three consecutive days and a requirement that the offender attend, for three consecutive days, a drivers' intervention program that is certified pursuant to Section 3793.10 of the Revised Code. As used in this division, three consecutive days means seventy-two consecutive hours. If the court determines that the offender is not conducive to treatment in a drivers' intervention program, if the offender refuses to attend a drivers' intervention program, or if the jail at which the offender is to serve the jail term imposed can provide a driver's intervention program, the court shall sentence the offender to a mandatory jail term of at least six consecutive days. The court may require the offender, under a community control sanction imposed under Section 2929.25 of the Revised Code, to attend and satisfactorily complete any treatment or education programs that comply with the minimum standards adopted pursuant to Chapter 3793. of the Revised Code by the Director of Alcohol and Drug Addiction Services, in addition to the required attendance at drivers' intervention program, that the operators of the drivers' intervention program determine that the offender should attend and to report peri-

odically to the court on the offender's progress in the programs. The court also may impose any other conditions of community control on the offender that it considers necessary.

3. In all cases, a fine of not less than two hundred fifty and not more than one thousand dollars;

4. In all cases, a class five license suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (a)(5) of Section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under Sections 4510.021 and 4510.13 of the Revised Code.

B. Except as otherwise provided in division (g)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to one violation of division (a) or (b) of this section or one other equivalent offense is guilty of a misdemeanor of the first degree. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of division (a)(1), (2), (3), (4), or (5) of this section, a mandatory jail term of ten consecutive days. The court shall impose the ten-day mandatory jail term under this division unless, subject to division (g)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the ten-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months. In addition to the jail term or the term of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court may require the offender to attend a drivers' intervention program that is certified pursuant to Section 3703.10 of the Revised Code. If the operator of the program determines that the offender is alcohol dependent, the program shall notify the court, and, subject to division (i) of this section, the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by Section 3793.02 of the Revised Code.

2. If the sentence is being imposed for a violation of division (a)(6), (7), (8), or (9) of this section, except as otherwise provided in this division, a mandatory jail term of twenty consecutive days. The court shall impose the twenty-day mandatory jail term under this division unless, subject to division (g)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the twenty-day mandatory jail term. The cumulative jail term imposed for the offense shall not exceed six months. In addition to the jail term or the term of house arrest with electronic

monitoring or continuous alcohol monitoring or both types of monitoring and jail term, the court may require the offender to attend a driver's intervention program that is certified pursuant to Section 3793.10 of the Revised Code. If the operator of the program determines that the offender is alcohol dependent, the program shall notify the court, and, subject to division (i) of this section, the court shall order the offender to obtain treatment through an alcohol and drug addiction program authorized by Section 3793.02 of the Revised Code.

3. In all cases, notwithstanding the fines set forth in other sections of these Codified Ordinances, a fine of not less than three hundred fifty and not more than one thousand five hundred dollars;

4. In all cases, a class four license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(4) of Section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under Sections 4510.021 and 4510.13 of the Revised Code.

5. In all cases, if the vehicle is registered in the offender's name, immobilization of the vehicle involved in the offense for ninety days in accordance with Section 4503.233 of the Revised Code and impoundment of the license plates of that vehicle for ninety days.

C. Except as otherwise provided in division (g)(1)E. of this section, an offender who, within six years of the offense, previously has been convicted of or pleaded guilty to two violations of division (a) or (b) of this section or other equivalent offenses is guilty of a misdemeanor. The court shall sentence the offender to all of the following:

1. If the sentence is being imposed for a violation of division (a)(1), (2), (3), (4), or (5) of this section, a mandatory jail term of thirty consecutive days. The court shall impose the thirty-day mandatory jail term under this division unless, subject to division (g)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in addition to the thirty-day mandatory jail term. Notwithstanding the jail terms set forth in Sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

2. If the sentence is being imposed for a violation of division (a)(6), (7), (8), or (9) of this section, a mandatory jail term of sixty consecutive days. The court shall impose the sixty-day mandatory jail term under this division unless, subject to division (g)(3) of this section, it instead imposes a sentence under that division consisting of both a jail term and a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. The court may impose a jail term in

addition to the sixty-day mandatory jail term. Notwithstanding the jail terms set forth in Sections 2929.21 to 2929.28 of the Revised Code, the additional jail term shall not exceed one year, and the cumulative jail term imposed for the offense shall not exceed one year.

3. In all cases, notwithstanding the fines set forth in other sections of these Codified Ordinances, a fine of not less than five hundred fifty and not more than two thousand five hundred dollars;

4. In all cases, a class three license suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (a)(3) of Section 4510.02 of the Revised Code. The court may grant limited driving privileges relative to the suspension under Sections 4510.021 and 4510.13 of the Revised Code.

5. In all cases, if the vehicle is registered in the offender's name, criminal forfeiture of the vehicle involved in the offense in accordance with Section 4503.234 of the Revised Code. Division (g)(6) of this section applies regarding any vehicle that is subject to an order of criminal forfeiture under this division.

6. In all cases, participation in an alcohol and drug addiction program authorized by Section 3793.02 of the Revised Code, subject to division (i) of this section.

D. This section shall not apply when the circumstances described in Section 4511.19(G)(1)(d) of the Revised Code apply. This section shall not apply in any case in which the conduct constitutes a felony under the laws of the State of Ohio.

E. This section shall not apply when the circumstances described in Section 4511.19(G)(1)(e) of the Revised Code apply. This section shall not apply in any case in which the conduct constitutes a felony under the laws of the State of Ohio.

(2) An offender who is convicted of or pleads guilty to a violation of division (a) of this section and who subsequently seeks reinstatement of the driver's or occupational driver's license or permit or nonresident operating privilege suspended under this section as a result of the conviction or guilty plea shall pay a reinstatement fee as provided in division (F)(2) of Section 4511.191 of the Revised Code.

(3) If an offender is sentenced to a jail term under division (g)(1)B.1. or 2. or (g)(1)C.1. or 2. of this section and if, within sixty days of sentencing of the offender, the court issues a written finding on the record that, due to the unavailability of space at the jail where the offender is required to serve the term, the offender will not be able to begin serving that term within the sixty-day period following the date of sentencing, the court may impose an alternative sentence under this division that includes a term of house arrest with electronic monitoring, with continuous alcohol monitoring, or with both electronic monitoring and continuous alcohol monitoring. As an alternative to a mandatory jail term of ten consecutive days required by division (g)(1)B.1. of this section, the court, under this division, may sentence the offender to five consecutive days in jail and not less than eighteen consecutive days of house

arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring. The cumulative total of the five consecutive days in jail and the period of house arrest with electronic monitoring shall not exceed six months. The five consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest. As an alternative to the mandatory jail term of twenty consecutive days required by division (g)(1)B.2. of this section, the court, under this division, may sentence the offender to ten consecutive days in jail and not less than thirty-six consecutive days of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring. The cumulative total of the ten consecutive days in jail and the period of house arrest with electronic monitoring shall not exceed six months. The ten consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest. As an alternative to a mandatory jail term of thirty consecutive days required by division (g)(1)C.1. of this section, the court, under this division, may sentence the offender to fifteen consecutive days in jail and not less than fifty-five consecutive days of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring. The cumulative total of the fifteen consecutive days in jail and the period of house arrest with electronic monitoring shall not exceed one year. The fifteen consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest. As an alternative to the mandatory jail term of sixty consecutive days required by division (g)(1)C.1. of this section, the court, under this division, may sentence the offender to thirty consecutive days in jail and not less than one hundred ten consecutive days of house arrest with electronic monitoring or continuous alcohol monitoring or both types of monitoring. The cumulative total of the thirty consecutive days in jail and the period of house arrest with electronic monitoring shall not exceed one year. The thirty consecutive days in jail do not have to be served prior to or consecutively to the period of house arrest.

(4) If an offender's driver's or occupational driver's license or permit or nonresident operating privilege is suspended under division (g) of this section and if Section 4510.13 of the Revised Code permits the court to grant limited driving privileges, the court may grant the limited driving privileges in accordance with that section. If division (A)(7) of that section requires that the court impose as a condition of the privileges that the offender must display on the vehicle that is driven subject to the privileges restricted license plates that are issued under Section 4503.231 of the Revised Code, except as provided in division (B) of that section, the court shall impose that condition as one of the conditions of the limited driving privileges granted to the offender, except as provided in division (B) of Section 4503.231 of the Revised Code.

(5) Fines imposed under this section for a violation of division (a) of this section shall be distributed as provided in Section 4511.19 of the Revised Code or as otherwise provided by law.

(6) If title to a motor vehicle that is subject to an order of criminal forfeiture under division (g)(1)C., D., or E. of this section is assigned or transferred and division (B)(2) or (3) of Section 4503.234 of the Revised Code applies, in addition to or independent of any other penalty established by law, the court may fine the offender the value of the vehicle as determined by publications of the national auto dealers association. The proceeds of any fine so imposed shall be distributed in accordance with division (C)(2) of that section.

(7) As used in division (g) of this section, "electronic monitoring," "mandatory prison term," and "mandatory term of local incarceration" have the same meanings as in Section 2929.01 of the Revised Code.

(h) Whoever violates division (b) of this section is guilty of operating a vehicle after underage alcohol consumption and shall be punished as follows:

(1) Except as otherwise provided in division (h)(2) of this section, the offender is guilty of a misdemeanor of the fourth degree. In addition to any other sanction imposed for the offense, the court shall impose a class six suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(6) of Section 4510.02 of the Revised Code.

(2) If, within one year of the offense, the offender previously has been convicted of or pleaded guilty to one or more violations of division (a) or (b) of this section or other equivalent offense, the offender is guilty of a misdemeanor of the third degree. In addition to any other sanction imposed for the offense, the court shall impose a class four suspension of the offender's driver's license, commercial driver's license, temporary instruction permit, probationary license, or nonresident operating privilege from the range specified in division (A)(4) of Section 4510.02 of the Revised Code.

(h)(3) If the offender also is convicted of or also pleads guilty to a specification of the type described in Section 2941.1414 of the Revised Code and if the court imposes a jail term for the violation of division (b) of this section, the court shall impose upon the offender an additional definite jail term pursuant to division (E) of Section 2929.24 of the Revised Code, provided that the total length of jail time imposed under all provisions of Section 433.01 shall not exceed one (1) year.

(i) (1) No court shall sentence an offender to an alcohol treatment program under this section unless the treatment program complies with the minimum standards for alcohol treatment programs adopted under Chapter 3793. of the Revised Code by the Director of Alcohol and Drug Addiction Services.

(2) An offender who stays in a drivers' intervention program or in an alcohol treatment program under an order issued under this section shall pay the cost of the stay in the program. However, if the court determines that an offender who stays in an alcohol treatment program under an order issued under this section is unable to pay the cost of the stay in the program, the court may order that the cost be paid from

the court's indigent drivers' alcohol treatment fund.

(j) If a person whose driver's or commercial driver's license or permit or nonresident operating privilege is suspended under this section files an appeal regarding any aspect of the person's trial or sentence, the appeal itself does not stay the operation of the suspension.

(k) All terms defined in Section 4510.01 of the Revised Code apply to this section. If the meaning of a term defined in Section 4510.01 of the Revised Code conflicts with the meaning of the same term as defined in Section 4501.01 or 4511.01 of the Revised Code, the term as defined in Section 4510.01 of the Revised Code applies to this section. (RC 4511.19).

Section 2. That existing Section 433.01 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 835-03, passed June 10, 2003, is repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 1475-04.
By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Port Control to enter into one or more contracts with R.W. Armstrong & Associates, Inc. for professional services necessary to design Phase II of the Centralized Deicing Facility.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Port Control is authorized to enter into one or more contracts with R.W. Armstrong & Associates, Inc. for professional services necessary to design Phase II of the Centralized Deicing Facility at Cleveland Hopkins International Airport, in a sum not to exceed \$3,500,000.00, for the Department of Port Control. The contracts or contracts shall be paid from Fund Nos. 60 SF 001, 60 SF 104, 60 SF 105, and from any funds or subfunds to which are credited any federal grants of federal PFC authorization, for the above project, and the proceeds from the sale of any airport revenue bonds issued for a purpose which includes the project, Request No. 146060.

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 1476-04.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Port Control to lease certain property to the Federal Aviation Administration, for a term of five years, for the purpose of general office, operations, storage and generator space.

Whereas, the City of Cleveland owns certain property known as the Old Traffic Control Tower and associated space, which is not needed for public use; and

Whereas, the Federal Aviation Administration has proposed to lease the property from the City for a term of five years; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Port Control is authorized to enter into a Lease ("Lease") with the Federal Aviation Administration ("Lessee or FAA") for the use and occupancy by the FAA for general office, operations, storage, and generator space of approximately 11,750 square feet of space located in the terminal building at Cleveland Hopkins International Airport and known as the Old Traffic Control Tower and associated space, which is not needed for public use for the term of the lease.

Section 2. That the term of the lease authorized by this ordinance shall not exceed five years commencing October 1, 2003, and ending September 30, 2008, or upon termination of the Lease, whichever is earlier.

Section 3. That the property described above shall be leased at an annual rent of \$154,877.40, payable in monthly installments of \$12,906.45, on a mutually agreed day.

Section 4. That the lease may authorize the Lessees to make improvements to the leased premises subject to the approval of appropriate City agencies and officials.

Section 5. That the lease shall be prepared by the Director of Law and shall contain such terms and conditions as are required to protect the interests of the City.

Section 6. That the Director of Port Control, the Director of Law, and other appropriate City officials are authorized to execute any other documents and certificates, and take any other actions which may be necessary or appropriate to effect the lease authorized by this ordinance.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 1477-04.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of asphalt concrete, and tack coat, including labor and materials for delivery, spreading, and compacting runways and roadways, for the various divisions of the Department of Port Control.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Port Control is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for a period of one or two years of the necessary items of asphalt concrete, and tack coat, including labor and materials for delivery, spreading, and compacting runways and roadways, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of the Department of Port Control. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Port Control is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Port Control by comparing the bids received for both terms.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 146065)

Section 3. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Port Control may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 1478-04.

By Council Members Westbrook and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials necessary to maintain and repair elevators, escalators, and moving walkways for the various divisions of the Department of Port Control.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Port Control is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for a period of one or two years of the necessary items of labor and materials necessary to maintain and repair elevators, escalators, and moving walkways, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the various divisions of the Department of Port Control. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Port Control is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Port Control by comparing the bids received for both terms.

Section 2. That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 146064)

Section 3. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Port Control may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 4. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 1486-04.

By Council Members Britt and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Health to accept a grant from the Ohio Environmental Protection Agency for financial assistance for the operation of the Division of Air Quality; authorizing the Director to enter into one or more requirement contracts for the purchase of services, equipment and supplies; and authorizing the director to enter into one or more contracts with various agencies necessary to operate the Division of Air Quality.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Health is authorized to accept a grant in the approximate amount of \$2,942,526 from the Ohio Environmental Protection Agency for financial assistance for the operation of the Division of Air Quality in accordance with the purposes set forth in the summary; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes in the summary for the grant.

Section 2. That the summary for the grant, File No. 1486-04-A, made a part as if fully rewritten herein, is approved in all respects, including the obligation of the City of Cleveland to provide cash matching funds in the sum of \$393,000, from the Division of Air Quality's General Fund budget, in order to receive the grant from the Ohio Environmental Protection Agency, as a pass through from the U.S. Environmental Protection Agency.

Section 3. That the Director of Public Health is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the grant period of the necessary items of services, equipment, and supplies needed as described in the file, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Air Quality, Department of Public Health. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the grant term may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

Section 4. That the costs of the contract or contracts shall be charged against the fund or funds which are credited the grant proceeds accepted under this ordinance and from the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later pur-

chases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 5. That the Director of Public Health is authorized to enter into one or more contracts for the implementation of the grant as described in the file, with one or more various entities.

Section 6. That the cost of the contracts authorized by this ordinance shall be paid from the fund or funds which are credited the grant proceeds accepted under this ordinance and the cash match.

Section 7. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 1504-04.

By Council Members Gordon and Jackson (by departmental request).

An emergency ordinance to amend Section 1 of Ordinance No. 1012-04, passed June 14, 2004, relating to appropriating Community Development Block Grant funds and Federal HOME funds for the operation of the Low Interest Loan and Grant Programs, and to enter into one or more contracts with various agencies to implement the programs.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That Section 1 of Ordinance No. 1012-04, passed June 14, 2004, is amended to read as follows:

Section 1. That the Community Development Block Grant funds from Fund No. 14 SF 030, and Federal HOME Program funds from Fund 13 SF 983, Request 125771, in the amount of \$4,890,921 are appropriated for the operation of the Low Interest Loan and Grant Programs, including all related services. The Low Interest Loan and Grant Programs include Repair-A-Home (RAH), American Dream Downpayment Assistance Program (ADD), Corrective Action Grant, Afford-A-Home (AAH), Senior Home Owners Assistance Program (SHAP), Paint Refund Program, Housewarming, Furnace Repair, and Home Maintenance Assistance Program (HMAP).

Section 2. That Section 1 of Ordinance No. 1012-04, passed June 14, 2004, is repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 1507-04.

By Council Member Cintron.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Corning Avenue to Cleveland Housing Network, Inc.

Whereas, the City of Cleveland has elected to adopt and implement the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed of by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

Be it ordained by the Council of the City of Cleveland:

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 008-16-078, as more fully described below, to Cleveland Housing Network, Inc.

Section 2. That the real property to be sold pursuant to this Ordinance is more fully described as follows:

P. P. No. 008-16-078

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot No. 35 in Ruth Curtiss' Subdivision of part of Original Brooklyn Township Lot Nos. 67 and 72, as shown by the recorded plat in Volume 12 of Maps, Page 43 of Cuyahoga County Records and being 40 feet front on the Northerly side of Corning Avenue, S.W., (formerly Dover Street), and extending back of equal width 124 feet to an alley in the rear, as appears by said plat, be the same more or less, but subject to all legal highways.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 4. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive

covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.
Effective October 26, 2004.

**Ord. No. 1526-04.
By Council Member Zone.
An emergency ordinance authorizing the Commissioner of Purchases and Supplies to purchase property for the purpose of constructing a public road in connection with the Battery Park development project at West 74th and Goodwalt Avenue for the Department of Community Development.**

Whereas, the Director of Community Development has requested the purchase of property which is located at West 74th and Goodwalt Avenue, for the purpose of constructing a public road in connection with the Battery Park development project; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That notwithstanding and as an exception to the provisions of Chapter 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Commissioner of Purchases and Supplies is authorized to purchase the following described property for the purpose of constructing a public road in connection with the Battery Park development project:

Permanent Parcel No. 002-04-014
and 002-04-030

1275 West 74th Street and
7400 Goodwalt Avenue, Cleveland, Ohio

Parcel No. 1:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublots Nos. 35, 36, 37 and 38 in the George Smith's Allotment, being a part of Original Brooklyn Township Lot No. 30, as shown by the recorded plat in Volume 17, Page 12 of Cuyahoga County Records, and further bounded and described as follows:

Beginning at a point in the Southeastern corner of Sublot No. 38 in the Northerly side line of Goodwalt Avenue, N.W., 40 feet wide, as appears by the aforesaid Allotment Plat;

Thence Northerly along the Easterly lines of Sublots Nos. 35, 36, 37, and 38 in said Allotment a distance of 157.97 feet to a point in the Northeasterly corner of Sublot No 35;

Thence Westerly along the Northerly line of Sublot No. 35, a distance of 44.73 feet to a point;

Thence Southerly a distance of

158.64 feet to a point in the Northerly side line of Goodwalt Avenue, N.W.;

Thence Easterly along the Northerly side line of Goodwalt Avenue, N.W., a distance of 37.71 feet to the place of beginning, be the same more or less, but subject to all legal highways.

Parcel No. 2

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublots Nos. 35, 36, 37 and 38 in the George Smith's Allotment, being a part of Original Brooklyn Township Lot No. 30, as shown by the recorded plat in Volume 17, Page 12 of Cuyahoga County Map Records, and further bounded and described as follows:

Beginning at the intersection point of the Northerly side line of Goodwalt Avenue, N.W. (40 feet wide) and the Easterly side line of West 74th Street (40 feet wide);

Thence Northerly along the Easterly side line of West 74th Street, 162.46 feet to a point in the Northwesterly corner of Sublot No. 35 in the aforesaid Allotment;

Thence Easterly along the Northerly line of said Sublot No. 35 a distance of 74.21 feet to a point;

Thence Southerly a distance of 158.64 feet to a point in the Northerly line of Goodwalt Avenue, N.W.;

Thence Westerly along the Northerly line of Goodwalt Avenue, N.W. a distance of 79.88 feet to the place of beginning be the same more or less, but subject to all legal highways.

Section 2. That the Director of Community Development is authorized to execute on behalf of the City of Cleveland all necessary documents to acquire the property and to employ and pay all fees for title companies, surveys, escrows, appraisers, environmental audits, and all other costs necessary for the acquisition of the property.

Section 3. That the consideration to be paid for this property shall not exceed fair market value.

Section 4. That all costs of acquisition of land shall be paid from Fund No. 20 SF 363, 20 SF 372, 20 SF 379, 20 SF 393, and 11 SF 006.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.
Effective October 26, 2004.

**Ord. No. 1676-04.
By Council Member Jackson.
An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 76th Street to Paulette Bryant.**

Whereas, the City of Cleveland has elected to adopt and implement the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive lands situated within the City of Cleveland; and

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, administered and disposed by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 118-26-075, as more fully described below, to Paulette Bryant.

Section 2. That the real property to be sold pursuant to this ordinance is more fully described as follows:

P. P. No. 118-26-075

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Southerly 33 feet of Sublot No. 44 in William and Louise Brooker's Allotment of part of Original One Hundred Acre Lot No. 336, as shown by the recorded plat of said Allotment in Volume 3 of Maps, Page 46 of Cuyahoga County Records, and being 33 feet front on the Easterly side of East 76th Street, (formerly Brooker Street), and extending back between parallel lines about 167 feet, as appears by said plat, be the same more or less, but subject to all legal highways. Also subject to Restrictions of records and Zoning Ordinance, if any.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

Section 4. That the consideration for the subject parcel shall be established by the Board of Control and shall be not less than Fair Market Value taking into account such terms and conditions, restrictions and covenants as are deemed necessary or appropriate.

Section 5. That the conveyance authorized hereby shall be made by official deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed shall contain such provisions as may be necessary to protect and benefit the public interest including such restrictive covenants and reversionary interests as may be specified by the Board of Control, the Director of Community Development or the Director of Law.

Section 6. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it

shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 1771-04.

By Council Members Sweeney and Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of various types of furniture, fixtures, and equipment, for the Division of Architecture, Department of Public Service.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the Director of Public Service is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one or two years of the necessary items of various types of furniture, fixtures, and equipment, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Architecture, Department of Public Service. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than one year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Public Service is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Public Service by comparing the bids received for both terms. The authorization granted by this ordinance is for the categories of furniture, fixtures, and equipment identified in File No. 1771-04-A only. Additional legislative authority shall be required if other categories of furniture, fixtures, or equipment are needed.

Section 2. That the costs of the contract or contracts shall be charged against Fund Nos. 11 SF 006, 20 SF 362, 20 SF 371, 20 SF 381, 20 SF 391, 01-400200-692700, and any other proper appropriation accounts. (RL 115264)

Section 3. That the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance.

Section 4. That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Public Service may sign all documents with the State of Ohio

or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 2019-04.

By Council Member Britt.

An emergency ordinance to amend Section 1 of Ordinance No. 1687-04, passed September 13, 2004 as it pertains to authorizing the Director of Community Development to enter into an agreement with InterAct Cleveland for the InterAct Hunger Center program through the use of Ward 6 Neighborhood Equity Funds.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That Section 1 of Ordinance No. 1687-04, passed September 13, 2004 are hereby amended to read as follows:

Section 1. That the Director of Community Development is authorized to enter into a grant agreement with the Interreligious Partners in Action of Greater Cleveland for InterAct Hunger Center program in order to carry out the public purpose of providing meals to disadvantaged residents of the City of Cleveland through the use of Wards 6 Neighborhood Equity Funds

Section 2. That Section 1 of Ordinance No. 1687-04, passed September 13, 2004 is hereby repealed.

Section 3. That this ordinance is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

Ord. No. 2023-04.

By Council Member Westbrook.

An emergency ordinance to amend the title and Section 1 of Ordinance No. 1304-04, passed October 11, 2004, relating to the sale of City-owned property at 11623 Lake Avenue and 1227 West 116th Street and authorizing an option to purchase agreement.

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore

Be it ordained by the Council of the City of Cleveland:

Section 1. That the title and Section 1 of Ordinance No. 1304-04,

passed October 11, 2004, are amended to read as follows:

An Emergency Ordinance authorizing the Commissioner of Purchases and Supplies to sell City-owned property no longer needed for public use located at 11623 Lake Avenue and 1227 West 116th Street to Marous Development LLC; and authorizing the Directors of Economic Development and Parks, Recreation and Properties to enter into an Option to Purchase Agreement with Marous Development LLC for the redevelopment.

Section 1. That the Directors of Economic Development and Parks, Recreation, and Properties are authorized to enter into and execute an Option to Purchase Agreement ("Option") for an on behalf of the City of Cleveland with Marous Development LLC (the "Redeveloper") for the acquisition, disposition, and private redevelopment of the former Fifth Church of Christ property located at 11623 Lake Avenue and property at 1227 West 116th Street ("Property").

Section 2. That the title and Section 1 of Ordinance No. 1304-04, passed October 11, 2004, are repealed.

Section 3. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed October 18, 2004.

Effective October 26, 2004.

COUNCIL COMMITTEE MEETINGS

**Monday, October 25, 2004
2:00 p.m.**

Finance Committee: Present in Finance: Jackson, Chair; Sweeney, Vice Chair; Brady, Britt, Coats, Gordon, O'Malley, Reed, Pierce Scott, Westbrook, White. *Authorized Absence:* White.

**Tuesday, October 26, 2004
9:30 a.m.**

Community and Economic Development Committee: Present in CDED: Gordon, Chair; Cimperman, Vice Chair; Cintron, Coats, Reed, Pierce Scott, Zone. *Authorized Absence:* Jones, Lewis.

1:30 p.m.

Legislation Committee: Present in Legislation: White, Chair; Dolan, Rybka, Westbrook, Coats, Pro-Tem. *Authorized Absence:* Pierce Scott, Vice Chair; Gordon, Johnson, . Present in Finance: Jackson.

**Wednesday, October 27, 2004
10:00 a.m.**

Aviation and Transportation Committee: Present in Aviation: Westbrook, Chair; Sweeney, Vice Chair; Britt, Dolan, Gordon, Reed, Rybka.

1:30 p.m.

City Planning Committee: Present in Planning: Cimperman, Chair; Rybka, Vice Chair; Lewis, O'Malley, Westbrook. *Authorized Absence:* Conwell, Pierce Scott.

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