

The City Record

Official Publication of the Council of the City of Cleveland



November the Twenty-Eighth, Two Thousand and Seven

Frank G. Jackson
Mayor

Martin J. Sweeney
President of Council

Emily Lipovan
City Clerk, Clerk of Council

Ward	Name
1	Nina Turner
2	Robert J. White
3	Zachary Reed
4	Kenneth L. Johnson
5	Phyllis E. Cleveland
6	Patricia J. Britt
7	Fannie M. Lewis
8	Sabra Pierce Scott
9	Kevin Conwell
10	Roosevelt Coats
11	Michael D. Polensek
12	Anthony Brancatelli
13	Joe Cimperman
14	Joseph Santiago
15	Brian J. Cummins
16	Kevin J. Kelley
17	Matthew Zone
18	Jay Westbrook
19	Dona Brady
20	Martin J. Sweeney
21	Martin J. Keane

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DIRECTORY OF CITY OFFICIALS

CITY COUNCIL – LEGISLATIVE

President of Council – Martin J. Sweeney

Ward	Name	Residence	
1	Nina Turner.....	16204 Sunny Glen Avenue	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	Phyllis E. Cleveland.....	2369 East 36th Street	44105
6	Patricia J. Britt.....	12402 Britton Drive	44120
7	Fannie M. Lewis.....	7416 Star Avenue	44103
8	Sabra Pierce Scott.....	1136 East 98th Street	44108
9	Kevin Conwell.....	10647 Ashbury Avenue	44106
10	Roosevelt Coats.....	1775 Cliffview Road	44112
11	Michael D. Polensek.....	17855 Brian Avenue	44119
12	Anthony Brancatelli.....	6924 Ottawa Road	44105
13	Joe Cimperman.....	3053 West 12th Street	44113
14	Joseph Santiago.....	3169 West 14th Street	44109
15	Brian J. Cummins.....	3104 Mapledale Avenue	44109
16	Kevin J. Kelley.....	6608 Woodhaven Avenue	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	Martin J. Keane.....	15907 Colletta Lane	44111

City Clerk, Clerk of Council – Emily Lipovan, 216 City Hall, 664–2840
 First Assistant Clerk – Sandra Franklin

MAYOR – Frank G. Jackson
 Ken Silliman, Secretary to the Mayor, Chief of Staff
 Darnell Brown, Executive Assistant to the Mayor, Chief Operating Officer
 Valarie J. McCall, Executive Assistant to the Mayor, Chief of Government Affairs
 Monya S. Price, Executive Assistant to the Mayor, Chief of Education
 Maureen Harper, Executive Assistant to the Mayor, Chief of Communications
 Andrea V. Taylor, Executive Assistant to the Mayor, Press Secretary
 Debra Linn Talley, Director, Office of Equal Opportunity

DEPT. OF LAW – Robert J. Triozzi, Director, Richard F. Horvath, Chief Corporate Counsel, Thomas J. Kaiser, Chief Trial Counsel, Barbara A. Langhenry, Chief Counsel, Rm. 106
 Karen E. Martines, Law Librarian, Room 100

DEPT. OF FINANCE – Sharon Dumas, Director, Room 104;
 Frank Badalamenti, Manager, Internal Audit
 DIVISIONS: Accounts – Richard W. Sensenbrenner, 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 – Douglas Divish, Commissioner, 205 W. St. Clair Avenue
 Purchases and Supplies – James E. Hardy, Commissioner, Room 128
 Printing and Reproduction – Michael Hewitt, Commissioner, 1735 Lakeside Avenue
 Taxation – Nassim Lynch, Tax Administrator, 205 W. St. Clair Avenue

DEPT. OF PUBLIC UTILITIES – Barry A. Withers, Interim Director, 1201 Lakeside Avenue
 DIVISIONS – 1201 Lakeside Avenue
 Cleveland Public Power – Ivan Henderson, 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 – Ricky D. Smith, 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 – Jomarie Wasik, 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 – Randell 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 – Matt Carroll, Director, Mural Building, 1925 St. Clair Ave.
 DIVISIONS: Air Quality – Richard L. Nemeth, Commissioner
 Environment – Willie Bess, Commissioner, Mural Building, 1925 St. Clair Ave.
 Health – Anjou Parekh, Commissioner, Mural Building, 1925 St. Clair Ave.

DEPT. OF PUBLIC SAFETY – Martin Flask, Director, Room 230
 DIVISIONS: Dog Pound – John Baird, Chief Dog Warden, 2690 West 7th Street
 Correction – Robert Taskey, Commissioner, Cleveland House of Corrections, 4041 Northfield Rd.
 Emergency Medical Service – Edward Eckart, Commissioner, 1708 South Pointe Drive
 Fire – Paul A. Stubbs, Chief, 1645 Superior Avenue
 Police – Michael C. McGrath, Chief, Police Hdqtrs. Bldg., 1300 Ontario Street

DEPT. OF PARKS, RECREATION & PROPERTIES – Michael Cox, 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 – Leigh Stevens, 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 – Kim Johnson, 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 – Edward W. Rybka, Director, Room 500
 DIVISIONS: Code Enforcement – Tyrone L. Johnson, Commissioner
 Construction Permitting – Timothy R. Wolosz, Commissioner

DEPT. OF PERSONNEL AND HUMAN RESOURCES – Trudy Hutchinson, Director, Room 121

DEPT. OF ECONOMIC DEVELOPMENT – Brian A. Reilly, Director, Room 210

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

DEPT. OF CONSUMER AFFAIRS – Angel Guzman, Director

COMMUNITY RELATIONS BOARD – Room 11, Blaine Griffin, Director; Mayor Frank G. Jackson, Chairman Ex-Officio; Rev. Charles Lucas, Jr., Vice-Chairman; Councilman Kevin Conwell, Councilman Brian J. Cummins, Councilman Joe Santiago, 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; Lucille Ambroz, Secretary; Members: Diane M. Downing, Michael L. Nelson.

SINKING FUND COMMISSION – Frank G. Jackson, President; Council President Martin J. Sweeney; Betsy Hruby, Asst. Sec'y; Sharon Dumas, Director.

BOARD OF ZONING APPEALS – Room 516, Carol A. Johnson, Chairman; Members: John Myers, Ozell Dobbins, Joan Shaver Washington, Tim Donovan, _____, Secretary.

BOARD OF BUILDING STANDARDS AND BUILDING APPEALS – Room 516, J. F. Denk, Chairman; _____, Arthur Saunders, Alternate Members – D. Cox, P. Frank, E. P. O'Brien, Richard Pace, J.S. Sullivan.

BOARD OF REVISION OF ASSESSMENTS – Law Director Robert J. Triozzi, President; Finance Director Sharon Dumas, Secretary; Council President Martin J. Sweeney.

BOARD OF SIDEWALK APPEALS – Service Director Jomarie Wasik, Law Director Robert J. Triozzi; Councilman _____.

BOARD OF REVIEW – (Municipal Income Tax) – Law Director Robert J. Triozzi; Utilities Director _____; Council President Martin J. Sweeney.

CITY PLANNING COMMISSION – Room 501 – Robert N. Brown, Director; Anthony J. Coyne, Chairman; David H. Bowen, Lillian Kuri, Lawrence A. Lumpkin, Gloria Jean Pinkney, Norman Krumholz, Council Member Joe Cimperman.

FAIR CAMPAIGN FINANCE COMMISSION – Chris Warren, C. Ellen Connally, Hillary S. Taylor.

FAIR EMPLOYMENT WAGE BOARD – Room 210 – Gerald Meyer, Chair; Angela Caldwell, Vice Chair; Patrick Gallagher, Kathryn Jackson, Draydean McCaleb, Council Member _____, Ed Romero.

FAIR HOUSING BOARD – Charles See, Chair; _____, Vice Chair; Daniel Conway, Doris Honsa, Lisa Camacho.

HOUSING ADVISORY BOARD – Room 310 – Keith Brown, Terri Hamilton Brown, Vickie Eaton-Johnson, Mike Foley, Eric Hodderson, Janet Loehr, Mark McDermott, Marcia Nolan, David Perkowski, Joan Shaver Washington, Keith Sutton.

CLEVELAND BOXING AND WRESTLING COMMISSION – Robert Jones, Chairman; Clint Martin, Mark Rivera.

MORAL CLAIMS COMMISSION – Law Director Robert J. Triozzi; Chairman; Finance Director Sharon Dumas; Council President Martin J. Sweeney; Councilman Kevin Kelley; Councilman Nina Turner.

POLICE REVIEW BOARD – Thomas Jones, Board Chair Person; Vernon Collier, Vermel Whalen, Nancy Cronin, Elvin Vauss.

CLEVELAND LANDMARKS COMMISSION – Room 519 – Laura M. Bala, Chair; Jennifer Coleman, Vice Chair; Robert N. Brown, Council Member Joe Cimperman, Thomas Coffey, Robert Jackimowicz; Ari Maron, William Mason, Michael Rastatter, Jr., John Torres, N. Kurt Wiebusch, Robert Keiser, Secretary.

AUDIT COMMITTEE – Robert Rawson, Chairman; Yvette Ittu, Debra Janik, Bracy Lewis, Don Neebes, Council President Martin J. Sweeney; Law Director Robert J. Triozzi.

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 Marilyn B. Cassidy	12A
Judge Emanuella Groves	13A
Judge Kathleen Ann Keough	13D
Judge Anita Laster Mays	14C
Judge Lauren C. Moore	14A
Judge Charles Patton, Jr.	12B
Judge Raymond L. Pianka (Housing Court Judge)	13B
Judge Michael John Ryan	12C
Judge Angela R. Stokes	15C
Judge Pauline H. Tarver	13C
Judge Joseph J. Zone	14D

Earle B. Turner – Clerk of Courts, Russell R. Brown III – Court Administrator, Paul J. Mizerak – Bailiff; Jerome M. Krakowski – Chief Probation Officer, Gregory F. Clifford – Chief Magistrate

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WEDNESDAY, NOVEMBER 28, 2007

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CITY COUNCIL

MONDAY, NOVEMBER 26, 2007

The City Record

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City Clerk, Clerk of Council
216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES

OF THE COUNCIL

2006-2009

MONDAY—Alternating

9:30 A.M. — **Public Parks, Property & Recreation Committee:** Johnson, Chair; White, Vice Chair; Brancatelli, Cummins, Kelley, Polensek, Turner.

9:30 A.M. — **Health & Human Services Committee:** Britt, Chair; Cleveland, Vice Chair; Conwell, Kelley, Reed, Santiago, Westbrook.

11:00 A.M. — **Public Service Committee:** Brady, Chair; Turner, Vice Chair; Cleveland, Cummins, Johnson, Polensek, Reed, Santiago, White.

11:00 A.M. — **Legislation Committee:** Cleveland, Chair; Keane, Vice Chair; Cimperman, Lewis, Pierce Scott, Reed, White.

MONDAY

2:00 P.M. — **Finance Committee:** Sweeney, Chair; Cimperman, Vice Chair; Brady, Brancatelli, Britt, Coats, Conwell, Pierce Scott, Westbrook, White, Zone.

TUESDAY

9:30 A.M. — **Community and Economic Development Committee:** Pierce Scott, Chair; Brancatelli, Vice Chair; Brady, Cimperman, Cummins, Coats, Lewis, Westbrook, Zone.

1:30 P.M. — **Employment, Affirmative Action & Training Committee:** Lewis, Chair; Santiago, Vice Chair; Brancatelli, Coats, Conwell, Johnson, Turner.

WEDNESDAY—Alternating

10:00 A.M. — **Aviation & Transportation Committee:** Kelley, Chair; Westbrook, Vice Chair; Brancatelli, Britt, Cleveland, Keane, Turner.

10:00 A.M. — **Public Safety Committee:** Conwell, Chair; Brady, Vice Chair; Britt, Coats, Cummins, Kelley, Polensek, Santiago, Turner.

WEDNESDAY—Alternating

1:30 P.M. — **Public Utilities Committee:** Zone, Chair; Reed, Vice Chair; Cleveland, Cummins, Keane, Kelley, Polensek, Santiago, Westbrook.

1:30 P.M. — **City Planning Committee:** Cimperman, Chair; Westbrook, Vice Chair; Conwell, Keane, Lewis, Reed, Zone.

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

Rules Committee: Sweeney, Chair; Cleveland, Kelley, Pierce Scott, Polensek.

Personnel and Operations Committee: Westbrook, Chair; Britt, Kelley, Pierce Scott, Santiago, Sweeney, White.

Mayor's Appointment Committee: Coats, Chair; Pierce Scott, Kelley, Sweeney, Westbrook.

OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio

Monday, November 26, 2007

The meeting of the Council was called to order, The President, Martin J. Sweeney, in the Chair.

Council Members present: Brady, Brancatelli, Britt, Cimperman, Cleveland, Coats, Conwell, Cummins, Johnson, Keane, Kelley, Polensek, Santiago, Pierce Scott, Sweeney, Westbrook, White and Zone.

Also present were Mayor Frank G. Jackson; Ken Silliman, Chief of Staff; Darnell Brown, Chief Operating Officer; Monyka S. Price, Chief of Education; Maureen Harper, Chief of Communications; Andrea V. Taylor, Press Secretary; Debra Linn Talley, Director of Office of Equal Opportunity; and Directors Triozzi, Dumas, Smith, Wasik, Carroll, Flask, Cox, Rush, Rybka, Hutchinson, Reilly, Griffin, and Interim Director Weathers.

Pursuant to Ordinance No. 2926-76, a prayer was offered by Pastor Eva Sims of Transformation Temple of Praise, located at 903 East 105th Street in Ward 9. Pledge of Allegiance.

MOTION

On the motion of Council Member Britt, the reading of the minutes of the last meeting were dispensed with and the journal approved. Seconded by Council Member Johnson.

FROM DEPARTMENT OF LIQUOR CONTROL

File No. 1957-07.

Re: Transfer of Ownership Application — 15477230010 — Cleveland Play House, 8500 Euclid Avenue, patio and 8501 Carnegie Avenue, first floor and lobby. (Ward 6). Received.

File No. 1958-07.

Re: Transfer of Ownership Application — 7053749 — Power 48 LLC, d.b.a. Power 48, 621 Johnson Court. (Ward 13). Received.

File No. 1959-07.

Re: Transfer of Location Application — 88651080001 — 1330 Old River LLC, d.b.a. Roc Bar, 1220 Old River Road. (Ward 13). Received.

STATEMENT OF WORK ACCEPTED

File No. 1960-07.

From the Department of Public Utilities — Contract No. 65671, EnviroCom Construction, Inc. — Harvard Yard D & M Facility Improvements — completed and accepted November 5, 2007. Received.

CONDOLENCE RESOLUTIONS

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

Res. No. 1935-07—Rev. Dr. Richard Brown, Jr.

Res. No. 1961—Ray Katrus.

CONGRATULATION RESOLUTIONS

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

Res. No. 1962—Isaac Sizemore.

Res. No. 1963 — Lt. Robert J. Miller, Badge #8386.

APPRECIATION RESOLUTION

The rules were suspended and the following Resolution was adopted without objection:

Res. No. 1964 — Mariene Sundheimer.

**FIRST READING EMERGENCY
ORDINANCES REFERRED**

Ord. No. 1921-07.

By Council Members Brady and Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of rock salt, for the Division of Streets, 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 year of the necessary items of rock salt, 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 Division of Streets, 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 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 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 175490)

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 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 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 Public Service, Finance, Law; Committees on Public Service, Finance.

Ord. No. 1922-07.

By Council Members Cleveland and Sweeney (by departmental request).

An emergency ordinance to enact Section 127.11 of the Codified Ordinances of Cleveland, Ohio, 1976, relating to support, maintenance and supplies for the MITIS computer system.

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 127.11 to read as follows:

Section 127.11 Support, Maintenance, and Supplies for the MITIS Computer System

(a) The Director of Finance is authorized to enter into one or more standard purchase or requirement contract duly let to the lowest and best bidder after competitive bidding to acquire support, maintenance, and supplies for the MITIS computer system that are deemed by the Director of Finance as necessary to operate the Division of Taxation, which includes, but is not limited to materials, equipment, supplies, services, peripherals, components, licenses, repairs, upgrades, training, and technical support and maintenance for hardware, software, firmware, website, and application software. That under Section 108(b) of the Charter, the purchases authorized by this division may be made through cooperative agreements using state procedures. The Director of Finance 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. Any purchase made under this division shall be made by the Commissioner of Purchases and Supplies and paid from the annual appropriations made for that purpose.

(b) The Director of Finance is authorized to enter into one or more contracts with software developers or vendors to acquire support, maintenance, and supplies for the MITIS computer system that are deemed by the Director of Finance as necessary to operate the Division of Taxation, which includes, but is not limited to, materials, equipment, supplies, services, peripherals, components, licenses, repairs, upgrades, training, and technical support and maintenance for hardware, software, firmware, website, and application software. The selection of the computer software developers or vendors shall be made by the Board of Control on the nomination of the Director of Finance from lists of qualified computer software developers or vendors available as may be determined after a full and complete canvass by the Director of Finance

for the purposes of compiling the lists. The compensation to be paid shall be fixed by the Board of Control and paid from the annual appropriation made for that purpose.

(c) The Director of Finance is authorized to execute one or more license agreements directly with the firm or firms licensing the software and to purchase peripherals from that firm, for the MITIS computer system that are deemed by the Director of Finance as necessary to operate the Division of Taxation. Any purchase made under this division shall be paid from the annual appropriations made for that purpose.

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; Committees on Legislation, Finance.

Ord. No. 1923-07.

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

An emergency ordinance to vacate a portion of West 5th Street and a portion of Houston Avenue S.W.

Whereas, under Resolution No. 829-06, adopted May 15, 2006, this Council declared its intention to vacate a portion of West 5th Street and a portion of Houston Avenue S.W.; and

Whereas, notice of the adoption of the above vacation was served on the abutting property owners affected by the resolution which stated a time and place when objections would be heard before the Board of Revision of Assessments; and

Whereas, on May 29, 2006, the Board of Revision of Assessments approved the above vacation under the provisions of Section 176 of the Charter of the City of Cleveland; and

Whereas, this Council is satisfied that there is good cause for vacating a portion of the above and that it will not be detrimental to the general interest and that it should be made; 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 following described real property is vacated:

A portion West 5th Street Vacation

Being all that portion of West 5th Street (40' wide) and its Westerly turnout extending Southerly from the Southerly line of Marquardt Avenue S.W. (33' wide) to the Northerly limited access line of the Interstate 480 Freeway.

A portion Houston Avenue S.W. Vacation

Being all that portion of Houston Avenue S.W. (40' wide) and its turn-outs extending Easterly from the Easterly line of West 5th Street to a point which is 105 feet from the centerline of West 5th Street as shown in Volume 134, Page 36 of Cuyahoga County Map Records.

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

Section 2. That there is reserved to the City of Cleveland an easement of full width as described above for Dominion East Ohio Gas, SBC/AT&T, and Water Pollution Control.

That no structures shall be erected on the premises described in this easement except those constructed under the approval of, and in compliance with, plans approved by Dominion East Ohio Gas, SBC/AT&T, Water Pollution Control and the City of Cleveland.

Section 3. That provided all required approvals have been obtained, the Commissioner of Engineering and Construction is directed to record the vacation plat in the office of the Recorder of Cuyahoga County.

Section 4. That the Clerk of Council is directed to transmit a copy of this ordinance to the Auditor of Cuyahoga County.

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. 1924-07.

By Council Members Zone and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to employ one or more professional consultants to prepare a technical and financial feasibility study to analyze the proposed construction of a waste-to-energy facility at the Ridge Road Transfer Station; and authorizing the director to apply for and accept grants and gifts from public and private entities to assist with the study.

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 Utilities 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 prepare a technical and financial feasibility study to

analyze the proposed construction of a waste-to-energy facility at the Ridge Road Transfer Station.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Utilities from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Utilities 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 Utilities, and certified by the Director of Finance.

Section 2. That the Director of Public Utilities is authorized to apply for and accept grants and gifts from public and private entities for the purpose of assisting with the funding of the study authorized above. The Director is further authorized to file all papers and execute all documents necessary to receive the funds accepted under this ordinance and, on accepting the funds by the Director, they shall be appropriated for the purposes of this ordinance.

Section 3. That the cost of the contract or contracts authorized shall be paid from Fund No. 58 SF 001 and from the fund or funds to which are credited the grant and gift proceeds accepted under this ordinance, Request No. 168980.

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 Public Utilities, Finance, Law; Committees on Public Utilities, Finance.

Ord. No. 1925-07.

By Council Members Zone and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to enter into one or more agreements with The Cleveland Electric Illuminating Company regarding the acquisition of its street lighting system in the City of Cleveland and related issues.

Whereas, the efficient maintenance and repair of the street lights in the City of Cleveland is essential to the health, safety, and welfare of the City's residents; and

Whereas, approximately two-thirds of the City's street lights are owned and serviced by Cleveland Public Power and the remaining third are owned and serviced by The Cleveland Electric Illuminating Company (CEI); and

Whereas, CEI has requested the Public Utilities Commission of Ohio to approve proposed changes to the rates and terms of street lighting service that may increase the costs of the service to the City; and

Whereas, CPP's acquisition of the CEI street lights would provide the City with greater control over the

upgrade and maintenance of the street lighting system, improve response time to residents' concerns, eliminate duplication of facilities and services provided by the two utilities, and avoid future increases in CEI's rates and charges; and

Whereas, CPP and CEI have reached agreement on the price and major terms for the sale of the CEI street lighting facilities in the City to CPP; 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 Public Utilities is authorized to enter into an agreement with The Cleveland Electric Illuminating Company (CEI) for the purchase of the poles, mast arms, lighting fixtures, and appurtenances of the CEI street lighting system in the City of Cleveland by the Division of Cleveland Public Power, Department of Public Utilities, for a price not to exceed \$4,000,000.

Section 2. That the agreement shall require CEI to charge the City a street lighting standard rate that reflects the ownership and maintenance responsibilities of CPP.

Section 3. That in any area of the City where CPP extends its distribution lines, CPP may remove the street lights and poles formerly owned by CEI and replace such facilities with CPP street lighting facilities.

Section 4. That the Director of Public Utilities is authorized to enter into one or more agreements with CEI to address operations issues that arise from the transition of ownership from CEI to CPP.

Section 5. That the Director of Public Utilities is authorized to enter into agreements with CEI and/or the existing licensees or other occupants of the CEI poles to continue such occupation after the poles are transferred to CPP.

Section 6. That the agreement or agreements authorized by this ordinance shall be prepared by the Director of Law and shall contain such terms and conditions as are acceptable to the Director of Law and the Director of Public Utilities.

Section 7. That the cost of the agreement or agreements authorized by this ordinance shall be paid from Fund No. 58 SF 001.

Section 8. 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 Utilities, Finance, Law; Committees on Public Utilities, Finance.

Ord. No. 1926-07.

By Council Members Zone and Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and

materials to provide snow removal services at various locations, for the Division of Cleveland Public Power, Department of Public Utilities.

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 Utilities 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 labor and materials to provide snow removal services at various locations, 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 Division of Cleveland Public Power, Department of Public Utilities. 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 desired 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. The Director of Public Utilities 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 Utilities 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 168979)

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 Public Utilities 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.

Referred to Directors of Public Utilities, Finance, Law; Committees on Public Utilities, Finance.

Ord. No. 1927-07.

By Council Members Zone and Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of materials and supplies necessary to repair or replace plumbing equipment and lines, including gas lines, and for installation if necessary, for the Division of Cleveland Public Power, Department of Public Utilities.

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 Utilities 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 one or two year period of the necessary items of materials and supplies necessary to repair or replace plumbing equipment and lines, including gas lines, and for installation if necessary, 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 Division of Cleveland Public Power, Department of Public Utilities. 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 Public Utilities 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 Utilities 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 168978)

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 Public Utilities 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.

Referred to Directors of Public Utilities, Finance, Law; Committees on Public Utilities, Finance.

Ord. No. 1928-07.

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

An emergency ordinance determining the method of making the public improvement of performing the Suburban Water Main Renewal Program, years 2008 through 2012, including replacing or rehabilitating water mains and their related apparatus in various suburban communities; authorizing the Director of Public Utilities to enter into one or more public improvement contracts to construct the improvement; authorizing the director to employ one or more professional consultants necessary to design the improvement; and authorizing the director to reimburse any suburban communities that perform water main replacements or rehabilitations.

Whereas, the City of Cleveland, Division of Water, has entered into, and will continue to enter into, Amended Water Service Agreements, Asset Transfer Agreements, and Joint Economic Development Agreements with various suburban communities, which include the transfer of ownership of suburban water distribution assets to the City of Cleveland, as well as obligations related to regional cooperation and tax sharing; and

Whereas, the Division of Water is obligated under the Amended Water Service Agreements to replace and rehabilitate such water distribution assets, which include water mains and appurtenances; 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, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of performing the Suburban Water Main Renewal Program, years 2008 through 2012, including replacing or rehabilitating water mains and their related apparatus in the suburban communities that have signed or will sign the Amended Water Service Agreement with the City of Cleveland (the "Improvement"), for the Division of Water, Department of Public Utilities, by one or more contracts duly let to the lowest responsible bidder or bidders after competitive bidding on a unit basis for the Improvement.

Section 2. That the Director of Public Utilities is authorized to enter into one or more contracts for the making of the Improvement with the lowest responsible bidder or bidders after competitive bidding on a unit basis 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 on a unit basis.

Section 3. That the Director of Public Utilities 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 design and implement the Improvement. The contracts authorized under this section shall each be for a term not to exceed five years.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Utilities from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Utilities 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 Utilities, and certified by the Director of Finance.

Section 4. That the Director of Public Utilities is authorized to reimburse any suburban communities who perform the work and services authorized under this ordinance, and is further authorized to enter into any agreements necessary to effect the reimbursement authorized under this section.

Section 5. That the cost of the contracts authorized shall be paid from Fund Nos. 52 SF 001 and 52 SF 235, and from the funds and subfunds to which are credited the proceeds of the sale of future Water Works revenue bonds, Request No. 169950.

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 Utilities, City Planning Commission, Finance, Law; Committees on Public Utilities, City Planning, Finance.

Ord. No. 1930-07.

By Council Members Kelley and Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of asphalt for runways, taxiways, ramps, and roadways, including labor and materials for repair and installation, if necessary, for the various divisions of the Department of Port Control, for a period of two years, with two one-year options to renew.

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 the period of two years, with two one-year options to renew exercisable by the Director of Port Control, of the necessary items of asphalt for runways, taxiways, ramps, and roadways, including labor and materials for repair and installation, if necessary, 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 deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

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 168410)

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.

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

Ord. No. 1931-07.

By Council Members Brady and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Service to apply for and accept a grant from the Ohio Department of Natural Resources for the 2008 Community Development Grant (Recycle Ohio) Program; authorizing the Director to enter into one or more contracts with various agencies to implement the program; and authorizing one or more contracts for the purchase of materials, equipment, supplies, and services for the program.

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 apply for and accept a grant in the approximate amount of \$100,000 from the Ohio Department of Natural Resources, for the 2008 Community Development Grant (Recycle Ohio) Program, for the purposes in the summary and according thereto; that the Director of Public Service 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.

Section 2. That the summary for the grant, File No. 1931-07-A, made a part of this ordinance as if fully rewritten, including the obligation of the City of Cleveland to provide \$50,000 in cash matching funds from Fund No. 01-400307-639905, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

Section 3. That the Director of Public Service is authorized to enter into an agreement with the Ohio Department of Natural Resources to implement the program.

Section 4. That the Director of Public Service is authorized to enter into one or more contracts with various agencies for the implementation and operation of the program.

Section 5. That the Director of Public Service is authorized to make one or more written contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of the grant term for the necessary items of materials, equipment, supplies, and services necessary for implementation and operation of the grant, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Department of Public Service. Bids shall be taken in a manner which 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 shall determine. Alternate bids for a period less than the specified term may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire grant term.

The cost of the contracts or contracts shall be charged against the proper appropriation account 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 certified by the Director of Finance.

Section 6. 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 7. That the cost of the above authorized contracts shall be paid from the fund or funds to which are credited the grant proceeds accepted under this ordinance and the cash match.

Section 8. 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, Finance, Law; Committees on Public Service, Finance.

Ord. No. 1932-07.

By Council Members Brady and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Service to employ one or more professional consultants for design and construction engineering services for the Kamm's Corner Streetscape project between Puritas Avenue and the Fairview Park bridge; and authorizing the director to accept gifts and donations from public and private entities for this 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 Service 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 for design and construction engineering services for the Kamm's Corner Streetscape project between Puritas Avenue and the Fairview Park bridge.

The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Public Service from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Public Service 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 Service, and certified by the Director of Finance.

Section 2. That the Director of Public Service is authorized to accept cash gifts and donations from public and private entities for the Kamm's Corner Streetscape project. The director is further authorized to file all papers and execute all doc-

uments necessary to receive the funds accepted under this ordinance, and on acceptance of the funds by the director, they shall be appropriated for the purposes described in this ordinance.

Section 3. That the cost of the contract or contracts authorized shall be paid from Fund Nos. 20 SF 364, 20 SF 373, 20 SF 380, 20 SF 383, 20 SF 394, 20 SF 500, 20 SF 506, 20 SF 510, and from the fund or funds to which are credited the cash gifts and donations which are accepted for the purposes described in this ordinance, Request No. 175500.

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 Public Service, Finance, Law; Committees on Public Service, Finance.

Ord. No. 1933-07.

By Council Members Brady and Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of gutter broom sets, coreless tube brooms and gutter brooms for Vac-all type sweepers, for the Division of Streets, 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 term of one year or two years for the necessary items of gutter broom sets, coreless tube brooms and gutter brooms for Vac-all type sweepers in the approximate amount as purchased during the preceding term, purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Streets, 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 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 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.

Section 2. That the cost of the contract or contracts shall be charged

against the proper appropriation account 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 certified by the Director of Finance. (RL 174689)

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 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 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 Public Service, Finance, Law; Committees on Public Service, Finance.

Ord. No. 1934-07.

By Council Members Brady and Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of SSI tack coat, for the Division of Streets, 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 term of one year or two years for the necessary items of SSI tack coat in the approximate amount as purchased during the preceding term, purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Streets, 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 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 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.

Section 2. That the cost of the contract or contracts shall be charged against the proper appropriation account 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 certified by the Director of Finance. (RL 174687)

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 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 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 Public Service, Finance, Law; Committees on Public Service, Finance.

Ord. No. 1936-07.

By Council Members Britt and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2008 Tobacco Control Program.

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 \$15,000, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2008 Tobacco Control Program, for the purposes in the summary and according thereto; 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 the funds are appropriated for the purposes in the summary for the grant.

Section 2. That the summary for the grant, File No. 1936-07-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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 shall deposit the

grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

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 Health, Finance, Law; Committees on Health and Human Services, Finance.

Ord. No. 1937-07.

By Council Members Britt and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from Cuyahoga County Solid Waste District for the 2008 Solid Waste Disposal Program.

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 \$92,314.00, and any other funds that may become available during the grant term from Cuyahoga County Solid Waste District to conduct the 2008 Solid Waste Disposal 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. 1937-07-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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 shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

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 Health, Finance, Law; Committees on Health and Human Services, Finance.

Ord. No. 1938-07.

By Council Members Britt and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2008 Immunization Action Plan Program.

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 \$133,356, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2008 Immunization Action Plan Program, for the purposes in the summary and budget and according thereto; 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 and budget for the grant.

Section 2. That the summary for the grant, File No. 1938-07-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

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 shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

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 Health, Finance, Law; Committees on Health and Human Services, Finance.

Ord. No. 1939-07.

By Council Members Britt and Sweeney (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 2008 Federal AIDS Prevention Program; and to enter into contract with various agencies to implement the program.

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 \$817,656, and any other funds as they become available during the grant term, from the Ohio Department of Health, to conduct the 2008 Federal AIDS Prevention Program, for the purposes in the summary and according thereto; 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 the funds are appropriated for the purposes in the summary for the grant.

Section 2. That the summary for the grant, File No 1939-07-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

Section 3. That the Director of Public Health is authorized to enter into one or more contracts for the implementation of the program as described in the summary contained in the file, payable from the fund or funds to which are credited the grant proceeds accepted under this ordinance with the following agencies, in the following amounts:

<u>Agency</u>	<u>Amount</u>
AIDS Taskforce of Greater Cleveland	\$157,170.00
Antioch Baptist Church - AGAPE Program	62,400.00
Cleveland Treatment Center, Project Safe	132,000.00
Free Clinic of Greater Cleveland	45,600.00
Hispanic UMADAOP	45,300.00
Northeast Ohio Neighborhood Health Services	18,020.00
Planned Parenthood of Northeast Ohio	35,510.00
Recovery Resources	54,000.00
Salvation Army	40,000.00
Regional Advisory Group Support	10,000.00

In addition, the sum of not more than \$103,160.00 is appropriated to the Department of Public Health for administrative costs of implementing this program and the sum of not more than \$114,496.00 is appropriated for the operation of the Disease Intervention Specialist Services Program conducted by the Department.

Section 4. That the Director of Public Health shall have the authority to extend the term of the grant during the grant term.

Section 5. That the Director of Public Health shall deposit the grant accepted under this ordinance into a fund or funds designated by the Director of Finance to implement the program as described in the file and appropriated for that purpose.

Section 6. That this ordinance is declared to be an emergency mea-

sure 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. 1940-07.

By Council Members Johnson and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to accept a cash donation from ParkWorks Inc. to be used towards the improvement of the Gunning Park football field.

Whereas, ParkWorks Inc. has applied for a grant from the NFL Grassroots Program in the amount of \$100,000; 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, in the event ParkWorks Inc. receives the grant from the NFL Grassroots Program, the Director of Parks, Recreation and Properties is authorized to accept a cash donation in the amount of \$100,000 from ParkWorks Inc. to be used towards the improvement of the Gunning Park football field. The Director is further authorized to file all papers and execute all documents necessary to receive the funds accepted under this ordinance, and on acceptance of the funds by the Director, they shall be appropriated for the purposes described in this ordinance.

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 Parks, Recreation and Properties, Finance, Law; Committees on Public Parks, Properties and Recreation, Finance.

Ord. No. 1941-07.

By Council Members Johnson and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to enter into one or more agreements with the Northeast Ohio Regional Sewer District and the State of Ohio to implement the Mill Creek Watershed/Highland Park Golf Course Restoration Project.

Whereas, the State of Ohio has created the Water Pollution Control Loan Fund program (the "Program") to provide loans and other types of funding for the construction of publicly-owned wastewater treatment facilities and the imple-

mentation of non-point source pollution management program; and

Whereas, the Northeast Ohio Regional Sewer District ("NEORSRD") is anticipating applying for funding from the Program to implement the Mill Creek (Cuyahoga River) Watershed/Highland Park Golf Course Stream Restoration Project (the "Project"); and

Whereas, approximately 5,000 feet of Mill Creek and the adjacent stream buffer are owned by the City of Cleveland and runs through a portion of the Highland Park Golf Course; and

Whereas, the NEORSRD can sponsor a qualifying Project to be undertaken by itself or by an entity with the ability to protect and manage the water resource; and

Whereas, the NEORSRD wishes to sponsor the City of Cleveland as a Project partner; and

Whereas, one of the conditions of the State of Ohio's award to the NEORSRD for this Project, is that the owner of the Property must enter into an Environmental Covenant with the State of Ohio and the NEORSRD to, among other things, restore, maintain and protect, in perpetuity, the conservation values associated with the Property; 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 Parks, Recreation and Properties is authorized to enter into a Sponsorship Agreement to allow the NEORSRD to perform restoration and maintenance services as part of the Mill Creek Watershed/Highland Park Golf Course Stream Restoration Project.

Section 2. That the Director of Parks, Recreation and Properties is authorized to enter into an Environmental Covenant with the State of Ohio and the NEORSRD for the purpose of restoring, maintaining, and protecting the conservation values of Mill Creek and the adjacent stream buffer as part of the Mill Creek Watershed/Highland Park Golf Course Stream Restoration Project.

Section 3. That the Director of Parks, Recreation and Properties is authorized to enter into any other agreements or execute any documents necessary to effect the purposes of this ordinance.

Section 4. That the Director of Law will prepare or approve the agreements authorized in this ordinance.

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, Properties and Recreation, Finance.

Ord. No. 1942-07.

By Council Members Pierce Scott and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to enter into one or more contract amendments with various original UDAG loan recipients which have scheduled balloon payments to accept discount prepayments of their UDAG loans.

Whereas, some current recipients of original UDAG loans have requested the opportunity to prepay their original UDAG loans which have scheduled balloon payments at its net present value determined by discounting their loans; and

Whereas, the discount rate which will be used by the City is as follows: for-profit entities will be the Prime Rate identified at the time of borrower's request, plus 1; and not-for-profit entities will be the Prime Rate identified at the time of borrower's request, plus 2; and

Whereas, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, and welfare in that its enactment is a necessary prerequisite to provide immediate assistance to create and preserve additional job opportunities and to advance and promote commercial and economic development in the City of Cleveland; now, therefore,

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

Section 1. That the Director of Economic Development is authorized to enter into one or more contract amendments with various original UDAG loan recipients which have scheduled balloon payments to accept discount prepayments of their UDAG loans.

Section 2. That the Director of Economic Development is authorized to accept, on behalf of the City, discounted prepayments from original UDAG loan recipients which have scheduled balloon payments, to be paid to the City, in an amount equal to the net present value of the loan using the following discount rate: for-profit entities will be the Prime Rate identified at the time of borrower's request, plus 1; and not-for-profit entities will be the Prime Rate identified at the time of borrower's request, plus 2, in full satisfaction of their loans. That the Director of Economic Development is authorized to file all papers and execute all documents necessary to receive the funds under the prepayments.

Section 3. That the contract amendments shall be prepared by the Director of Law.

Section 4. That the Director of Economic Development is authorized to release any and all collateral taken to secure repayments of the loans and to execute all documents necessary to release the collateral. Any release of security instruments shall be prepared and approved by the Director of Law

Section 5. That the Director of Economic Development is authorized to deposit the prepayments into Fund No. 17 SF 006.

Section 6. That this ordinance is declared to be an emergency mea-

sure 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, and Law; Committees on Community and Economic Development, Finance.

Ord. No. 1944-07.

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

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to sell City-owned property no longer needed for public use known as Pennsylvania Playfield to Christian Capital Group, or its designee, for purposes of residential development.

Whereas, the Director of Parks, Recreation and Properties has requested the sale of the City-owned property to Christian Capital Group, or its designee (the "Redeveloper") no longer needed for public use and known as Pennsylvania Playfield, located between Pennsylvania and Zoeter Avenues, East 66th Street to East 70th Street for purposes of residential development; 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, it is found and determined that the following described property is no longer needed for public use:

P. P. No. 106-09-079

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 20 in Zoeter and Decker Subdivision of part of Original One Hundred Acre Lot No. 341, as shown by the recorded plat in Volume 5 of Maps, Page 30 Cuyahoga County Records and being 36 feet front on the Northerly side of Zoeter Avenue, N.E. and extending back 165 feet and 1 inch, as appears by said plat.

P. P. No. 106-09-080

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 19 on Zoeter and Decker's Subdivision of part of Original One Hundred Acre Lot No. 341, as shown by the recorded plat in Volume 5 of Maps, Page 30 of Cuyahoga County Records, and being 36 feet front on the Northerly side of Zoeter Avenue, N.E., and extending back of equal width 165th feet 1 inch, as appears by said plat, be the same more or less, but subject to all legal highways.

P. P. No. 106-09-082

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot No.

17 in Zoeter and Decker's Subdivision of a part of Original Lot No. 341, East Cleveland Township, being 36 feet front on Zoeter Avenue, and 167-2/12 feet deep, as per plat of said Subdivision recorded in the Recorder's office of said Cuyahoga County in Volume 5 of Maps, Page 30 of Cuyahoga County Records, be the same more or less, but subject to all legal highways.

Also subject to zoning ordinances, if any.

P. P. No. 106-09-085

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot No. 35 in L. J. Talbot's Allotment of part of Original One Hundred Acre Lot No. 341, as shown by the recorded plat in Volume 5 of Maps, Page 36 of Cuyahoga County Records as appears by said plat, be the same more or less, but subject to all legal highways.

P. P. No. 106-09-086

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Sublot No. 36 in L. J. Talbot's Allotment of part of Original One Hundred Acre cot No. 341, as shown by the recorded plat in Volume 5 of Maps, Page 36 of Cuyahoga County Records as appears by said plat, be the same more or less, but subject to all legal highways.

P. P. No. 106-09-087

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being the Southerly part of Sublot No. 37 in L.J. Talbot's Allotment of part of Original One Hundred Acre No. 341 as shown by the recorded plat in Volume 5 of Maps, Page 36 of Cuyahoga County Records, and bounded and described as follows:

Beginning at the Northeasterly corner of said Sublot No. 37 and the Southerly line of Pennsylvania Avenue; thence South 70 feet to a point being the Southeast corner of a parcel of land conveyed to Renny Company, May 31, 1955 and recorded in Volume 8290, Page 611 and the principal place of beginning of premises herein, intended to be described: Thence continuing South about 93.4 feet to the Southeasterly corner of said Sublot No. 37; thence Westerly 40 feet to the Southwest corner of said Sublot No. 37; thence Northerly about 93.4 feet to the Southwesterly corner of said parcel of land conveyed to the Renny Company in Volume 6290, Page 611; thence Easterly 40 feet to the principal place of beginning, be the same more or less, but subject to all legal highways.

P. P. No. 106-09-095

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublots Nos. 1 and 2 in L. J. Talbot's Subdivision of part of Original One Hundred Acre Lot No. 341, as shown by the recorded plat in Volume 5 of Maps, Page 52 of Cuyahoga County Records, and bounded and described as follows:

Beginning on the Westerly line of East 70th Street, at the Southeaster-

ly corner of said Sublot No. 21 thence Northerly, along the Westerly line of East 70th Street, 6 feet; thence Westerly, and parallel with the Southerly line of said Sublot No. 2; about 166 feet 8 inches to the Westerly line of said Sublot No. 2; thence Southerly, along the Westerly line of said Sublots Nos. 2 and 1, about 61 feet 5 inches to the Southwesterly corner of said Sublot No. 1; thence Easterly, along the Southerly line of said Sublot No. 1, 80 feet to the Southwesterly corner of land conveyed to John W. and Augusta Martenson by deed dated April 9, 1907, and recorded in Volume 1050, Page 346 of Cuyahoga County Records; thence Northerly along the Westerly line of land so conveyed and along the Westerly line of land so conveyed and along the Northerly prolongation thereof, about 55 feet, 5 inches to the Southerly line of said Sublot No. 2; thence Easterly along the Southerly line of said Sublot No. 2 about 86 feet 5 inches to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

P. P. No. 106-09-130

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublot No. 2 in L.J. Talbot's Subdivision of part of Original One Hundred Acre Lot No. 341, as shown by the recorded plat in Volume 5 of Maps, Page 52 of Cuyahoga County Records, and bounded and described as follows:

Beginning on the Westerly line of East 70th Street, at a point distant 6 feet Northerly, measured along said Westerly line from the Southeast corner of said Sublot No. 2; thence Northerly along the Westerly line of East 70th Street, 6 feet; thence Westerly and parallel with the Southerly line of said Sublot No. 2, 91 feet; thence Northerly and parallel with the Westerly line of East 70th Street, 40 feet 5 inches to the Southerly line of land conveyed to Jennie Granger by deed dated April 2, 1906, and recorded in Volume 1028, Page 118 of Cuyahoga County Records; thence Westerly along the Southerly line of land so conveyed, about 75 feet 11 inches to the Westerly line of said Sublot No. 2; thence Southerly along the Westerly line of said Sublot 46 feet, 5 inches to its intersection with a line drawn Westerly and parallel with the Southerly line of said Sublot, from its place of beginning; thence Easterly and parallel with the Southerly line of said Sublot, about 166 feet, 8 inches 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 for ingress and egress, recorded April 15, 1954, in Volume 8034, Page 290 of Cuyahoga County Records.

P. P. No. 106-09-131

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being Northerly 70 feet of Sublot No. 37 in L.J. Talbot's Allotment of part of Original One Hundred Acre Lot No. 341 as shown by the recorded plat in Vol-

ume 5 of Maps, Page 36 of Cuyahoga County Records, and being 40 feet front on the Southerly side of Pennsylvania Avenue N.E., and extending back 70 feet deep on the Westerly line, 70 feet on the Easterly line and being 40 feet wide in the rear, be the same more or less; but subject to all legal highways.

Reserving, however, from the above described premises hereby granted an easement over the Westerly 7 feet thereof for ingress and egress to the Grantor, her heirs and assigns to freely pass and repass on foot or with vehicle to and fro for the benefit of and is held appurtenant to the rear property on said Sublot No. 37.

Pennsylvania Playfield - Ward 7

Permanent Parcel Numbers 106-08-109, 106-08-107, 106-08-106, 106-08-128, 106-08-099, 106-08-100, 106-08-101, 106-08-102, 106-08-108, 106-08-125, 106-08-104, 106-08-105, 106-08-133, 106-08-103

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublots Numbers 25 thru 32 in C.J. Talbot's Allotment of a part of Original Lot No. 341 as shown by the recorded plat in Volume 5 of Maps, page 36 of Cuyahoga County Records and Sublots Numbers 9 thru 16 in Zoeter's and Decker's Subdivision of a part of Original Lot Number 341 as shown by the recoded plat in Volume 5, Page 30 of Cuyahoga County Records, be the same more or less, but subject to all legal highways.

Section 2. That by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to sell the above-described property to the Redeveloper at a price not less than fair market value as determined by the Board of Control, taking into account all restrictions, reversionary interests and similar encumbrances placed by the City of Cleveland in the deed of conveyance.

Section 3. That the conveyance 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 necessary provisions, including restrictive reversionary interests as may be specified by the Board of Control or Director of Law, which shall protect the parties as their respective interests require and shall specifically contain a provision against the erection of any advertising signs or billboards except permitted identification signs.

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 Parks, Recreation and Properties, City Planning Commission, Finance, Law; Committees on Public Parks, Property and Recreation, City Planning, Finance.

Ord. No. 1945-07.

By Council Members Cleveland, Brady and Sweeney (by departmental request).

An emergency ordinance to amend Section 2 of Ordinance No. 1855-06, passed December 11, 2006, relating to authorizing the Director of Public Service to amend Contract 64009 with Arcadis G & M of Ohio, Inc., formerly known as Arcadis FPS, Inc. to proceed with the final engineering services and Stage III services for the Bessemer Avenue Extension Phase II 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 Section 2 of Ordinance No. 1855-06, passed December 11, 2006, is amended to read as follows:

Section 2. That the cost of the contract amendment shall not exceed \$525,000 and shall be paid from Fund Nos. 20 SF 364, 20 SF 373, 20 SF 380, 20 SF 383, 20 SF 394, 20 SF 496, 20 SF 500, 20 SF 506, **20 SF 510**, from the fund or funds which are credited the Local Project Administration Agreement authorized by Ordinance No. 1666-04, passed November 8, 2004, with the Ohio Department of Transportation, and from the fund or funds to which are credited the proceeds of the sale of future general obligation bonds which are issued for this purpose. (RL Nos. 175071 and 175490)

Section 2. That existing Section 2 of Ordinance No. 1855-06, passed December 11, 2006, 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.

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

Ord. No. 1955-07.

By Council Members Cleveland and Sweeney (by departmental request).

An emergency ordinance to repeal existing Sections 195.01 to 195.10 and 195.99, as amended by various ordinances, relating to admission tax; and to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 195.01 to 195.33 and 195.99, relating to admission tax.

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,

Section 195.01, as amended by Ordinance No. 284-91, passed March 4, 1991;

Section 195.02, as amended by Ordinance No. 1025-A-95, passed June 29, 1995;

Section 195.03, as amended by Ordinance No. 324-92, passed February 24, 1992;

Section 195.04, as amended by Ordinance No. 284-91, passed March 4, 1991;

Section 195.05, as amended by Ordinance No. 2393-02, passed February 3, 2003;

Section 195.06, as amended by Ordinance No. 284-91, passed March 4, 1991;

Section 195.07, as amended by Ordinance No. 1619A-47, passed September 22, 1947;

Section 195.08, as amended by Ordinance No. 284-91, passed March 4, 1991;

Section 195.09, enacted by Ordinance No. 1619A-47, passed September 22, 1947;

Section 195.10, enacted by Ordinance No. 1619A-47, passed September 22, 1947;

Section 195.99(a), enacted by Ordinance No. 2299-47, passed December 1, 1947; and

Section 195.99(b), enacted by Ordinance No. 1619A-47, passed September 22, 1947 are repealed.

Section 2. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 195.01 to 195.33 and 195.99 to read as follows:

CHAPTER 195 ADMISSIONS TAX

Section 195.01 Definitions

As used in this chapter:

(a) "Administrative Rulings" or Rulings mean the Rulings issued by the Commissioner of Assessments and Licenses, upon the request of a taxpayer, interpreting this chapter and the Rules and Regulations. Administrative rulings shall be binding and effective upon issuance as to the taxpayer requesting the Ruling.

(b) "Admission charge" means a charge paid for the right or privilege to enter into a place. Admission charge includes, but is not limited to, a charge made for season tickets or subscriptions. However, if the charge includes rental of property or services it shall be deemed to be an admission charge if so designated, unless the charge is for rental or services and persons who do not use such property or services are admitted free. If a lesser charge is made to persons who do not desire to use the property or services offered, the lesser charge shall constitute the admission charge. The designation of the charge as a rental or service charge shall not be construed to avoid the application of the tax if it is in effect a charge for admission.

(c) "Board of Review" means the board created under Section 191.2501 of the Codified Ordinances of Cleveland, Ohio, 1976.

(d) "City" means the City of Cleveland, Ohio.

(e) "Commissioner" means the Commissioner of Assessments and Licenses of the City.

(f) "Person" means individuals, receivers, assignees, trustees in

bankruptcy, estates, firms, partnerships, joint ventures, corporations, companies, joint stock companies, associations, societies, clubs, state and its political subdivisions, or group or combination of individuals of any form.

With respect to provisions of this chapter that impose or prescribe a penalty, the term "person" shall include the owner of an association, pass-through entity and unincorporated business entity and the officer of a corporation.

(g) "Place" includes, but is not limited to, indoor and outdoor theaters, dance halls, amphitheaters, auditoriums, stadiums, athletic pavilions and fields, baseball and athletic parks, circuses, side shows, swimming pools, outdoor amusement parks and observation towers and all other similar places.

(h) "Revised Code" means the codified statutes of the State of Ohio, as amended.

(i) "Rules and Regulations" means the Rules and Regulations adopted by the Commissioner of Assessments and Licenses.

(j) "Taxpayer" means the person charged by this chapter with the duty of collecting and remitting the tax levied and imposed under this chapter.

Section 195.02 Tax Levied

To provide funds for the purposes of general municipal operations, procurement of fixed assets or permanent improvements including the payment of costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping or furnishing facilities by contract, lease, lease-purchase, or otherwise, and including the improvement of the municipal stadium by cooperative arrangements with other political subdivisions or nonprofit corporations, payment of lease rentals, lease-purchase amounts, debt charges or other obligations, the administration of deficits in City funds and for all other lawful purposes, there is hereby levied and imposed upon every person who pays an admission charge to any one place:

(a) A tax of eight percent (8%) on the amounts paid for admission to any place, including admission by season ticket or subscription. The tax shall apply to every admission within the City for which a charge is made, notwithstanding that the sale of the ticket or other evidence of right of admission thereto is made outside of the City.

(b) A tax of eight percent (8%) on the excess of the amounts paid for tickets or cards of admission to theaters, operas and other places of amusement, sold at newsstands, hotel and places other than the ticket offices of such theaters, operas or other places of amusement, over and above the amounts representing the established price therefor at such ticket offices, such tax to be returned and paid in the manner provided in Section 195.04 by the person selling the ticket.

(c) A tax of eight percent (8%) on the amount paid for admission to any public performance for profit at any roof garden, cabaret or other similar entertainment in case the

charge for admission is in the form of a service charge, cover charge or other similar charge.

(d) A tax of eight percent (8%) on the amount paid as annual membership dues by every club or organization maintaining a golf course, and a tax of eight percent (8%) on greens fees paid to golf courses either under club or private ownership.

(e) A tax of six percent (6%) on the amount paid for admission to any museum on land leased by the City and subject to tax pursuant to division (b)(2) of Section 195.03.

Section 195.03 Exemptions from Tax

(a) No tax shall be levied under this chapter with respect to any admission all the proceeds of which inure:

(1) Exclusively to the benefit of religious, educational or charitable institutions, societies or organizations; societies or organizations for the prevention of cruelty to children or animals or societies or organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, or of improving any municipal corporation, or of maintaining a cooperative or community center, moving picture theater, or swimming pool, if no part of the net earnings thereof inure to the benefit of any private stockholder or individual.

(2) Exclusively to the benefit of persons in the military or naval forces of the United States, or of National Guard organizations, reserve officer associations or posts or organizations of war veterans or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units or societies are organized in the State, and in no part of their net earnings inure to the benefit of any private stockholder or individual.

(3) Exclusively to the benefit of members of the police or fire departments of any municipal corporation, or the dependents or heirs of such members.

(4) Exclusively to the benefit of the general revenue fund of any municipal corporation or exclusively to the benefit of any fund of any municipal corporation under the control of a recreation commission.

(b) (1) The exemption from tax provided by this section shall, however, not be allowed in case of admissions to wrestling matches, prize fights or boxing, sparring or other pugilistic matches or exhibitions, unless exclusively for the benefit of those organizations set forth in division (a)(2) of this section, nor in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any high school, academy, preparatory or other school or wholly or partly to the benefit of any college or university.

(2) The exemption from tax provided by division (a)(1) of this section shall, however, not be allowed in case of admissions to museums located on land leased by the City pursuant to a lease agreement entered into after August 21, 1991.

(c) Immediately after the event for which an exemption from admission tax has been allowed, upon the demand of the Commissioner of Assessments and Licenses, the treasurer of the institution, society or organization for whose benefit such event was held shall file an itemized statement with the Commissioner setting forth the amount of money actually received by such treasurer together with the expenses of promoting and conducting such event. Such statement shall be used as a basis of subsequent requests for exemption from admissions tax for the benefit of such institution, society or organization. If such statement shows a disproportionate expenditure for promoting and conducting such event, in relation to the profits, if any, no such exemption shall thereafter be allowed to such institution, society or organization.

(d) The exemption from tax provided in this section shall not be allowed to any institution, society or organization which does not control the sale of admissions to the event for which the exemption is requested, nor shall any exemption be allowed where talent, services or other items are compensated for on a percentage basis if such percentage results in a payment in excess of the flat rate ordinarily charged for the same talent, services or other items.

(e) The limitation contained in this section, upon the exemption from tax in case of admissions to wrestling matches, prize fights or boxing, sparring or other pugilistic matches or exhibitions, shall not be deemed to apply to any such matches or exhibitions in which all the contestants are amateurs and the entire proceeds thereof are devoted to a legitimate charitable purpose, excepting therefrom the necessary expenses, which shall in no event include payment to any contestant other than his necessary traveling expenses.

(f) Notwithstanding anything else in this chapter to the contrary, no tax shall be levied under this chapter with respect to any admission to the indoor arena facility (the "Gateway Arena") constructed by Gateway Economic Development Corporation of Greater Cleveland ("Gateway") pursuant to that certain Agreement Relating to Ownership, Financing, Construction and Operation of a Sports Facility and Related Economic Development Projects, dated as of November 7, 1990, as amended by the First Amendment as authorized by Ordinance No. 325-92 (the "Three-Party Agreement"), between the City, Gateway, and the County of Cuyahoga, Ohio (the "County"), provided, however, that the exemption provided by this division (f) shall apply and be effective only as long as there are outstanding any Arena Bonds to which reference is made in the Cooperative Agreement between the City and County authorized by Ordinance No. 327-92 (the "Cooperative Agreement") (such Bonds being hereinafter referred to as the "Arena Bonds") and only if and as long as the following conditions are met and shall have been certified to be met

by the Director of Law to the Commissioner of Assessments and Licenses:

(1) Gateway shall pay or shall cause the lessees or operators of the Gateway Arena to pay to the Trustee (the "Trustee") for the holders of the Arena Bonds amounts equal to the taxes that would have been levied under Section 195.02 but for the exemption provided by this division (f) at the times and in the manner that such taxes would have been payable under this chapter. In computing the amount payable pursuant to this division (f)(1), the admission charges for admissions to the Arena shall be deemed to be net of the amount payable pursuant to this division (f)(1).

(2) The County shall, in its trust agreement or a related agreement with the Trustee, require the Trustee:

A. to retain each Bond Year as defined in the Cooperative Agreement from the amounts paid to the Trustee pursuant to division (f)(1) of this section to secure payments with respect to the Arena Bonds as provided in the Cooperative Agreement, an amount up to the sum of: (a) three percent (3%) of all admissions charges for admissions to the Gateway Arena during the related Collection Year as provided in the Cooperative Agreement for: basketball games played by the Cleveland Cavaliers at the Gateway Arena during each basketball season (including divisional, conference and championship play-off games); pre-season or exhibition basketball games played by said Cavaliers at the Gateway Arena and the NBA All-Star Game and any other event held at The Gateway Arena in which professional basketball players participate (collectively, "Games"), plus (b) in the event that the City increases the taxes payable under this Chapter from 6% to a higher rate, the percentage equal to such increase times all admissions charges for all admissions during such Collection Year to the Gateway Arena for Games, and plus (c) in the event that the City increases the taxes payable under this Chapter from 6% to a higher rate, the percentage equal to such increase times all admissions charges for all admissions during such Collection Year to the Gateway Arena for any events other than Games.

B. to release and pay to the City at the end of each Bond Year any of such amount described in division (f)(2)(A) above not used or needed for such purpose during such Bond Year, together with any investment income earned thereon, and

C. to pay any such amounts in excess of the amount described in division (f)(2)(A) above directly to the City at the end of each Bond Year, together with any investment income earned thereon.

(3) Gateway shall prepare and submit to the Director of Finance of the City and the Clerk of City Council, or cause the preparation and submission to the Director of Finance of the City and the Clerk of City Council of, such returns and reports regarding the amounts paid to the Trustee pursuant to division

(f)(1) of this section as the Directors of Law and Finance shall reasonably require to demonstrate Gateway's compliance with this section.

(4) Gateway shall agree to repay or cause to be repaid to the City from Gateway's future excess revenues any moneys paid to the Trustee pursuant to division (f)(2)A. of this section actually applied to the payments with respect to the Arena Bonds with interest and on such other terms and in such form as are consistent with Gateway's obligations under the trust indentures and related agreements securing Gateway's bonds and the Arena Bonds and as the City's Director of Finance and Director of Law deem acceptable in the interests of the City.

(5) Gateway shall make or cause to be made such other assurances and commitments as the City's Director of Finance and Director of Law deem necessary, and appropriate to protect the City's entitlements under this division (f) and provide copies of such other assurances and commitments to the Clerk of the Council.

Section 195.04 Collection of Tax, Monthly Reports, Payment of Tax

(a) Every person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed by Section 195.02 from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust for the benefit of the City and deemed to be trust funds in the hands of the person required to collect the tax until all such tax collected is paid to the Commissioner of Assessments and Licenses as herein provided. Any person required to collect the tax imposed under this chapter who fails, refuses or neglects to collect the tax, or having collected the tax, fails, refuses or neglects to remit the tax to the Commissioner in the manner prescribed by this chapter and the Rules and Regulations, whether such failure, refusal or neglect is the result of his own act or the result of acts or conditions beyond his control, shall nevertheless be personally liable to the City for the amount of such tax, whether or not such tax has been collected.

(b) (1) The tax imposed by this chapter shall be collected at the time the admission charge is paid by the person seeking admission to any place and shall be reported and remitted by the person receiving the tax to the Commissioner in monthly installments and remittances therefor on or before the thirtieth day of the month next succeeding the end of the monthly period in which the tax is collected or received. Payment or remittance of the tax collected may be made by check, unless payment or remittance is otherwise required by the Commissioner, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Commissioner, unless the check is honored and is in the full and correct amount. The person receiving any

payment for admissions shall make out a return upon such forms prescribed by or acceptable to the Commissioner and set forth such information as the Commissioner may require, showing the amount of the tax collected upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the Commissioner with a remittance for the amount of tax due.

(2) The Commissioner may in his discretion require verified annual returns from any person receiving admission payments setting forth such additional information as he may deem necessary to determine correctly the amount of tax collected and payable. Whenever any theater, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Commissioner shall be judge, the Commissioner may require the report and remittance of the admission tax immediately upon the collection of the tax, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions or at such other times as the Commissioner shall determine. Failure to comply with any requirement of the Commissioner as to report and remittance of the tax shall be a violation of this chapter.

Section 195.05 Assessments of Tax

(a) Except as otherwise provided in division (b), no assessment shall be made or issued against any person charged with the duty of collecting, receiving and remitting the tax levied and imposed under this chapter, more than three (3) years after the return date for the period in which the admission charge was paid, or more than three (3) years after the return for such period is filed, whichever is later.

(b) Where the taxpayer fails to file any report or return required by this section; files a fraudulent report or return; or where the Commissioner has evidence that admissions tax collected have not been remitted to the City, no assessment shall be made more than six (6) years after the return date for the period, in which the admission charge was paid, or more than six (6) years after the return for such period is filed, whichever is later.

Section 195.06 Price to be Marked on Ticket

The price, inclusive of any federal and city tax, at which every admission ticket or card is sold shall be conspicuously and indelibly printed, stamped or written on the face or back of that part of the ticket which is to be taken up by the management of the theater, opera, or other place of amusement, together with the name of the vendor if sold other than at a ticket office of the place of amusement.

Section 195.07 Form and Content of Return

The admissions tax return shall be filed by the person receiving payment of any admission charge with

the Commissioner on a form prescribed by the Commissioner, setting forth:

(a) The aggregate amounts of all admissions paid by persons seeking admission to any place for the end of the monthly period in which the tax is collected and received;

(b) The total tax imposed by this chapter for the end of the monthly period in which the tax is collected and received; and

(c) Such other pertinent statements, schedules, records or information as the Commissioner may require to correctly determine the amount of tax collected and due.

Section 195.08 Amended Returns

Where necessary an amended return shall be immediately filed in order to report additional admission received but not reported and additional tax due. Such amended return shall be on a form prescribed by the Commissioner.

Section 195.09 Payment of Tax on Filing of Return

Persons filing returns required by this chapter shall, at the time of the filing thereof, pay to the Commissioner the total amount of tax shown as due thereon.

Section 195.10 License and Certificate of Registration Required; Application

Any person conducting or operating any place for entrance to which an admission charge is made shall, prior to the commencement of any such activity, and on a form prescribed by the Commissioner make application to and procure from the Commissioner a license to conduct such amusement, entertainment or exhibition, etc. and a certificate of registration. No person who is the owner, lessee or custodian of any building, lots, or place where an amusement, entertainment, exhibition, etc. shall take place with the City and to which an admission shall be paid, shall allow any such activity to occur without first obtaining a license and certificate of registration therefor as provided in this Section. An application for the license and certificate of registration required under this Section shall be made on forms prescribed by the Commissioner and shall be made whether or not the person conducting the activity has received an exemption from collecting the admissions tax under Section 195.03. The license and certificate of registration or duplicate original copies thereof to be issued by the Commissioner, shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.

Section 195.11 Certificate of Registration for Temporary Amusement

Whenever a certificate of registration is obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition by persons who are not the owners, lessees or custodians of the building, lots or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 195.04 by

the owner, lessee or custodian, unless paid by the person conducting the place. The applicant for a license and certificate of registration for such purpose shall furnish with the application the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted. Such owner, lessee or custodian shall be notified by the Commissioner of the issuance of such certificate and shall be jointly and severally liable with the person conducting the temporary or transitory amusement, entertainment, exhibition, etc. for collection and remittance of the admissions tax levied under Section 195.02 of this chapter.

Section 195.12 Authority to Make and Enforce Rules and Regulations

(a) The Commissioner is charged with the enforcement of the provisions of this chapter including the interpretation and enforcement of the Rules and Regulations adopted hereunder and is hereby empowered, subject to the approval of the Board of Review, to adopt and to enforce rules and regulations relating to any matter or thing pertaining to the collection of admissions tax and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns. A copy of such rules and regulations shall be published in the City Record at least once before they become effective. Copies shall be printed and made available in the office of the Commissioner.

(b) The Commissioner is hereby empowered to issue Administrative Rulings interpreting this chapter and the Rules and Regulations. Such Administrative Rulings shall be binding and effective upon issuance as to the taxpayer requesting such Ruling, and shall be made available for public inspection in a redacted form. No Administrative Ruling shall be issued unless request therefor is made in writing to the Commissioner.

Section 195.13 Receipt and Records of Tax

The Commissioner shall collect and receive the tax imposed by this chapter in the manner prescribed herein from taxpayers, keep an accurate record thereof, and report all monies so received.

Section 195.14 Enforcement of Collection

The Commissioner shall enforce payment of all admissions tax owing to the City, keep accurate records for a minimum of six (6) years, showing the amount due from each taxpayer required to file and make any return and show the dates and amounts of payments thereof.

Section 195.15 Effective Date

The tax levied and imposed pursuant to this chapter shall be collected and paid on and after April 1, 1991.

Section 195.16 Board to Approve Regulations and Hear Appeals; Right to Appeals

Except as otherwise provided in Section 195.12, all Rules and Regu-

lations and amendments or changes thereto, which are adopted by the Commissioner under the authority conferred by this chapter, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any Administrative Ruling issued by the Commissioner.

In accordance with procedures established by the Board of Review, any person dissatisfied with any Administrative Ruling issued by the Commissioner of Assessments and Licenses that is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty (30) days from the issuance of such Ruling. The Board shall, upon hearing, have jurisdiction to affirm, reverse or modify any such Administrative Ruling, or any part thereof. Such appeal shall be deemed filed when postmarked by the United States Postal Service or the date of receipt recorded by authorized delivery service as defined in Section 5703.056 of the Revised Code. Appeals otherwise delivered to the Commissioner during normal business hours shall be deemed filed on the date received.

Any person and/or the Commissioner of Assessments and Licenses may appeal decisions of the Board of Review to a court of common pleas as provided by law.

Section 195.17 Confidential Nature of Information; Disclosure of Returns, Return Information and Reports

(a) Any information gained as a result of returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential and no person shall disclose such information except in accordance with a proper judicial order or in connection with the performance of that person's official duties or the official business of the City as authorized by this chapter.

(b) The Commissioner of Assessments and Licenses may furnish copies of returns filed under this chapter to the Internal Revenue Service and to the State Tax Commissioner.

Section 195.18 Interest on Unpaid Tax

All admissions tax imposed by this chapter, remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1-1/2%) per month or fraction thereof from the date that the tax became due until paid.

Section 195.19 Penalties on Unpaid Tax

In addition to interest as provided in Section 195.18, penalties are hereby imposed on all admissions tax remaining unpaid from the date that the tax became due until paid as follows:

(a) For failure to pay admissions tax due: one and one-half percent (1-1/2%) of such outstanding tax per month or fraction thereof that the tax remains outstanding;

(b) For failure to file monthly tax returns or other reports under this chapter by the due date or for failure to file an annual report when required by the Commission-

er, twenty-five dollars (\$25.00) for each such return or report not timely filed; and

(c) For failure to remit admissions tax collected or required to be collected, ten percent (10%) per month or fraction thereof that the unremitted tax remains outstanding.

Section 195.20 Additional Penalties

In addition to any other penalty imposed by this chapter, the following penalties shall be imposed:

(a) If a taxpayer files what purports to be a report required by this chapter that does not contain information upon which the substantial correctness of the report may be judged or contains information that on its face indicates that the report is substantially incorrect, and the filing of the report in that manner is due to a position that is frivolous or a desire that is apparent from the report to delay or impede the administration of the tax levied by this chapter, a penalty of five hundred dollars shall be imposed.

(b) If a taxpayer makes a fraudulent attempt to evade the reporting or payment of the tax required to be shown on any report or return required under this chapter, a penalty of one thousand dollars or one hundred percent of the tax required to be shown on the report, whichever is greater, shall be imposed.

(c) If a taxpayer makes a false or fraudulent claim for refund under this chapter, a penalty of one thousand dollars or one hundred percent of the claim, whichever is greater, shall be imposed.

Section 195.21 Exceptions to Penalties

Interest and penalties shall not be assessed on an additional tax assessment made by the Commissioner when an admissions tax return has been filed in good faith and the tax due thereon has been paid within the time prescribed by Section 195.04 provided that, the additional tax assessment is paid within the time prescribed by the Commissioner. Failure to pay the additional tax assessment within the time prescribed by the Commissioner shall result in interest and penalty assessments on the additional tax assessment remaining unpaid.

Section 195.22 Abatement of Interest and Penalty

Upon recommendation of the Commissioner, the Board of Review may abate penalty. Or, upon a written appeal by the taxpayer upon the refusal of the Commissioner to recommend abatement of penalty, interest, or both, the Board may nevertheless abate penalty or interest, or both, for reasonable cause shown.

The Rules and Regulations may authorize the Commissioner to abate penalty, interest, or both, for reasonable cause shown.

Section 195.23 Limitation of Prosecution

Except as otherwise provided in this Section, prosecutions for an offense made punishable under this chapter shall be commenced within three (3) years after commission of the offense.

In the case of fraud, failure to pay or remit tax due, failure to file a return, substantial understatement and omission of tax due, no limitation on prosecution shall apply.

Section 195.24 Unpaid Taxes Recoverable as Other Debts

All taxes imposed by this chapter shall be collectible, together with any interest and penalties thereon, as other debts of like amount are recoverable, including, but not limited to, collection by suit. Any suit shall be brought within three (3) years after the admissions tax was due or the return was filed, whichever is later. Except in the case of fraud, substantial understatement and/or omission of twenty-five (25%) or more of admissions tax required to be reported, or of failure to file a return, no additional assessment shall be made after three (3) years from the time the admissions tax was due or the tax return was filed, whichever is later.

Section 195.25 Claims for Credit or Refund of Tax Paid

(a) When, pursuant to this chapter, a person charged with collecting the tax levied under this chapter has paid such collected tax to the Commissioner, if such person refunds to a consumer the admission upon which the tax levied under this chapter has been paid, such person may request a refund or credit of the amount of admissions tax so refunded. If a person charged with collecting the tax levied under this chapter has erroneously paid to the Commissioner an amount in excess of the admissions tax due based on the total admissions reported during a monthly reporting period, such person may request a refund or credit of the amount of admissions tax erroneously paid.

(b) No credit for the tax refunded or overpayment of tax shall be made unless such claim for credit is made in writing and filed with the Commissioner within three (3) years from the date on which such refund was made or in the case of overpayment, within three (3) years from the date on which such payment was made or the return was due, whichever is later, on a form prescribed by the Commissioner. Upon the filing of an application for refund or credit, the Commissioner shall determine the amount of refund or credit to which the applicant may be entitled and may require any such information and documentation as he deems necessary in making that determination.

(c) No interest shall be paid on any tax refunded or credited overpayment.

(d) In the event any person who is entitled to a refund or credit is indebted to the City for any tax or fee administered by the Commissioner that is paid to the City, or any charge, penalty or interest arising from such a tax or fee, the amount refundable shall first be applied in satisfaction of that debt. If the amount refundable is less than the amount of the debt, it may be applied in partial satisfaction of the debt. If the amount refundable is greater than the amount of the debt, the amount remaining after

satisfaction of the debt shall be credited as provided in this Section. If the person has more than one such debt, any debt subject to Sections 195.04 and 195.22 dealing with personal liability for admissions tax owed shall be satisfied first.

Section 195.26 Authority to Determine Amount of Tax Due

If a person whose duty it is to collect and pay the tax imposed by this chapter shall neglect or refuse to file any return required by this chapter, or having tendered a return shall neglect or refuse to pay the amount of tax imposed by this chapter as shown by such return, the Commissioner shall make an estimated assessment of the probable amount of the tax payable by the delinquent to which shall be added a penalty of ten percent (10%) of the amount assessed. The Commissioner shall promptly thereafter give or send by regular U.S. mail notice of such estimated assessment and penalty to the person against whom the same shall have been made.

Section 195.27 When Taxes by Assessment are Due and Payable

All taxes and penalties resulting from any assessment made by the Commissioner shall be due and payable fifteen (15) days after notice thereof is given or sent by regular U.S. mail to the person against whom such assessment shall have been made.

Section 195.28 Investigations

The Commissioner, or any authorized agent, representative or employee, is hereby authorized to examine the books, papers, records and other information of any person subject to, or whom the Commissioner believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every person is hereby directed and required to furnish within fifteen (15) days upon written request by the Commissioner, or his duly authorized agent, representative, or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

Section 195.29 Authority to Compel Production of Records

The Commissioner is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any tax which was or should have been reported for admissions tax purposes or any transaction tending to affect such tax, and for this purpose may compel the production of books, papers, records and other information and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge pertinent to any inquiry of any admissions paid or admissions tax charged, collected or received or required to have been charged, collected or received.

Section 195.30 Refusal to Produce Records

The refusal to produce books, papers, records and other information, or the refusal to submit to the examination authorized by Section 195.29 by any person charged with the duty of charging, collecting and remitting the tax or presumed to be charged with the duty of charging, collecting and remitting the tax, or by any officer, agent or employee of a person subject charged with such duty, or the failure of any person to comply with the provisions of Section 195.29 or with an order or subpoena of the Commissioner authorized hereby, shall be deemed a violation of this chapter punishable in accordance with Section 195.99.

Section 195.31 Taxpayer Required to Retain Records

Every person responsible for collecting and remitting the admissions tax imposed under this chapter shall retain all records necessary to compute the admissions tax liability for a period of five (5) years from the date the admissions tax return is filed or the admissions tax is paid, whichever is later.

Section 195.32 Declaration of Legislative Intent

If any sentence, clause, section or part of this chapter, or any tax imposed against or exemption from collecting tax granted to any person is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

Section 195.33 Collection of Tax after Termination of Chapter

This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions and proceedings for collecting any tax so levied or enforcing any provisions of this chapter is concerned, it shall continue effective until all of the taxes levied in the aforesaid period are fully paid and any and all prosecutions for the collection of taxes or for the punishment of violations of this chapter have been fully terminated, subject to the conditions and limitations contained in Sections 195.05, 195.23 and Section 195.99.

Returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 195.04, 195.08, 195.09 and 195.27, as though the same were continuing.

Section 195.99 Violation; Penalty

(a) Whoever, being a person charged by this chapter with the duty of collecting and remitting the taxes imposed by this chapter, violates any of the provisions of

this chapter shall be guilty of a misdemeanor of the first degree. Each violation constitutes a separate offense.

(b) Whoever violates Section 195.17 shall be guilty of a misdemeanor of the first degree for each such disclosure. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City who violates Section 195.17 shall be guilty of an offense punishable by immediate dismissal.

(c) For purposes of this section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of such violation.

(d) For purposes of this section, the term "person" shall, in addition to the meaning prescribed in division (f) of Section 195.01, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the admissions tax returns and making the payments of the admissions tax as required by Section 195.04 and Section 195.09.

(e) For purposes of this section, if any corporation, limited liability company, or business trust required to file returns and to remit tax due to the City under this chapter fails for any reason to make the filing or payment, any of its employees having control or supervision of or charged with the responsibility of filing returns and making payments, or any of its officers, members, managers, or trustees who are responsible for the execution of the corporation's, limited liability company's or business trust's fiscal responsibilities shall be personally liable for the failure. The dissolution, termination, or bankruptcy of a corporation, limited liability company, or business trust shall not discharge a responsible officer's, member's, manager's, employee's, or trustee's liability for a failure of the corporation, limited liability company, or business trust to file returns or remit tax due. The sum due for the liability may be collected by assessment in the manner provided in Section 195.05 of this chapter.

(f) For purposes of this section, if any person liable for the tax levied and imposed pursuant to this chapter, sells his place of business where any admissions subject to tax was collected and received or required to be collected and received, the tax, interest and penalty imposed by this chapter shall become due and payable immediately within fifteen (15) days after the date of selling or quitting such business. Any successor owner shall withhold a sufficient amount of the purchase money to cover the amount of taxes, interest and penalties due and unpaid until the former owner produces evidence demonstrating that the taxes, inter-

est and penalties have been paid. If the purchaser of the business fails to withhold purchase money, he shall be personally liable for the payment of the taxes, interest and penalties accrued and unpaid during operation of the place by the former owner.

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.

Referred to Directors of Finance, Law; Committees on Legislation, Finance.

FIRST READING EMERGENCY RESOLUTION REFERRED

Res. No. 1929-07.

By Council Member Sweeney (by departmental request).

An emergency resolution supporting the City of Cleveland's membership in ICLEI - Local Governments for Sustainability.

Whereas, ICLEI, the International Council for Local Environmental Initiatives, is an international membership association of local governments that have made a commitment to environmental sustainability; and

Whereas, scientific consensus has developed that carbon dioxide and other greenhouse gases released into the atmosphere have a profound effect on the Earth's climate; and

Whereas, in 2006 the U.S. National Climatic data Center confirmed clear evidence of human influences on climate due to changes in greenhouse gases; and

Whereas, the 2001 Third Assessment Report from the International Panel on Climate Change ("IPCC") and the 2000 U.S. Global Change Research Program's ("USGCRP") First National Assessment indicate that global warming has begun; and

Whereas, in 2006 Mayor Frank Jackson signed the U.S. Mayors' Climate Protection Agreement announcing the City of Cleveland's acknowledgment that climate change is real and that the City of Cleveland will make a concerted effort to reduce its contribution to climate change; and

Whereas, the Cities for Climate Protection Campaign (the "Campaign") is ICLEI's hallmark program that engages cities, towns, and counties in efforts to reduce pollution that causes global warming; and

Whereas, the ICLEI has invited the City of Cleveland to join ICLEI and the Campaign; and

Whereas, membership in ICLEI and participation in the Campaign will provide the City with needed software to document the City's carbon footprint, needed technical support by the ICLEI office, access to funding sources and training and by providing this technical support, ICLEI will assist the City of Cleveland's Sustainability Program to identify strategies to reduce the City's carbon footprint; and

Whereas, this resolution constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, or safety in that joining ICLEI will allow the City of Cleveland the opportunity to participate in ICLEI's Cities for Climate Protection Campaign; now, therefore,

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 supports the membership of the City of Cleveland in ICLEI - Local Governments for Sustainability as a full member and participation in the Cities for Climate Protection Campaign to, among other things, promote public awareness about the causes and impacts of climate changes. By participating in the Campaign, the City will inventory and forecast its greenhouse gas emissions, adopt an emissions reduction target, develop and implement an action plan to meet the target, and evaluate, report on progress, and update plans to meet the target.

Section 2. That the Clerk of Council is authorized and directed to forward a certified copy of this resolution to ICLEI - Local Governments for Sustainability.

Section 3. 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 Utilities, Finance, Law; Committees on Public Utilities, Finance.

FIRST READING EMERGENCY ORDINANCES READ IN FULL AND PASSED

Ord. No. 1946-07.

By Council Members Cimperman, Pierce Scott and Sweeney (by departmental request).

An emergency ordinance to amend Section 8 of Ordinance No. 531-07, passed April 23, 2007, relating to purchasing property at 1550 Superior Avenue to develop a transitional housing facility for men, authorizing a purchase agreement with Lake Erie Motel, Inc. for the acquisition of furniture and fixtures; and to authorize the public improvement of renovating the facility at 1550 Superior.

Whereas, under Ordinance No. 531-07, passed April 23, 2007, this Council authorized the purchase of property at 1550 Superior Avenue to develop a transitional housing facility for men, authorized a purchase agreement with Lake Erie Motel, Inc. for the acquisition of furniture and fixtures for the new facility; and authorized the public improvement of renovating the facility at 1550 Superior into a tran-

sitional housing facility for men; and

Whereas, additional modifications are necessary; 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 Section 8 of Ordinance No. 531-07, passed April 23, 2007, is amended to read as follows:

Section 8. That the total aggregate costs of the property acquisition, purchase agreement, rehabilitation and relocation payments authorized shall not exceed **\$2,659,000** and shall be paid from Fund No. 13 SF 929, Request No. 149543.

Section 2. That existing Section 8 of Ordinance No. 531-07, passed April 23, 2007, 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.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1947-07.

By Council Member Sweeney. An emergency ordinance authorizing the Director of Finance to make payment to West Services, Inc. for additional copies of Parts IV and VI of the Codified Ordinances and those supplements for Cleveland City Council.

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 make payment in the amount of \$2,797.00 to West Services, Inc. for additional copies of Parts IV and VI of the Codified Ordinances of the City of Cleveland, and those supplements as supplied to Cleveland City Council. Said payment shall be made from fund numbers 632000-01-010100.

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 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

**FIRST READING EMERGENCY
RESOLUTIONS READ IN FULL
AND ADOPTED**

Res. No. 1943-07.

By Council Member Cimperman.

An emergency resolution declaring this Council's support of the plan by K&D Group to the Cuyahoga County Commercial Redevelopment Fund and the Local Parking Needs Fund for a loan to redevelop commercial structures at 668 Euclid Avenue, 614 Euclid Avenue, and 627 Prospect Avenue, Cleveland, Ohio; and repealing Resolution No. 1831-07, adopted November 12, 2007.

Whereas, K&D Group with the support of the Cleveland Development Advisors is applying for a loan through the Cuyahoga County Commercial Redevelopment Fund and the Local Parking Needs Fund; and

Whereas, this loan is to assist with financing the renovation and adaptive re-use of the William Taylor, Son & Co. Building a.k.a the Atrium Office Plaza structure located at 668 Euclid Avenue and 627 Prospect Avenue, Cleveland, Ohio, Permanent Parcel No(s) 101-27-021 and 101-27-025, and the Dollar Bank building located at 614 Euclid Avenue, Permanent Parcel No. 101-27-024; and

Whereas, the redevelopment plans for the William Taylor, Son & Co. Building a.k.a. the Atrium Office Plaza include renovating the nearly 500,000 square foot building on approximately two acres of land into 215 residential rental units and 66,000 square feet of retail space, and demolition of the Dollar Bank building for parking needs; and

Whereas, this loan would provide financing necessary to fund the redevelopment of the site at an estimated cost of 52 million, and meets the criteria of the redevelopment fund and parking fund; and

Whereas, the K&D Group's redevelopment plan will benefit the citizens of the City by creating an estimated 75 new jobs; 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 hereby declares its support of the plan by K&D Group to the Cuyahoga County Commercial Redevelopment Fund and the Local Parking Needs Fund for a loan to redevelop commercial structures at 668 Euclid Avenue, 614 Euclid Avenue, and 627 Prospect Avenue, Cleveland, Ohio.

Section 2. That the Clerk of Council is hereby directed to transmit two certified copies of this resolution to the Cuyahoga County Board of Commissioners, K & D Group, and the Cleveland Development Advisors.

Section 3. That this Council hereby repeals Resolution No. 1831-07, adopted November 12, 2007.

Section 4. 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 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

Res. No. 1948-07.

By Council Member Brady.

An emergency resolution withdrawing objection to the transfer of ownership of a C1, C2 and D6 Liquor Permit at 3778 West 117th Street, and repealing Resolution No. 1895-07, objecting to said transfer.

Whereas, this Council objected to the transfer of ownership of a C1, C2 and D6 Liquor Permit to Taha Petroleum Corporation, DBA Mini-mart, 3778 West 117th Street, Cleveland, Ohio 44111, Permanent No. 8779010, by Resolution No. 1895-07 adopted by the Council on November 19, 2007; 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 a C1, C2 and D6 Liquor Permit to Taha Petroleum Corporation, DBA Mini-mart, 3778 West 117th Street, Cleveland, Ohio 44111, Permanent Number 8779010 be and the same is hereby withdrawn and Resolution No. 1895-07, 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.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

Res. No. 1949-07.

By Council Member Cleveland.

An emergency resolution withdrawing objections to the transfer of ownership and renewal of a C1 and C2 Liquor Permit at 4818 Pershing Avenue, and repealing Resolution Nos. 1447-07 and 1320-07, objecting to said transfer and renewal.

Whereas, this Council objected to the transfer of ownership of a C1 and C2 Liquor Permit to 4818 Pershing Avenue by Resolution No. 1447-07 adopted by the Council on September 10, 2007 and to the renewal by Resolution No. 1320-07 adopted by the Council on August 8, 2007; and

Whereas, this Council wishes to withdraw its objections to the above transfer and renewal and consents to said transfer and 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 C1 and C2 Liquor Permit to Jatz, Inc., DBA Clark Store, #1272, 4818 Pershing Avenue, Cleveland, Ohio 44127, Permanent Number 4253489, be and the same is hereby withdrawn and Resolution Nos. 1447-07 and 1320-07, containing such objections, be and the same is hereby repealed and that this Council consents to the immediate transfer and 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.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

Res. No. 1950-07.

By Council Member Cleveland.

An emergency resolution withdrawing objection to the renewal of a C2 and C2X Liquor Permit at 2747 Cedar Avenue and repealing Resolution No. 1314-07, objecting to said renewal.

Whereas, this Council objected to a C2 and C2X Liquor Permit to 2747 Cedar Avenue by Resolution No. 1314-07 adopted by the Council on August 22, 2007; and

Whereas, this Council wishes to withdraw its objection 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 objection to a C2 and C2X Liquor Permit to Quasem, Inc., 2747 Cedar Avenue, Cleveland, Ohio 44115, Permanent Number 71337770005 be and the same is hereby withdrawn and Resolution No. 1314-07, containing such objection, be and the same is hereby repealed and that this Council 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.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

Res. No. 1951-07.**By Council Member Cleveland.**

An emergency resolution withdrawing objection to the renewal of a C1, C2 and D6 Liquor Permit at 7515 Kinsman Road, and repealing Resolution No. 1321-07, objecting to said renewal.

Whereas, this Council objected to a C1, C2 and D6 Liquor Permit to 7515 Kinsman Road by Resolution No. 1321-07 adopted by the Council on August 22, 2007; and

Whereas, this Council wishes to withdraw its objection 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 objection to a C1, C2 and D6 Liquor Permit to Rite Beverage, Inc., DBA Kinsman Shoprite, 7515 Kinsman Road, Cleveland, Ohio 44104, Permanent Number 74016270005 be and the same is hereby withdrawn and Resolution No. 1321-07, containing such objection, be and the same is hereby repealed and that this Council 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.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

Res. No. 1952-07.**By Council Member Cleveland.**

An emergency resolution withdrawing objection to the renewal of a C1 and C2 Liquor Permit at 4643 Broadway Avenue and repealing Resolution No. 1319-07, objecting to said renewal.

Whereas, this Council objected to a C1 and C2 Liquor Permit to 4643 Broadway Avenue by Resolution No. 1319-07 adopted by the Council on August 22, 2007; and

Whereas, this Council wishes to withdraw its objection 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 objection to a C1 and C2 Liquor Permit to Salina, Inc., DBA Broadway Deli, 4643 Broadway Avenue, Cleveland, Ohio 44127, Permanent Number 76857450005 be and the same is hereby withdrawn and Resolution No. 1319-07, containing such objection, be and the same is hereby repealed and that this Council 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.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

Res. No. 1953-07.**By Council Member Reed.**

An emergency resolution withdrawing objection to the renewal of a C2 and C2X Liquor Permit at 4025 East 131st Street and repealing Resolution No. 1115-07, objecting to said renewal.

Whereas, this Council objected to a C2 and C2X Liquor Permit to 4025 East 131st Street by Resolution No. 1115-07 adopted by the Council on July 11, 2007; and

Whereas, this Council wishes to withdraw its objection 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 objection to a C2 and C2X Liquor Permit to 4025 East 131st Street Inc., DBA Lucky's Market, 4025 East 131st Street, Cleveland, Ohio 44105, Permanent Number 2850894 be and the same is hereby withdrawn and Resolution No. 1115-07, containing such objection, be and the same is hereby repealed and that this Council 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.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

Res. No. 1954-07.**By Council Member Britt.**

An emergency resolution objecting to the transfer of Liquor License of a C2 Liquor Permit to 2603 Woodhill Road.

Whereas, Council has been notified by the Department of Liquor Control of an application for a transfer of Liquor License of a C2 Liquor Permit from S & R Browns Food Market, Inc., 1st floor and basement, 761 Starkweather Avenue, Cleveland, Ohio 44113, Permanent Number 8459405 to Ibal, Inc., 2603 Woodhill

Road, Cleveland, Ohio 44104, Permanent Number 4118409; 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 transfer of Liquor License of a C2 Liquor Permit from S & R Browns Food Market, Inc., 1st floor and basement, 761 Starkweather Avenue, Cleveland, Ohio 44113, Permanent Number 8459405 to Ibal, Inc., 2603 Woodhill Road, Cleveland, Ohio 44104, Permanent Number 4118409, 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 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

Res. No. 1956-07.

By Council Member Kelley.

An emergency resolution withdrawing objection to the renewal of a D5 Liquor Permit at 3837 Ridge Road and repealing Resolution No. 1330-07, objecting to said renewal.

Whereas, this Council objected to a D5 Liquor Permit to 3837 Ridge Road by Resolution No. 1330-07 adopted by the Council on August 8, 2007; and

Whereas, this Council wishes to withdraw its objection 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 objection to a D5 Liquor Permit to Aizic, Inc., 3837 Ridge Road, Cleveland, Ohio 44144, Permanent Number 0083955 be and the same is hereby withdrawn and Resolution No. 1330-07, containing such objection, be and the same is hereby repealed and that this Council 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.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Adopted. Yeas 18. Nays 0.

SECOND READING EMERGENCY ORDINANCES PASSED**Ord. No. 1033-07.**

By Council Members Cleveland and Sweeney (by departmental request).

An emergency ordinance to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 181.101, relating to purchase or rental of City-wide commodities and services.

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

1. In Section 1, at division (a) of new Section 181.101, line 7, after "estimated amount" insert "**per contract year**"; and in line 8, strike "\$500,000.00" and insert "**\$250,000.00**".

2. In Section 1, at division (a)(13) of new Section 181.101, line 2, after "to," insert "**computers, computer peripherals and appurtenances, office**".

Amendments agreed to.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

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. 1696-07.

By Council Members Brancatelli, Pierce Scott, Cimperman and Sweeney (by departmental request).

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to purchase property for future redevelopment at various locations within Slavic Village, which are not needed for public use, for the Department of Community Development; and authorizing the Commissioner of Purchases and Supplies to convey the property to Slavic Village Development Corporation, or its designee.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1697-07.

By Council Members Westbrook, Pierce Scott, Cimperman and Sweeney (by departmental request).

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to purchase property for future redevelopment at 1305 West 105th Street, which is not needed for public use, for the Department of Community Development; and authorizing the Commissioner of Purchases and Supplies to convey the property to Midwest Housing, Inc., or its designee.

Approved by Directors of Community Development, City Planning Commission, Finance, Law; Relieved of Committee on City Planning; Passage recommended by Committees on Community and Economic Development, Finance; when amended as follows:

1. In the title, line 8, and in the second whereas clause, line 2, strike "Midwest Housing, Inc." and insert "**Cudell Improvement, Inc.**".

Amendment agreed to.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

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. 1729-07.

By Council Members Britt, Pierce Scott, Cimperman and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Community Development to lease certain property located at 8509 Cedar Avenue to InterAct Cleveland, for a term of three years with two one-year options to renew, for purpose of ingress and egress.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1766-07.

By Council Members Pierce Scott and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Economic Development to apply for and accept a grant from LNE & Associates, LLC for the PROES - Building HOPE Program.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1796-07.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Finance, on behalf of the Cleveland Municipal Court, to apply for and accept a grant from the State of Ohio, Office of Criminal Justice Services, for the Victim Liaison Program.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1809-07.

By Council Members Britt and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Mt. Sinai Health Care Foundation for the Making Greater Cleveland Lead Safe Program; to enter into one or more contracts with Lutheran Metropolitan Ministry/Concerned Citizens Organized Against Lead and various agencies, individuals or entities to implement the grant; authorizing the Director to employ one or more professional consultants to provide insurance solutions when rehabilitating properties containing lead; and authorizing the purchase by one or more requirement contracts of materials, equipment, supplies, and services needed for rehabilitating properties.

Approved by Directors of Public Health, Finance, Law; Passage recommended by Committees on Health and Human Services, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1810-07.

By Council Members Britt and Sweeney (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 2008 STD Control Program.

Approved by Directors of Public Health, Finance, Law; Passage recommended by Committees on Health and Human Services, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1811-07.

By Council Members Britt and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Ohio Commission on Minority Health to establish a Local Office on Minority Health; authorizing the purchase by one or more requirement contracts of materials equipment, supplies, and services needed to implement the grant; authorizing the Director to employ one or more professional consultants to provide marketing, education, and awareness services; authorizing the purchase or lease of television and radio advertising time and other media; and authorizing the Director to enter into one or more contracts with various agencies, entities, or individuals to implement the grant.

Approved by Directors of Public Health, Finance, Law; Passage recommended by Committees on Health and Human Services, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1812-07.

By Council Members Britt and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Sisters of Charity Foundation for the Cleveland Baby Basics Initiative Program, under the Moms First Grant; and authorizing the Director to enter into one or more contracts with various agencies, entities, or individuals to implement the grant.

Approved by Directors of Public Health, Finance, Law; Passage recommended by Committees on Health and Human Services, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1813-07.

By Council Members Britt and Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the United States Department of Housing and Urban Development, Office of Healthy Homes and Lead Hazard Control for the Greater Cleveland Lead Partnership Program; authorizing the purchase by one or more requirement contracts of materials, equipment, supplies, and services needed; authorizing the director to enter into one or more contracts without competitive bidding with Thermo Fisher Scientific for the purchase of not to exceed two Niton XRF lead analyzers; and authorizing the Director to enter into one or more contracts with various agencies, entities, or individuals to implement the grant.

Approved by Directors of Public Health, Finance, Law; Passage recommended by Committees on Health and Human Services, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1814-07.

By Council Members Britt and Sweeney (by departmental request).

An emergency ordinance to amend the title and Section 1 of Ordinance No. 1247-07, passed October 22, 2007, relating to a grant from The Sisters of Charity Foundation for the Health Promotion through Health Literacy Program, and implementing contracts.

Approved by Directors of Public Health, Finance, Law; Passage recommended by Committees on Health and Human Services, Finance.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1878-07.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Finance to acquire one or more software licenses and one or more applications for a citywide financial management information system to replace the PeopleSoft financial system; authorizing the director to employ one or more consultants, computer software developers, or vendors or one or more firms of consultants, computer software developers, or vendors necessary for project management, installing, designing, training, implementing, testing, web hosting, other related system issues, and maintenance and technical support; and, authorizing one or more requirement and standard purchase contracts for hardware, software, computer supplies, and other necessary supplies, equipment, and services necessary to implement the financial management information system, for the various divisions of City government, for a period of five years with three one-year options to renew.

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

1. In Section 1, strike lines 7 and 8 in their entirety and insert "system, and other professional services necessary for project"; and in line 11, after "Department of Finance" strike the period and insert " , for a period of five years, with three one-year options to renew. The first of the one-year options to renew may be exercised by the Director of Finance only if additional legislative authority is obtained. If such additional legislative authority is granted, the second and third one-year options to renew shall be exercisable at the option of the Director of Finance, without the necessity of obtaining additional authority of this Council."

2. In Section 2, line 4, strike " , exercisable by the Director of Finance"; in line 9, after "city government," insert "The first of the one-year options to renew may be exercised by the Director of Finance only if additional legislative authority is obtained. If such additional legislative authority is granted, the second and third one-year options to renew shall be exercisable at the option of the Director of Finance, without the necessity of obtaining additional authority of this Council."

Amendments agreed to.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

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. 1879-07.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of janitorial supplies and equipment, for the various divisions of City government.

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

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

Ord. No. 1880-07.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of tele/data communications equipment, supplies, and for installation, repair, and maintenance, for the Division of Information Technology and Services, Department of Finance, for a period of one year, with three one-year options to renew.

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

1. In Section 1, line 4, strike " , exercisable by the Director of Finance"; and in line 10, after "Director of Finance," add "The first of the one-year options to renew shall be exercisable by the Director of Finance. The second one-year option to renew shall not be exercised without additional legislative authority. If such additional legislative authority is granted and the second of the one-year options to renew is exercised, then the third one-year option to renew may be exercisable at the option of the Director of Finance, without the necessity of obtaining additional authority of this Council."

Amendment agreed to.

The rules were suspended. Yeas 18. Nays 0. Read second time. Read third time in full. Passed. Yeas 18. Nays 0.

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. 1881-07.

By Council Member Sweeney (by departmental request).

An emergency ordinance authorizing the Director of Finance to enter into one or more requirement contracts without competitive bidding with AT & T for support, maintenance, installation, design, and repair of data and voice circuits, special circuits, and relocation of demarcation sites, for the various divisions of City government, Department of Finance, for a period not to exceed one year, with four one-year options to renew.

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

1. In Section 1, strike lines 5 and 6 and insert "for the requirements of the necessary items of support,"; and at the end of the section, after "of Finance.", strike the period and insert "for a period not to exceed one year, with four one-year options to renew. The first of the one-year options to renew shall be exercisable by the Director of Finance. The second one-year option to renew shall not be exercised without additional legislative authority. If such additional legislative authority is granted and the second of the one-year options to renew is exercised, then the third one-year option to renew may be exercisable at the option of the Director of Finance. The fourth one-year option to renew shall not be exercised by the Director of Finance without additional legislative authority."

Amendments agreed to.

The rules were suspended. Yeas 18. Nays 0. Read second time, Read third time in full. Passed. Yeas 18. Nays 0.

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

MOTION

By Council Member Kelley, seconded by Council Member Coats, and unanimously carried that the absence of Council Members Fannie M. Lewis, Zachary Reed and Nina Turner, be and is hereby authorized.

MOTION

The Council Meeting adjourned at 7:40 p.m. to meet at 7:00 p.m. on Monday, December 3, 2007 in the Council Chambers.



Emily Lipovan
City Clerk, Clerk of Council

THE CALENDAR

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

NONE

BOARD OF CONTROL

November 21, 2007

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, November 21, 2007, at 10:30 a.m. with Director Triozzi presiding.

Present: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Direc-

tors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Absent: Mayor Jackson.

Others: Jim Hartley, Acting Commissioner, Purchases and Supplies.

Debra Linn Talley, Director, Office of Equal Opportunity.

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

Resolution No. 622-07.

By Interim Director Withers.

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 891-07, passed by the Council of the City of Cleveland on July 11, 2007, Middough Associates, Inc., is selected upon nomination of the Director of Public Utilities from a list of consulting firms determined, after a full and complete canvass by the Director, as the firm to be employed by contract for the purpose of supplementing the regularly employed staff of Cleveland Public Power in order to provide electrical engineering services necessary to perform engineering services on an as-needed basis for the Division of Cleveland Public Power, Department of Public Utilities.

Be it further resolved that the Director of the Department of Public Utilities is authorized to enter into a written contract with Middough Associates, Inc., based upon its proposal dated August 17, 2007, which contract shall be prepared by the Director of Law, shall provide for furnishing of professional services as contained in the proposal, and shall contain the terms and conditions as the Director of Law deems necessary to protect and benefit the public interest.

Be it further resolved that the work shall commence upon the day after expiration of the current contract for electrical engineering services or the date of execution of this contract, whichever occurs later, and shall further provide that the aggregate fee will not be in excess of \$2,000,000.00.

Be it further resolved that the employment of the following subcontractors to Electrical Engineering contract is approved:

Shelton Group	10% — \$200,000.00
EMCOR Group	3% — \$50,000.00

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 623-07.

By Interim Director Withers.

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 890-07, passed by the Council of the City of Cleveland on July 11, 2007, RNR Consulting is

selected upon nomination of the Director of Public Utilities from a list of consulting firms determined, after a full and complete canvass by the Director, as the firm to be employed by contract for the purpose of supplementing the regularly employed staff of Cleveland Public Power in order to provide Inventory Management & Control services necessary to assess inventory practices, the effectiveness of current standard operating procedures and provide recommendations for improvement of inventory processes for the Division of Cleveland Public Power, Department of Public Utilities.

Be it further resolved that the Director of the Department of Public Utilities is authorized to enter into a written contract with RNR Consulting, based upon its proposal dated September 24, 2007, which contract shall be prepared by the Director of Law, shall provide for furnishing of professional services as contained in the proposal, and shall contain the terms and conditions as the Director of Law deems necessary to protect and benefit the public interest.

Be it further resolved that the work shall commence upon execution of the contract and shall further provide that the aggregate fee will not be in excess of \$164,016.00.

Be it further resolved that the employment of the following subcontractors to Inventory Management & Control is approved:

The Partnership (MBE - 20%) — \$33,450
Cloud and Associates LLC (FBE - 7%) — \$11,150

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 624-07.

By Interim Director Withers.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Northeast Ohio Trenching Service, Inc. for the public improvement of Bernard Avenue Sewer Replacement, (Base Bid All Items including the 10% contingency allowance) for the Division of Water Pollution Control, Department of Public Utilities, received on September 20, 2007, under the authority of Ordinance No. 828-07, passed July 11, 2007, upon a unit basis for the improvement, in the aggregate amount of \$278,774. 10 is affirmed and approved as the lowest responsible bid; and the Director of Public Utilities is authorized to enter into contract for the improvement with the bidder.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by Northeast Ohio Trenching Services, Inc. for the above-mentioned public improvement is approved:

<u>SUBCONTRACTOR</u> <u>MBE/FBE</u>	<u>WORK</u>
McTech Corp. MBE	\$30,000.00 (10.76%)
Cook Paving & Construction MBE	\$14,250.00 (5.11%)
Friedel Trucking FBE	\$12,000.00 (4.30%)
LV Surveying FBE	\$ 2,000.00 (.72%)

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 625-07.

By Interim Director Withers.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Northeast Ohio Trenching Service, Inc. for the public improvement of West 89th Street Sewer Replacement, (Base Bid All Items including the 10% contingency allowance) for the Division of Water Pollution Control, Department of Public Utilities, received on September 20, 2007, under the authority of Ordinance No. 830-07, passed July 11, 2007, upon a unit basis for the improvement, in the aggregate amount of \$282,851.80 is affirmed and approved as the lowest responsible bid; and the Director of Public Utilities is authorized to enter into contract for the improvement with the bidder.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by Northeast Ohio Trenching Services, Inc. for the above-mentioned public improvement is approved:

<u>SUBCONTRACTOR</u> <u>MBE/FBE</u>	<u>WORK</u>
McTech Corp. MBE	\$30,000.00 (10.61%)
Cook Paving & Construction MBE	\$15,000.00 (5.30%)
Friedel Trucking FBE	\$13,000.00 (4.60%)
LV Surveying FBE	\$ 2,000.00 (.70%)

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 626-07.

By Director Smith.

Be it resolved by the Board of Control of the City of Cleveland that, under the authority of Ordinance No. 777-07, passed by the Council of the City of Cleveland on June 4, 2007, the firm of KS Associ-

ates, Inc. ("Consultant"), is selected upon the nomination of the Director of Port Control from a list of qualified persons or firms determined after a full and complete canvass by the Director of Port Control as the firm of consultants available to be employed by contract to supplement the regularly employed staff of the several departments of the City to provide professional services necessary to survey real property, rights of way and/or easements, on an as-needed basis, for a period of two years, with two options to renew for additional one year periods, for the various divisions of the Department of Port Control.

Be it further resolved that the Director of Port Control is authorized to enter into a written contract with KS Associates, Inc. for the above-mentioned services, based upon its proposal dated July 27, 2007, which contract shall be prepared by the Director of Law, shall provide that the compensation to KS Associates, Inc. for the services authorized shall not exceed \$115,000.00, and shall contain such other provisions as the Director of Law deems necessary to protect and benefit the public interest.

Be it further resolved by the Board of Control that the employment of the following subconsultants by KS Associates, Inc. is approved:

<u>Subconsultant</u>	<u>Percentage</u> <u>Amount</u>
DLZ Ohio, Inc.	15% - MBE \$17,250.00
L. V. Surveying, Inc.	5.0% - FBE \$ 5,750.00

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 627-07.

By Director Smith.

Whereas, under the authority of Ordinance No. 1656-07, passed by the Council of the City of Cleveland on October 8, 2007, the Commissioner of Purchases and Supplies is authorized by and at the direction of the Board of Control to convey a non-exclusive easement in certain City-owned property, no longer needed for public use, described therein and located at Cleveland Hopkins International Airport to Time Warner Cable, Inc.; and

Whereas, Ordinance No. 1656-07 provided that the consideration to be paid for the easement, at a price not less than fair market value, shall be determined by the Board of Control; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 1656-07, passed by the Council of the City of Cleveland on October 8, 2007, the Commissioner of Purchases and Supplies is hereby directed to convey a non-exclusive easement in City-owned land, no longer needed for public use, described therein and

located at Cleveland Hopkins International Airport to Time Warner Cable, Inc. to install, maintain, operate and repair a cable line from the existing cable line to the midpoint of the south wall of the I-X Center building. The consideration to be paid for the non-exclusive easement is fixed at \$4,500.00, which amount is determined to be not less than the fair market value. The duration of the easement shall be for twenty years after which time the easement shall renew annually, cancelable on ninety days notice; but shall revert to the City if abandoned by Time Warner Cable, Inc.

Be it further resolved that the Director of Port Control is requested to execute and deliver the official deed of the City of Cleveland conveying the easement, which document shall contain such additional terms and conditions as the Director of Law shall deem necessary to protect and benefit the public interest.

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 628-07.

By Director Wasik.

Be it resolved, by the Board of Control of the City of Cleveland that, under the authority of Ordinance No. 904-07 passed by the Council of the City of Cleveland on June 11, 2007 the Commissioner of Purchases and Supplies is directed to convey certain non-exclusive aerial easements, to the Board of Commissioners of Cuyahoga County (the "County") for the purpose of reconstructing, repairing, and maintaining the Triskett Road Bridge.

Be it further resolved, that the Commissioner of Purchases and Supplies is requested to execute and deliver the official deed of the City of Cleveland conveying the easement interest to the County.

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 629-07.

By Director Wasik.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Dodson & Associates, Inc., for the public improvement of the building improvements for the Department of Finance office renovations, base bid, for the Department of Public Service, received on October 18, 2007, under the authority of Ordinance No. 2143-03, passed February 9, 2004, for a gross price for the improvement in the aggregate amount of \$44,287.00 is affirmed and approved as the lowest responsible bidder, and the Director of Public Service is authorized to enter into contract for the improvement with the bidder.

Be it further resolved, by the Board of Control of the City of Cleveland that the employment of

the following subcontractors by Dodson & Associates, Inc. is approved:

<u>Subcontractor</u> <u>MBE/FBE</u>	<u>Amount</u> <u>Percentage</u>
Roman Floors	\$17,799.00 40.20%
LDH Painting	\$ 7,850.00 17.76%
Architectural Floors	\$ 4,654.00 10.51%

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 630-07.

By Director Wasik.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Dodson & Associates, Inc., for the public improvement of the building improvements for the Office of Equal Opportunity office renovations, base bid, and alternate 1, for the Department of Public Service, received on October 18, 2007, under the authority of Ordinance No. 485-07, passed June 11, 2007, for a gross price for the improvement in the aggregate amount of \$21,760.00 is affirmed and approved as the lowest responsible bidder and the Director of Public Service is authorized to enter into contract for the improvement with the bidder.

Be it further resolved, by the Board of Control of the City of Cleveland that the employment of the following subcontractors by Dodson & Associates, Inc. is approved:

<u>Subcontractor</u> <u>MBE/FBE</u>	<u>Amount</u> <u>Percentage</u>
Roman Floors	\$3,899.00 17.92%
LDH Painting	\$2,250.00 10.34%

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 631-07.

By Director Rush.

Whereas, under Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program ("Program") according to the provisions of Chapter 5722 of the Ohio Revised Code; and

Whereas, under the Program, the City has acquired Permanent Parcel No. 119-31-099 located at East 86th Street in Ward 6; 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, James E. Turner, abutting/adjacent landowner, has proposed to the City to purchase and develop the parcel for yard expansion; and

Whereas, the following conditions exist:

1. The member of Council from Ward 6 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 the 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 under 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 requested to execute an Official Deed for and on behalf of the City of Cleveland, with James E. Turner for the sale and development of Permanent Parcel No. 119-31-099 located at East 86th Street, according to the Land Reutilization Program in such manner as best carries out the intent of the program.

Be it further resolved that the consideration for said parcel shall be \$1.00, which amount is determined to be not less than the Fair Market value of said parcel for uses according to the Program.

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 632-07.

By Director Rush.

Whereas, under Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program ("Program") according to the provisions of Chapter 5722 of the Ohio Revised Code; and

Whereas, under the Program, the City has acquired Permanent Parcel No. 121-18-113 located at East 101st Street in Ward 6; 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, Fairfax Renaissance Development Corporation, abutting/adjacent landowner, has proposed to the City to purchase and develop the parcel for new construction; and

Whereas, the following conditions exist:

1. The member of Council from Ward 6 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 the 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 under 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 requested to execute an Official Deed for and on behalf of the City of Cleveland, with Fairfax Renaissance Development Corporation for the sale and development of Permanent Parcel No. 121-18-113 located at East 101st Street, according to the Land Reutilization Program in such manner as best carries out the intent of the program.

Be it further resolved that the consideration for said parcel shall be \$100.00, which amount is determined to be not less than the Fair Market value of said parcel for uses according to the program.

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 633-07.

By Director Rush.

Whereas, under the authority of Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program according to the provisions of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No. 126-30-055, located at East 81st Street under the Land Reutilization Program; and

Whereas, Ordinance No. 1428-07 passed October 29, 2007, authorized the sale of the parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Willie Mae Jolly has proposed to the City to purchase and develop the parcel for yard expansion; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 1428-07 passed October 29, 2007, by the Cleveland City Council, the Mayor is authorized to execute an official deed for and on behalf of the City of Cleveland with Willie Mae Jolly for the sale and development of Permanent Parcel No. 126-30-055, as described in the Ordinance according to the Land Reutilization Program in such manner as best carries out the intent of the program.

Be it further resolved that the consideration for the parcel shall be \$400.00, which amount is determined to be not less than the fair market value of the parcel for uses according to the Land Reutilization Program.

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 634-07.

By Director Rush.

Whereas, under the authority of Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program according to the provisions of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel Nos. 106-12-045, 106-12-015, 106-12-046, 106-12-016 and 106-12-017, located at East 65th Street under the Land Reutilization Program; and

Whereas, Ordinance No. 1123-07 passed October 29, 2007, authorized the sale of the parcels for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Artist Duncan and Phyllis Duncan have proposed to the City to purchase and develop the parcels for new construction; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 1123-07 passed October 29, 2007, by the Cleveland City Council, the Mayor is authorized to execute an official deed for and on behalf of the City of Cleveland with Artist Duncan and Phyllis Duncan for the sale and development of Permanent Parcel Nos. 106-12-045, 106-12-015, 106-12-046, 106-12-016 and 106-12-017, as described in the Ordinance according to the Land Reutilization Program in such manner as best carries out the intent of the program.

Be it further resolved that the consideration for the parcels shall be \$100.00 each, which amount is determined to be not less than the fair market value of the parcels for uses according to the Land Reutilization Program.

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 635-07.

By Director Rush.

Whereas, under the authority of Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program according to the provisions of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No. 126-29-021, located at East 81st Street under the Land Reutilization Program; and

Whereas, Ordinance No. 1429-07 passed October 29, 2007, authorized the sale of the parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Terrance Walls has proposed to the City to purchase and develop the parcel for yard expansion; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 1429-07 passed October 29, 2007, by the Cleveland City Council, the Mayor is authorized to execute an official deed for and on behalf of the City of Cleveland with Terrance Walls for the sale and development of Permanent Parcel No. 126-29-021, as described in the Ordinance according to the Land Reutilization

Program in such manner as best carries out the intent of the program.

Be it further resolved that the consideration for the parcel shall be \$400.00, which amount is determined to be not less than the fair market value of the parcel for uses according to the Land Reutilization Program.

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

Resolution No. 636-07.

By Director Rush.

Whereas, under the authority of Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program according to the provisions of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No. 120-05-137, located at Beulah Avenue under the Land Reutilization Program; and

Whereas, Ordinance No. 1262-07 passed October 29, 2007, authorized the sale of the parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Forest Hill Congregation of Jehovahs Witnesses has proposed to the City to purchase and develop the parcel for beautification; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the authority of Ordinance No. 1262-07 passed October 29, 2007, by the Cleveland City Council, the Mayor is authorized to execute an official deed for and on behalf of the City of Cleveland with Forest Hill Congregation of Jehovahs Witnesses for the sale and development of Permanent Parcel No. 120-05-137, as described in the Ordinance according to the Land Reutilization Program in such manner as best carries out the intent of the program.

Be it further resolved that the consideration for the parcel shall be \$100.00, which amount is determined to be not less than the fair market value of the parcel for uses according to the Land Reutilization Program.

Yeas: Directors Triozzi, Dumas, Acting Director Withers, Director Smith, Acting Director Scott, Directors Carroll, Flask, Cox, Rush, Hutchinson, Reilly, Fumich, Guzman and Rybka.

Nays: None.

Absent: Mayor Jackson.

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

SCHEDULE OF THE BOARD OF ZONING APPEALS

MONDAY, DECEMBER 10, 2007

9:30 A.M.

Calendar No. 07-230: 2442 Professor Avenue (Ward 13)

Terry Zachary, a.k.a. Taras Zachary, d.b.a. Roosevelt Post #58 appeals under the authority of Section 76-6 of the Charter of the City of Cleveland from the decision of the Public Safety Department to disapprove an application for a Music Permit for the premises at 2442 Professor Avenue, as stated in the notice issued October 29, 2007 from the Commissioner of the Cleveland Division of Assessments and Licenses.

Calendar No. 07-231: 2442 Professor Avenue (Ward 13)

Terry Zachary, a.k.a. Taras Zachary, d.b.a. Roosevelt Post #58 appeals under the authority of Section 76-6 of the Charter of the City of Cleveland from the decision of the Public Safety Department to disapprove an application for a Coin Operated Amusement Device License for the premises at 2442 Professor Avenue, as stated in the notice issued October 29, 2007 from the Commissioner of the Cleveland Division of Assessments and Licenses.

Calendar No. 07-232: 2442 Professor Avenue (Ward 13)

Terry Zachary, a.k.a. Taras Zachary, d.b.a. Roosevelt Post #58 appeals under the authority of Section 76-6 of the Charter of the City of Cleveland from the decision of the Public Safety Department to disapprove an application for a Coin Operated Pool Table License for the premises at 2442 Professor Avenue, as stated in the notice issued October 29, 2007 from the Commissioner of the Cleveland Division of Assessments and Licenses.

Calendar No. 07-233: 4323 West 130th Street (Ward 19)

Donald Kravitz, d.b.a. Broken Wheel Auto Parts and Wrecking Company, owner, appeals to establish use for automobile dismantling, parts storage and fleet service on property located in split zoning between Semi-Industry and General Industry Districts on the east side of West 130th Street at 4323 West 130th

Street; subject to the limitations of Section 345.03, automobile dismantling/wrecking is not permitted and first permitted in a General Industry District; and the provisions of Section 345.04(a)(4) require that the yard be enclosed within a minimum 7 foot high solid masonry wall or slightly solid, nontransparent, well-maintained substantial fence; and in any use district allowing junk or wrecking yards, the storage of such junk or used material shall not be piled higher than 3 feet above the height of the wall or fence enclosing the yard, provided that at any point closer than 5 feet, the junk or used material shall not be piled above the heights of the wall or fence, as stated in Section 347.06(d); and Section 349.07(a) requires that accessory off-street parking spaces, driveways and maneuvering areas shall be properly graded for drainage so that all water is drained within the lot providing such parking spaces, surfaced with concrete, asphaltic concrete, asphalt or similar surfacing material, maintained in good condition and free of debris and trash with the specific locations for parking indicated; and a 6 foot wide frontage landscaped strip is required at the parking lot, pursuant to Section 352.10 of the Codified Ordinances.

Calendar No. 07-236: 1600 Buhrer Avenue (Ward 14)

The Cleveland Municipal School District, owner, and Gary Goss, agent, appeal to construct an accessory parking lot for a public school, proposed to be situated on a 40' x 63' parcel in a Two-Family District on the north side of Buhrer Avenue at 1600 Buhrer Avenue; where an 11 foot distance is provided from the property line, and any driveway providing access to a property shall be located so that there would be not less than 15 feet between the point of tangency of the driveway apron radius and a prolongation of the property line to the curb measured at the curb line, according to the provisions of Section 343.18(c) of the Codified Ordinances.

Calendar No. 07-212: 3204 Carroll Avenue (Ward 13)

With a Motion for Rehearing granted on November 12, 2007, applicant West 32nd Street Group LLC, owner, and Scott Maloney, agent, appeal to establish a 12 car parking lot on a 64' x 59.50' corner parcel, located in a B1 Two-Family District on the northwest corner of Carroll Avenue and West 32nd Street at 3204 Carroll Avenue; the proposed parking lot being subject to the provisions of Section 349.13(c) and requires the Board of Zoning Appeals approval, and contrary to the 6 foot wide frontage that is required for an open, off-street parking lot, a 5 foot wide frontage strip is provided along Carroll Avenue and along West 32nd Street a 3.6 foot wide frontage strip is provided, contrary to the landscaping and screening requirements of Sections 352.08 through 352.12; and parking shall not be located within 10 feet of any wall of a residential building or structure if such wall contains a ground floor opening designed to provide light or ventilation for such building or structure, as stated in Section 349.05(a) of the Codified Ordinances.

Secretary

REPORT OF THE BOARD OF ZONING APPEALS

MONDAY, NOVEMBER 26, 2007

At the meeting of the Board of Zoning Appeals on Monday, November 26, 2007, the following appeals were heard by the Board.

The following appeals were **Approved:**

Calendar No. 07-221: 17000 St. Clair Avenue

Cleveland Industrial Innovation Center appealed to erect a 200 square foot, 23 foot tall, free standing sign on acreage located in split zoning between Semi-Industry and General Industry Districts.

Calendar No. 07-223: 3673 West 48th Street

Joy Falsone appealed to erect a 6' x 14' platform open porch to the front of a two family dwelling in a General Retail Business District.

Calendar No. 07-224: 7201 Wade Park Avenue

Eliza Bryant, owner, appealed to construct an addition to an existing nursing home on an acreage parcel in split zoning between General Retail Business and Two-Family Districts.

Calendar No. 07-226: 6006 Belvidere Avenue

Daniel Belcher appealed to erect a 7'-2" x 10' open porch with a landing and stairs to the front of a one family dwelling in a Multi-Family District.

The following appeal was **Denied:**

None.

The following appeal was **Withdrawn:**

None.

The following appeal was **Dismissed:**

Calendar No. 07-227: 7223 Dearborn Avenue

Bethzaida Coriano appealed to install 32 linear feet of 4 foot high chain link fence in an actual front yard of a parcel in a Two-Family District.

The following appeal was **Postponed:**

Calendar No. 07-228: 2112 West 93rd Street postponed to January 22, 2008.

In Executive Session on November 26, 2007 the following appeals heard by the Board on November 19, 2007 was adopted and approved.

The following appeal was **Approved:**

Calendar No. 07-217: 2390-92 East 79th Street

Fairfax Renaissance Development Corporation appealed to change use of property from a library to a community center, located in a B1 Two-Family District east of East 77th

Street; in a Multi-Family District west of East 79th Street and in a Local Retail business District along the north side of Quincy Avenue.

Secretary

REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

NO MEETING

PUBLIC NOTICE

NONE

NOTICE OF PUBLIC HEARING

**Notice of Public Hearing
By the Council Committee
On City Planning**

**Mercedes Cotner
Committee Room 217
City Hall, Cleveland, Ohio
On Monday, December 10, 2007
9:00 a.m.**

Notice is hereby given to all interested property owners that the Council Committee on City Planning will hold a public hearing in the Mercedes Cotner Committee Room 217, City Hall, Cleveland, Ohio, on Monday, December 10, 2007, at 9:00 a.m., to consider the following ordinances now pending in the Council:

Ord. No. 1657-07.

By Council Member Britt.

An emergency ordinance establishing the Little Italy Historic District (Map Change No. 2242, Sheets No. 8 and 9); and repealing Ordinance No. 2265-91, passed December 16, 1991, establishing the Little Italy Historic District.

Ord. No. 1891-07.

By Council Member Cleveland.

An emergency ordinance to amend Section 345.04 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1183-03, passed July 16, 2003, relating to general industry districts.

Ord. No. 1893-07.

By Council Member Brady.

An ordinance to change the Use, Area and Height Districts of land on the south side of Joan Avenue east of West 110th Street from Two Family Residential to Local Retail Business District, a 'C' Area District and a '2' Height District (Map Change Number 2245, Sheet Number 12).

All interested persons are urged to be present or to be represented at the above time and place.

Joseph C. Cimperman
Chairman
Committee on City Planning

November 28, 2007 and December 5, 2007

CITY OF CLEVELAND BIDS**For All Departments**

Sealed bids will be received at the office of the Commissioner of Purchases and Supplies, Room 12S, City Hall, in accordance with the appended schedule, and will be opened and read in Room 12S, 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."

WEDNESDAY, DECEMBER 12, 2007

File No. 302-07 — Labor and Materials Necessary to Repair and Maintain Catch Basin Cleaning Trucks, for the Division of Water Pollution Control, Department of Public Utilities, as authorized by Ordinance No. 1399-07, passed by the Council of the City of Cleveland, October 15, 2007.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** TUESDAY, DECEMBER 4, 2007 AT 10:00 A.M., DIVISION OF WATER POLLUTION CONTROL, RED CONFERENCE ROOM, 12302 KIRBY AVENUE, CLEVELAND, OHIO 44108.

November 21, 2007 and November 28, 2007

WEDNESDAY, DECEMBER 19, 2007

File No. 303-07 — Purchase of Various Electrical Items, for the Various Divisions of City Government, Department of Finance, as authorized by Ordinance No. 1689-07, passed by the Council of the City of Cleveland, November 12, 2007.

THERE WILL BE A **MANDATORY PRE-BID MEETING**, FRIDAY, DECEMBER 7, 2007 AT 1:30 P.M., CITY OF CLEVELAND, CITY HALL, FIFTH FLOOR, ROOM 514, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

THE CITY OF CLEVELAND WILL NOT CONSIDER THE BID OF ANYONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

November 21, 2007 and November 28, 2007

THURSDAY, DECEMBER 20, 2007

File No. 304-07 — PVC and FRE Conduit, Fitting and Accessories, for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Section 129.26 of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING** FRIDAY, DECEMBER 7, 2007 AT 11:00 A.M., DIVISION OF CLEVELAND PUBLIC POWER, MAIN OFFICE, 1300 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

November 21, 2007 and November 28, 2007

FRIDAY, FEBRUARY 1, 2008

File No. 301-07 — Restroom Renovations, Phase 2, for the Division of Cleveland Hopkins International Airport, Department of Port Control, as authorized by Ordinance No. 359-05, passed by the Council of the City of Cleveland, May 2, 2005.

THERE WILL BE A **NON-REFUNDABLE FEE FOR PLANS/SPECIFICATIONS IN THE AMOUNT OF ONE HUNDRED DOLLARS (\$100.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER (NO COMPANY CHECKS AND NO CASH WILL BE ACCEPTED).**

THERE WILL BE A **MANDATORY PRE-BID MEETING** THURSDAY, DECEMBER 7, 2007 AT 10:00 A.M., CLEVELAND HOPKINS INTERNATIONAL AIRPORT, ENGINEERING BUILDING, 6C-24C CONFERENCE ROOM, 19451 FIVE POINTS ROAD, CLEVELAND, OHIO 44135.

THE CITY OF CLEVELAND WILL NOT CONSIDER THE BID OF ANYONE WHO DOES NOT ATTEND A MANDATORY PRE-BID CONFERENCE.

November 21, 2007, November 28, 2007 and December 5, 2007

ADOPTED RESOLUTIONS AND ORDINANCES**Res. No. 1895-07.**

By Council Member Brady.

An emergency resolution objecting to the transfer of ownership of a C1, C2 and D6 Liquor Permit to 3778 West 117th Street.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a C1, C2 and D6 Liquor Permit from Zishan, Inc., DBA Zishan Grocery, 3778 West 117th Street, Cleveland, Ohio 44111, Permanent Number 9951773 to Taha Petroleum Corporation, DBA Minimart, 3778 West 117th Street, Cleveland, Ohio 44111, Permanent Number 8779010; 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, C2 and D6 Liquor Permit from Zishan, Inc., DBA Zishan Grocery, 3778 West 117th Street, Cleveland, Ohio 44111, Permanent Number 9951773 to Taha Petroleum Corporation, DBA Minimart, 3778 West 117th Street, Cleveland, Ohio 44111, Permanent Number 8779010; 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 November 19, 2007.
Effective November 21, 2007.

Res. No. 1897-07.

By Council Member Brancatelli.
An emergency resolution withdrawing objection to the renewal of a C2 and C2X Liquor Permit at 4257 East 71st Street and repealing Resolution No. 1300-07, objecting to said renewal.

Whereas, this Council objected to a C2 and C2X Liquor Permit to Krunal, Inc., DBA 123 Quik Stop, 4257 East 71st Street, Cleveland, Ohio 44105, Permanent Number 4895593 by Resolution No. 1300-07 adopted by the Council on August 8, 2007; and

Whereas, this Council wishes to withdraw its objection 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 objection to a C2 and C2X Liquor Permit to Krunal, Inc., DBA 123 Quik Stop, 4257 East 71st Street, Cleveland, Ohio 44105, Permanent Number 4895593 be and the same is hereby withdrawn and Resolution No. 1300-07, containing such objection, be and the same is hereby repealed and that this Council 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 November 19, 2007.
Effective November 21, 2007.

Res. No. 1898-07.

By Council Member Brancatelli.
An emergency resolution withdrawing objection to the renewal of a D2, D2X, D3 and D6 Liquor Permit at 5212 Fleet Avenue and repealing Resolution No. 1301-07, objecting to said renewal.

Whereas, this Council objected to a D2, D2X, D3 and D6 Liquor Permit to Steven James Enterprises, 5212 Fleet Avenue, 1st floor and basement, Cleveland, Ohio 44105, Permanent Number 8564054 by Resolution No. 1301-07 adopted by the Council on August 8, 2007; and

Whereas, this Council wishes to withdraw its objection 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 objection to a D2, D2X, D3 and D6 Liquor Permit to Steven James Enterprises, 5212 Fleet Avenue, Cleveland, Ohio 44105, Permanent Number 8564054 be and the same is hereby withdrawn and Resolution No. 1301-07, containing such objection, be and the same is hereby repealed and that this Council 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 November 19, 2007.
Effective November 21, 2007.

Res. No. 1899-07.

By Council Member Polensek.
An emergency resolution withdrawing objections to the transfer of ownership and renewal of a C1 and C2 Liquor Permit at 18506 St. Clair Avenue, and repealing Resolution Nos. 1451-07 and 1170-07, objecting to said transfer and renewal.

Whereas, this Council objected to the transfer of ownership of a C1 and C2 Liquor Permit to 18506 St. Clair Avenue by Resolution No. 1451-07 adopted by the Council on September 10, 2007 and to the renewal by Resolution No. 1170-07 adopted by the Council on July 11, 2007; and

Whereas, this Council wishes to withdraw its objections to the above transfer and renewal and consents to said transfer and 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 C1 and C2 Liquor Permit to H M Goldi, Inc., DBA Food Plus All, 18506 St. Clair Avenue, Cleveland, Ohio 44110, Permanent Numbers 1879570005 and 3471700 be and the same is hereby withdrawn and Resolution Nos. 1451-07 and 1170-07, containing such objections, be and the same is hereby repealed and that this Council consents to the immediate transfer and 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 November 19, 2007.
Effective November 21, 2007.

Res. No. 1900-07.

By Council Members Britt and Sweeney.

An emergency resolution supporting passage of House Bill 236, the Family Healthy Plus bill, sponsored by State Representative Sandra Williams, 11th House District, that would expand comprehensive health insurance to Ohioans, and residents in Cuyahoga County and the City of Cleveland.

Whereas, House Bill 236, the Family Healthy Plus bill, would expand comprehensive health insurance to more than 700,000 Ohioans, including approximately 88,000 residents in Cuyahoga County; and

Whereas, the Family Healthy Plus program will cover single adults, couples without children, and parents between the ages of 19 and 64 who have a gross income of no more than 200% of the federal poverty level: \$19,600 a year for a single adult, or \$40,000 a year for a family of four; and

Whereas, the Family Healthy Plus bill requires the Director of Job and Family Services to seek federal permission to establish the Family Health Plus component of the state Medicaid program, to impose a new assessment on hospitals, and to earmark the proceeds from the new assessment for the Family Health Plus component; and

Whereas, the Family Healthy Plus Bill would benefit the citizens of Cleveland who are currently uninsured or underinsured that qualify for the program;

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 hereby supports passage of House Bill 236, the Family Healthy Plus bill, sponsored by State Representative Sandra Williams, 11th House District, that would expand comprehensive health insurance to Ohioans, and residents in Cuyahoga County and the City of Cleveland.

Section 2. That the Clerk of Council is directed to transmit copies of this resolution to State Representative Sandra Williams, members of the State House of Representatives Health and Human Services Committee, and Mayor Jackson.

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 November 19, 2007.
Effective November 21, 2007.

Res. No. 1901-07.
By Council Members Britt and Sweeney.

An emergency resolution supporting passage of House Bill 360, sponsored by State Representative Sandra Williams, 11th House District, that establishes the Lupus Education and Awareness Program (LEAP), the interagency advisory council and an advisory panel on Lupus.

Whereas, House Bill 360, establishes the Lupus Education and Awareness Program (LEAP), the interagency advisory council and an advisory panel on Lupus; and

Whereas, Lupus is an autoimmune disease that can cause inflammation and tissue damage to almost any organ in the body; and

Whereas, nearly two million Americans have Lupus and 90 percent of those patients are women; and

Whereas, Lupus disproportionately affects women of color; it is two to three times more common among African-Americans, Hispanics, Asians, and Native Americans and is generally more prevalent in minority populations; and

Whereas, House Bill 360 would benefit the citizens of Cleveland who are currently struggling with Lupus or will develop it in the future;

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 hereby supports passage of House Bill 360, sponsored by State Representative Sandra Williams, 11th House District, that establishes the Lupus Education and Awareness Program (LEAP), the interagency advisory council and an advisory panel on Lupus.

Section 2. That the Clerk of Council is directed to transmit copies of this resolution to State Representative Sandra Williams, members of the State House of Representatives Health and Human Services Committee, and Mayor Jackson.

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 November 19, 2007.
Effective November 21, 2007.

Res. No. 1902-07.

By Council Member Britt.

An emergency resolution encouraging the Jackson administration and State of Ohio to examine the City of Cleveland retirement system's investments to determine if funds are invested in scrutinized companies operating in Sudan; and if such companies are found in the City's retirement portfolio, encourage those companies to cease scrutinized business operations in Sudan, and cease investments in scrutinized companies until the Sudanese government stops military forces from committing genocide in Darfur.

Whereas, the government of Sudan has engaged in a policy of genocide against its own civilians in Darfur through use of its military and through sponsorship of attacks by armed militias known as the janjaweed; and

Whereas, the janjaweed and military of the Sudanese government are responsible for razing over 80% of Darfur's villages, gang-raping civilians, slaughtering at least 200,000 victims, displacing 2.5 million more, using forced starvation as a weapon of war, and impeding access of humanitarian aid to the up to 3.5 million Darfurians that are now reliant on assistance; and

Whereas, the Sudanese government and janjaweed militias have continued their attacks despite the signing of the Darfur Peace Agreement; and

Whereas, the Darfur crisis represents the first time the US Congress, State Department, and President have declared a genocide while the atrocities are ongoing; and

Whereas, certain international companies operating in Sudan bring significant revenue, cover, and arms to the Sudanese government while providing little benefit to the majority of Sudan's citizens; and

Whereas, Khartoum has funneled the majority of foreign direct investment from these companies into military expenditures used to perpetuate the genocide while neglecting needed development projects in the Darfur region; and

Whereas, the government of Sudan has a history of remedying egregious behavior in response to economic pressure; and

Whereas, the current Sudan divestment movement now encompasses nearly 100 universities, cities, states, and private pension plans; and

Whereas, the divestment movement has already gained the attention of the Sudanese government and altered the behavior of some companies operating in Sudan;

Whereas, this Council encourages the Jackson administration and the State of Ohio investment managers to examine City retirement investments and short-term investment pool to determine if funds are invested in scrutinized companies operating in Sudan.

Whereas, scrutinized companies shall be defined as those companies that:

1. Engage in business with actors or projects that directly or indirectly benefit the government of Sudan

through providing revenue or arms to the government or by enhancing the government's capacity to resist international pressure on Darfur;

2. Provide minimal benefit to those outside of government or the small circle of government supporters based mainly in the Khartoum state;

3. Have no significant corporate governance policy to address how a company's business in Sudan may contribute to the genocide in Darfur; and

Whereas, Companies that meet any of the following criteria shall not be considered scrutinized companies:

1. Companies contracting exclusively with the Government of South Sudan;

2. Companies primarily participating in the provision of goods or services that principally and directly benefit marginalized populations in Sudan;

3. Companies involved in the distribution of general downstream consumer goods and services within the country;

4. Companies whose primary purpose in Sudan is humanitarian, medical, journalistic, educational, or any other "social good;"

5. Companies whose activities in Sudan are currently dormant; and

Whereas, this Council encourages the Jackson administration and State of Ohio to identify scrutinized companies to implement the above policy by consulting, on a quarterly basis, a list promulgated by the Sudan Divestment Task Force; and

Whereas, if it is found that the City of Cleveland's retirement funds are being invested in scrutinized companies operating in Sudan, this Council encourages the City retirement system and its investment managers to undertake the following procedure with respect to these identified companies:

1. Engage these companies for a period of no longer than three months in an effort to convince them to alter or cease scrutinized business operations in Sudan, using engagement letters are available from the Sudan Divestment Task Force;

2. If a scrutinized company undertakes any of the following actions during the engagement period, they shall no longer be considered a scrutinized company: adopting, publicizing, and implementing a formal plan to cease Scrutinized Business Operations within one year and to refrain from any such new Business Operations; undertaking humanitarian efforts in conjunction with an international organization, the government of Sudan, the regional government of southern Sudan, or a non-profit entity and evaluated and certified by an independent third party to be substantial in relationship to the company's Sudan business operations and of benefit to one or more marginalized populations of Sudan; or through engagement with the Government of Sudan, materially improving conditions for the genocidally victimized population in Darfur;

3. If a scrutinized company does not exhibit any of these changes during the engagement period, this Council encourages the City's retirement system and investment managers to divest all public securities held in scrutinized companies, excluding public securities held in commingled accounts or securities where no financially equivalent alternative is available;

4. If the city is found to hold securities in commingled funds that contain scrutinized companies, this Council encourages the City's retirement system to submit letters to the managers of such funds containing scrutinized companies requesting that they consider removing such companies from the fund or create a similar actively managed fund with commingled holdings devoid of such companies, and if the manager creates a similar fund, the City's retirement system will replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards; and

Whereas, this Council encourages the City retirement system's investment managers to continue to review your investments and take action to restrict investments in scrutinized companies as described above on a quarterly basis; and

Whereas, this Council encourages the City retirement system's investment managers not to enter into further investments in offending companies until the Sudanese government stops its military and militia forces from committing genocide in Darfur; and

Whereas, this Council calls upon the State of Ohio to follow the example of the City's retirement system and identify and divest from all companies meeting the above criteria, aiding Sudan's genocidal government without benefiting the country's marginalized populations.

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 hereby encourages the Jackson administration and State of Ohio to examine the City of Cleveland retirement system's investments to determine if funds are invested in scrutinized companies operating in Sudan; and if such companies are found in the City's retirement portfolio, encourage those companies to cease scrutinized business operations in Sudan, and cease investments in scrutinized companies until the Sudanese government stops military forces from committing genocide in Darfur.

Section 2. That the Clerk of Council is directed to transmit copies of this resolution to the Sudan Divestment Task Force, State of Ohio PERS, and Mayor Jackson.

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 November 19, 2007.

Effective November 21, 2007.

**Ord. No. 1253-07.
By Council Members Conwell,
Cleveland and Sweeney (by departmental request).**

An emergency ordinance to repeal Sections 387.01 to 387.15 and 387.99 and Sections 394.01 to 394.16 and 394.99 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted and amended by various ordinances; and to enact new Sections 387.01 to 387.18 and 387.99 and Sections 394.01 to 394.15 and 394.99 relating to explosives and hazardous material transportation.

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:

Section 387.01, enacted by Ordinance No. 2074-58, passed December 15, 1958,

Section 387.02, amended by Ordinance No. 778-76, passed June 14, 1976,

Section 387.03, enacted by Ordinance No. 2074-58, passed December 15, 1958,

Section 387.04, as amended by Ordinance No. 84-70, passed March 1, 1971,

Sections 387.05, 387.06, 387.07, and 387.08, as enacted by Ordinance No. 2074-58, passed December 15, 1958,

Section 387.09, as amended by Ordinance No. 1150-60, passed June 27, 1960,

Section 387.10, 387.11, 387.12, 387.13, 387.14, 387.15, and 387.99 as enacted by Ordinance No. 2074-58, passed December 15, 1958,

Section 394.01 to and including 394.16 and 394.99, as enacted by Ordinance No. 866-92, passed April 27, 1992,

are repealed.

Section 2. That the Codified Ordinances are supplemented by enacting new Sections 387.01 to 387.18 and 387.99 to read as follows:

Chapter 387

**EXPLOSIVES, INCLUDING
THE INDOOR AND
OUTDOOR DISPLAY OF
PYROTECHNICS, FLAME
EFFECTS, AND LASERS**

Section 387.01 Definitions

As used in this chapter:

(a) "Artificial barricade" means any artificial mound or properly revetted wall of earth of minimum thickness of not less than three feet or an equivalent protection.

(b) "Binary system" means a two-component system for mixing certain pyrotechnic materials on site.

The items are commonly shipped as separate ingredients: an oxidizer typically labeled "A"; and a fuel, typically labeled "B". These ingredients do not become a pyrotechnic material until they are mixed.

(c) "Black powder" means a low explosive consisting of an intimate mixture of potassium or sodium nitrate, charcoal, and sulfur.

(d) "Blaster" means a qualified person in charge of and responsible for the loading and firing of an explosive.

(e) "Blasting agent" means an explosive material that meets prescribed criteria for insensitivity to initiation.

For storage, a blasting agent is any material or mixture, consisting of fuel and oxidizer, intended for blasting and not otherwise defined as an explosive; if the finished product, as mixed for use or shipment, cannot be detonated by means of a No. 8 test blasting cap when unconfined. 27 C.F.R. Section 55.11 (Bureau of Alcohol, Tobacco, Firearms and Explosives regulation).

For transportation, a Class 1, Division 1.5 blasting agent is a substance that is a mass explosion hazard, but is so insensitive that there is very little probability of initiation or of transition from burning to detonation under normal conditions of transport. 49 C.F.R. Section 173.50 (U.S. Department of Transportation [DOT]).

(f) "Consumer fireworks" or "common fireworks" mean any small fireworks device designed primarily to produce visible effects by combustion or deflagration that complies with the construction, chemical composition, and labeling regulations of the U.S. Consumer Product Safety Commission, as set forth in 16 C.F.R. Parts 1500-1507. Consumer fireworks include small devices designed to produce audible effects, such as whistling devices, and ground devices containing 50 mg (0.002 g) or less of explosive composition (salute powder) per explosive unit and aerial devices containing 130 mg or less of explosive material. Consumer fireworks are classified as fireworks UN 0336 and UN 0337 by the DOT, at 49 CFR Section 172.101. This term does not include fused setpieces containing components that together exceed 50 mg of salute powder. Consumer fireworks, as used in this chapter, are considered pyrotechnic material and pyrotechnics.

(g) "Deflagration" means an explosive reaction such as a rapid combustion that moves through an explosive material at a velocity less than the speed of sound in the material.

(h) "Detonation" means an exothermic reaction that moves through an explosive material at a velocity greater than the speed of sound.

(i) "Display fireworks" means firework devices intended for use in fireworks display that are designed to produce visible or audible effects for entertainment purposes by combustion, deflagration, or detonation. The term "display

fireworks" includes consumer fireworks to be used in fireworks displays, larger devices of similar construction and chemical composition that are classified as Explosives 1.3G and described as Fireworks UN0333, UN 0334, and UN 0335 by the DOT, and other devices that produce visible or audible effects for entertainment purposes that are classified as Explosives 1.3G, 1.4G, or 1.4S, and described as pyrotechnics and pyrotechnic material by the DOT. This term also includes fused set-pieces containing components that together exceed 50 mg of salute powder.

(j) "DOT and "DOTn" mean U.S. Department of Transportation.

(k) "Exhibitor" means an Ohio exhibitor licensed under the requirements of Ohio Rev. Code Ann. Section 3743.50 to 3743.55.

(l) "Explosive" means:

(1) Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion, i.e., with substantially instantaneous release of gas and heat. This includes, but is not limited to, dynamite and other high explosives, black powder and pellet powder, slurries, emulsions, water gels, initiating explosives, detonators (blasting caps), safety fuses, squibs, detonating cord, igniter cord, igniters, fireworks, and pyrotechnics.

(2) The term "explosive" includes any material determined to be within the scope of 18 U.S.C. Chapter 40, Importation, Manufacture, Distribution and Storage of Explosive Materials, issued at least annually by the Director of the Bureau of Alcohol, Tobacco, Firearms and Explosives of the Department of the Justice, and also includes any material classified as an explosive by the hazardous material regulations of the DOTn (49 C.F.R.).

(3) The term "explosive" must also include all of the following categories in 49 C.F.R. Parts 1-199, as follows:

Division 1.1 - Mass exploding (Class A explosives)

Division 1.2 - Projection hazard (Class A or B explosives)

Division 1.3 - Fire hazard, minor blast (Class B explosives) - or projection hazard or both Division 1.4 - Minor explosion hazard (Class C explosive) - not mass detonating

Division 1.5 - Insensitive explosives. (blasting agents) - very little probability of initiation or transition from burning to detonation under normal conditions of transport.

Division 1.6 - Extremely Insensitive Detonating Substances

(EIDS) that must pass DOTn criteria as such.

The requirements of this chapter pertaining to the use, storage, and handling of explosives, including the permit required by Section 387.06, applies to explosives as defined in divisions (1)(1), (1)(2), or (1)(3) of Section 387.01 of this Chapter. The requirements of this chapter pertaining to the transportation of explosives apply only to explosives as defined in division (1)(3) of Section 387.01 of this Chapter.

(m) "Explosives interchange lot" means a specially designated safe area of a motor vehicle terminal where less-than-truckload lots of explosives can be held for transfer from one vehicle to another for continuance in transportation.

(n) "Explosives motor vehicle facility" means a designated area where motion vehicles transporting explosives can be parked, pending further movement in transportation.

(o) "Fireworks" means any composition or device prepared for the purpose of producing a visible or an audible effect by combustion, deflagration, or detonation, and meeting the definition of Consumer Fireworks or Display Fireworks as defined in this section, or as defined in other NFPA standards. For purposes of this chapter, all fireworks are considered pyrotechnic material or pyrotechnics.

(1) "Fireworks" does not include toy caps for use in toy pistols, toy canes, toy guns, and novelties, and trick noisemakers, not containing more than an average of .25 grains (16mg) of explosive composition per cap, provided they are so constructed that the hand cannot come in contact with the cap when it is in place for explosion.

(2) "Fireworks" does not include model rockets and model rocket motors designed, sold, and used for the purpose of propelling recoverable aero models.

(p) "Fireworks exhibition" means any presentation or discharge of fireworks. A fireworks exhibition includes, but is not limited to, those displays conducted in accordance with the provisions of Chapter 3743 of the Revised Code or any variance issued under it, this rule, and NFPA 1123 listed in Rule 1301:7-7-44 of the Ohio Administrative Code.

(q) "1.4G Fireworks" means "Consumer Fireworks" consistent with regulations of DOTn (49 C.F.R.).

(r) "1.3G Fireworks" means "Display Fireworks" consistent with regulations of DOTn (49 C.F.R.).

(s) "1.4S Fireworks" means pyrotechnic devices for professional use in the performing arts in conjunction with theatrical, musical or other productions that are similar to "consumer fireworks" in chemical composition and construction, but not intended for consumer use. Those fireworks shall be classified as "Article Pyrotechnic 1.4S" and marked and labeled in conformance with Title 49 C.F.R.

(t) "Fixed facility" means any building or property where materials or articles are received, shipped, stored, transferred, picked up, or delivered, and includes without limitation, a terminal, storage facility, explosives interchange lot, explosives motor vehicle terminal, and intermodal facility.

(u) "Flame effects" has the meaning as defined in NFPA Standard 160. An indoor or outdoor flame effect resulting from the combustion of flammable solids, liquids, or gases to produce thermal, physical, visual, or audible phenomena before an audience. Flame effects for entertainment, exhibition, demonstration, or simulation before an audience,

and/or as determined by the Fire Chief, shall be defined as regulated by this chapter.

(v) "Highway" means any interstate, public street, public alley, public road or other public thoroughfare.

(w) "Interstate highway" means the highways in the City of Cleveland identified as Interstates 71, 77, 90, 480, 176 and 490.

(x) "Inhabited building" means any building regularly occupied in whole or part as a habitation for human beings, or any church, school-house, railroad station, store, or other structure where people are accustomed to assemble, except any building or structure occupied in connection with the manufacture, transportation, storage or use of explosives.

(y) "Intermodal facilities" means any designated area where truck trailers, storage containers, and other vehicles used in the transportation of hazardous materials are received, shipped, loaded onto, unloaded from, or stored in connection with two or more modes of transportation.

(z) "Laser" means a device that produces an intense, coherent, directional beam of light by stimulating electronic or molecular transitions to lower energy levels. It also means an acronym for light amplification by simulated emission of radiation (ANSI Z136.1). As used in this section, lasers must mean Class III or IV lasers, as defined by the Bureau of Radiological Health, when used in front of a proximate audience for purposes of visual or special effects.

(aa) "Lycopodium" means the spores produced by the genus of mosses called lycopodium. This powdery, organic, yellow, material can be agitated and dispersed mechanically into a cloud and then ignited by a spark, pilot flame, or electrical heating device. Although not a pyrotechnic material, this material is used by special effects operators to produce fire effects or in conjunction with other pyrotechnics to create a special effect.

(bb) "Magazine" means any building, structure, or container, other than an explosives manufacturing building, approved for the storage of explosive materials.

(cc) "Motor vehicle" includes a vehicle, machine, tractor, trailer, or semi trailer, or a combination of them, propelled or drawn by mechanical power and used on the highways in the transportation of passengers or property. It does not include a vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street railway service.

(dd) "Natural barricade" means natural features of the ground, such as hills, or timber of sufficient density that the surrounding exposures that require protection cannot be seen from the magazine when the trees are bare of leaves.

(ee) "NFPA" means National Fire Protection Association.

(ff) "Operator" means a person with overall responsibility for the safety, setup and discharge of an outdoor fireworks display.

(gg) "Permit" means written authority issued by the City of Cleveland Fire Chief or his or her duly authorized representative.

(hh) "Person" means an individual, association, corporation, business, partnership or other legal entity or group of individuals.

(ii) "Proximate audience" means an audience closer to pyrotechnic devices than allowed by NFPA 1123, Code for Fireworks Display. This definition is also applicable to the indoor or outdoor use of pyrotechnic materials in the performing arts in conjunction with theatrical, musical, or similar productions or the filming of television, radio, or movie productions before a proximate audience, performers, or support personnel. It also applies to all use of lasers in indoor or outdoor displays unless otherwise determined by the City of Cleveland Fire Chief.

(jj) "Pyrotechnic display" means a display or performance of pyrotechnic material.

(kk) "Pyrotechnic material" means a chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation, when the mixture predominantly consists of solids capable of producing a controlled, self-sustaining, and self-contained exothermic chemical reaction that results in heat, gas, sound, light, or a combination of these effects, and when the chemical reaction functions without external oxygen. For purposes of this chapter, all fireworks are considered pyrotechnic material or pyrotechnics, and all pyrotechnics are considered explosives.

(ll) "Railway" means any steam, electric, diesel, electric or other railroad or railway.

(mm) "Receive" means to accept delivery, or to take possession of materials or articles; a "receiver" may include, without limitation, a consignee, a terminal, storage facility, or other fixed facility.

(nn) "Ship" means to turn over possession of materials or articles for transport; a "shipper" may include, without limitation, a manufacturer, consignor, terminal, storage facility, or other fixed facility or operation that has possession of explosives prior to transport.

(oo) "Small arms ammunition" means any cartridge for shotgun, rifle, pistol, revolver, and cartridges for propellant-actuated power devices and industrial guns. Military-type ammunition containing explosive bursting charges or any incendiary, tracer, spotting, or pyrotechnic projectile is excluded from this definition.

(pp) "Special Effects" means a visible or audible effect for entertainment purposes. Frequently an illusion: that is, something that appears to be other than what it really is. For example, smoke may be created to give an audience the impression of fog being present. Or a puff of smoke, a flash of light, and a loud sound may be produced

to give an audience the impression that a cannon has been fired, when in reality a cannon has not been fired.

(qq) "Terminal" means a fixed facility used by transporters for the receipt, shipment, transfer, storage, pick-up or delivery of articles or materials.

(rr) "Transporter" means a person engaged in the transport, movement or carrying of explosives by a motor vehicle on a highway.

(ss) "Vessel" means every description of watercraft, used or capable of being used, as a means of transportation on the water.

Section 387.02 Adoption and Incorporation of Regulations and Standards

(a) The following laws and regulations and their successor regulations are adopted and incorporated into this code as such laws and regulations exist at the time of passage of this chapter or as they may be amended to ensure the application of these requirements to activities within the City limits. Any violation of these rules and regulations within the City limits is a violation of this chapter:

(1) Title 49 C.F.R. Subchapter C-Hazardous Materials Regulations are adopted and incorporated into this Fire Prevention Code: Part 171-General Information, regulations, and definitions; Part 172-Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements; Part 173-Shippers-general requirements for shipments and packagings; Part 174-Carriage by rail; Part 175-Carriage by aircraft; Part 176-Carriage by vessel; Part 177-Carriage by public highway; Part 178-Specifications for packagings; Part 179-Specifications for tank cars; and Part 180-Continuing qualification and maintenance of packagings; and Part 397 - Transportation of Hazardous Materials, Driving and Parking Rules.

(2) NFPA Standard 115 - Laser Fire Protection; NFPA Standard 495 - Explosive Materials Code; NFPA 498 - Explosives Motor Vehicles Terminal; NFPA Standard 1123 - Code for Fireworks Display; NFPA Standard 1124 - Code for the Manufacture, Transportation and Storage of Fireworks; NFPA Standard 1126 - Use of Pyrotechnics Before a Proximate Audience; and NFPA Standard 160 - Flame Effects Before An Audience.

(3) Bureau of Alcohol, Tobacco, Firearms, and Explosives, Department of the Justice-27 C.F.R. Chapter I Part 555, Commerce in Explosives, Safe Explosives Act.

(4) ANSI Z136 - Safe Use of Lasers.

(5) Chapter 3743 of the Revised Code and Rules 1301:7-7-30 and 1301:7-7-33 of the Ohio Administrative Code.

(6) U.S. Food and Drug Administration, U.S. Department of Health and Human Services standards for lasers at 21 C.F.R. Chapter I Part 1040.

(7) Consumer Product Safety Commission ("CPSC") 16 C.F.R. Chapter II, Part 1507.

(b) When considered necessary for safety to life or property, the City of Cleveland Fire Chief may also require compliance with any explanatory material and recommended regulations appended to the laws and regulations in division (a) of this section. When any provision of this chapter is found to be in conflict with the regulations adopted in division (a) of this section, the provision that establishes the stricter standard for the promotion and protection of the safety and welfare of the public must prevail.

Section 387.03 Prohibitions

(a) A person shall not manufacture any gunpowder, fireworks, explosive compounds or detonating or deflagrating substances within the corporate limits of the City except the manufacture of fireworks as permitted in accordance with Chapter 3743 of the Revised Code, and OAC rule 1301:7-7-33, and applicable provisions of the NFPA, and any stricter rules of the City Fire Marshal to protect the public health and safety. This division does not apply to the mixing of binary systems, providing the mixing is done in conformity with all federal, State and City laws, and regulations and the mixing is associated with a pyrotechnic display, which has been permitted under this chapter.

(b) A person shall not sell, purchase for, give away to, or otherwise dispose of, or deliver to, any person less than eighteen years of age, any explosives, including fireworks, whether the person is acting on their own behalf or for any other person.

(c) A person shall not knowingly acquire, have, carry, or use any dangerous ordnance as defined in Section 627.01 of these Codified Ordinances ("Weapons and Explosives") unless excepted by Section 2923.17 of the Revised Code ("Dangerous Ordinance and Explosives Strictly Regulated") or the person is the holder of a license or temporary permit issued and in effect under Section 2923.18 of the Revised Code.

(d) A person shall not discharge any firearms or fireworks at, or against, any magazine or a vehicle transporting explosives.

(e) A person shall not ship, receive, store, possess, sell, use, or discharge any explosives, pyrotechnics, fireworks, lasers, or flame effects within the City except as permitted under Sections 387.06, 387.09, and 387.10 of this chapter, and in compliance with all applicable federal, State and City laws, and regulations.

(f) A person shall not sell, offer for sale, or have in his or her possession or custody, any squib, rocket, cracker, roman candle, or fire balloon, or any other combustible fireworks, or any article for the making of a pyrotechnic display, within the City, except as authorized by a permit issued by the City Fire Chief under Sections 387.06 and 387.07 of this chapter.

(g) A vessel shall not operate in the Cuyahoga River or elsewhere in the City with explosives aboard, whether for loading or unloading explosives, unless such vessel is in conformity with 49 C.F.R. Part 176 and the regulations of the United States Coast Guard.

(h) A person shall not transport explosives through the City unless they are in compliance with all applicable federal, State, and City laws and regulations.

Section 387.04 Exceptions to Provisions

(a) This chapter does not apply to: the regular military or naval forces of the United States; the duly-authorized militia of the State; the police, or fire divisions of the City, County, or State, provided they are acting within their official capacity and in the proper performance of their duties; or the laboratories, hospitals, schools, colleges, and similar institutions when confined to the purpose of demonstration, instruction, or research; or to explosives in the forms authorized and procured by the official United States Pharmacopoeia.

(b) This chapter does not apply to the manufacture, sale, possession, transportation, or use, in emergency situations of pyrotechnic signaling devices and distress signals for marine, aviation, or highway use.

(c) This chapter does not apply to the manufacture, sale, storage, possession, or transportation of blank cartridges in connection with theaters or shows or movie productions, or blank cartridges in connection with athletics as signals or for ceremonial purposes. Exception: The use of blank cartridges in conjunction with theaters or shows or movie productions shall be subject to review and approval by the Fire Marshal as to any applicable permitting and/or restrictions.

(d) This chapter does not apply to the manufacture, sale, possession, transportation, storage, or use of sparklers on a wire stick, as defined under DOTn.

Section 387.05 Operational and Other Requirements

(a) In blasting operations as described by NFPA 495, ground vibrations, airblast, and flyrock must be monitored by a competent person who is not in the employment of the blaster, unless otherwise specified by the City Fire Chief. A "competent person" must be an adult individual who is properly trained to monitor the operations.

(b) To use any materials regulated under this chapter within the City, a Certified Fire Safety Inspector(s) (CFSI) from the Cleveland Fire Prevention Bureau must be on the premises as prescribed by the City of Cleveland Fire Marshal, unless otherwise allowed by the City Fire Chief.

(c) At all permitted explosives, pyrotechnic, Class III or IV laser displays, or flame effects associated with a proximate audience, the City Fire Chief or his duly authorized representative shall be allowed to be present and position themselves

in any place and manner they consider necessary for the protection of the public during any performance in which the items are used.

(d) When any permitted explosives or pyrotechnic display in the City requires special communication, for the safety of the public, the permit holder, blaster, exhibitor, and operator is required to provide all necessary communications equipment to all safety forces requiring the equipment.

(e) The permitting requirement set forth in Section 387.06 of this chapter shall not apply to "storage incidental to transportation" as that term has been defined under 49 U.S.C. Section 5102(12) and related regulations, court and administrative decisions.

Section 387.06 Permit Registration For Use and/or Storage Required; Fee

(a) *Permits for Explosives and Pyrotechnic Materials.* A person shall not store, possess, use, sell, give away, or otherwise dispose of, any explosive, including without limitation, pyrotechnic material, consumer or display fireworks, as defined in this chapter, without first obtaining a written permit from the City Fire Chief. This division is not applicable to the use, possession, or control of less than fifteen pounds of smokeless powder, 50 pounds or less of black powder, or less than 1,000 pounds shipping weight of small arms ammunition, except as required under division (c) of Section 387.04 of this Chapter. This division does not apply to a transporter of explosives on highways, railroads, or waterways. For purposes of this section, the term "storage" does not include "storage incidental to transportation" when defined as preempted by 49 U.S.C. Section 5125 or related regulations by federal administrative determinations or court opinions. The fee for any permit required by this section shall be \$75.00.

(b) *Permits for Lasers.* A person shall not use any Class III or IV laser in front of a proximate audience without first obtaining a separate permit from the Fire Chief. The fee for laser permits shall be \$75.00.

(c) *Permits for Flame Effects.* A permit must be obtained from the City of Cleveland Fire Prevention Bureau for the use of all indoor and outdoor flame effects before an audience. The permit must be obtained at least ten business days in advance of the production, exhibition, demonstration, or simulation using the flame effects. Failure to submit the permit application prior to ten business days in advance of the production, or failure to comply with the requirements of NFPA Standard 160 listed in Rule 1301:7-744 of the Ohio Administrative Code may result in denial or revocation of the permit. The fee for a permit for flame effects shall be \$75.00.

(d) *Permits for Dangerous Ordnance.* Each person handling explosives in conjunction with a blasting operation shall obtain a dangerous ordnance permit. The permit shall

expire on the date specified on it. All permits expire no later than one year from the date of issuance. The City Fire Marshal or the City Fire Marshal's designee may issue a temporary permit for the casual use of explosive devices, and other consumable dangerous ordnance, and it shall expire within 30 days of its issuance. The cost of a permit shall be \$75.00 under this section. A person must not perform blasting without possession of a dangerous ordnance permit under this section. Every person involved in the blasting operation that will handle or use the explosive shall be listed on a separate dangerous ordnance permit application.

(e) Applications for each permit required by this section shall be made to the City Fire Chief in the form and detail as the Chief prescribes. The Chief may require a separate permit for use of explosives and a separate permit for storage of explosives from each applicant. Each permit granted by the Chief shall be for the period of time as the Chief may determine, but not to exceed one year. The permit must, at all times, be subject to inspection by any officer of the Fire and/or Police Divisions. In addition to the permit fees, the Division of Fire may charge the person obtaining a permit under this section the actual cost to the City of providing plan review, inspection and oversight services by Division of Fire officials. The costs may include, without limitation, the actual cost to the City of paying overtime wages to fire officials.

(f) All permit applications that are covered by this section shall be submitted to the City Fire Chief with accurate information and within a reasonable time frame to accommodate the handling and processing of the permit applications. All permit applications containing complete information, as required by this chapter, must be delivered to the Division of Fire no later than 10 business days before the date the permit is needed by the applicant, or by an earlier date, as needed, for the Division to make arrangements to observe all areas where materials subject to the permit are to be used or stored.

Section 387.07 Use/Storage Permit Application and Issuance

On receipt of any application for a permit submitted under Section 387.06 and the required fee, the City Fire Chief must make or cause to be made an investigation to determine if all applicable conditions of this chapter are fulfilled. If it is found that the application is complete and the fee has been paid, and that the applicable conditions of this chapter are or will, as required, be fulfilled, the permit shall be issued. When the Fire Chief determines that the information in a permit application is not complete or well defined, the Chief or the Chief's designee may elect to request further or more complete information from the permit applicant or others associated with the permit process. This may include, but is not limited

to, information regarding the knowledge, expertise and experience of individuals, as that information is applicable to the referenced standards and rules adopted in this chapter. Further information may be requested by the Division of Fire in the form of oral or written questions. The overall evaluation of whether the permit will be issued must be determined by the City Fire Chief based on the Chief's determination of whether the responses are complete and all applicable conditions of this chapter will be fulfilled.

Section 387.08 Use/Storage Permit Application Contents

(a) *Generally.* Every permit required by Section 387.06 must contain the name of the responsible person to whom the permit is to be issued, a description of the place or building and part of a building or premises that the permit is being applied for, the signature of the applicant, and all other particulars that may be required as necessary and proper by the City Fire Chief.

(b) *Pyrotechnic permits.* Prior to issuance of a permit pertaining to the use of pyrotechnics within the boundaries of the City, the permit applicant must develop a plan that, at a minimum, contains information consistent with applicable laws and regulations including, without limitation, Rule 1301:7-7-33 of the Ohio Administrative Code or its successor regulation(s), plus additional or more restrictive information as determined to be pertinent by the City Fire Chief. Pyrotechnic permits (including fireworks) must include at a minimum:

(1) The name of the person, group, or organization sponsoring the production;

(2) The date and time of day of the production;

(3) The exact location of the production;

(4) The name of the exhibitor and/or operator actually in charge of creating the pyrotechnic special effect;

(5) The number, names, and ages of all assistants who will be present;

(6) The qualifications of the exhibitors and/or operators;

(7) The experience of the exhibitor and/or operator in using pyrotechnics;

(8) Proof of a valid exhibitor license issued by the Division of State Fire Marshal;

(9) Evidence of the permit holder's insurance carrier or financial responsibility under Section 387.16 of this chapter;

(10) The number and types of pyrotechnic devices and materials to be used, including the sequence in which the materials will be fired, for example, the performance times of the exhibit such as the opening, finale, etc., the exhibitor's experience with the devices and effects, and a definition of the general responsibilities of assistants;

(11) A diagram of the grounds or facilities where the production will be held. The diagram must show the point at which the pyrotechnic

devices are to be fired from, the fall-out radius for each pyrotechnic device used in the performance, and the lines behind which the audience shall be restrained;

(12) The point of on-site assembly of pyrotechnic devices, and in the case of outdoor displays, the manner in which mortars are installed and secured (for example, in drums, boxes, racks, buried, troughs, etc.);

(13) The manner and place of storage of the pyrotechnic materials and devices;

(14) The manufacturer of the material to be used;

(15) A Material Safety Data Sheet (MSDS) for the effects to be used;

(16) Certifications that the set, scenery, and rigging materials are treated with appropriate flame retardant;

(17) The location and rating of all fire extinguishers;

(18) Contingency plans that will, at no cost to the City, detail the method that will be used to return the site of the pyrotechnic display to the condition it was prior to the performance, (for example, include street cleaning, debris removal, etc., as necessary);

(19) The operator shall be responsible for operations, storage, and use, of explosives, pyrotechnics, and special effects as covered by this chapter, including all safety issues related to the adopted rules and standards of this chapter. In events where the operator and the exhibitor are the same person, that person must assume the responsibilities of both positions.

(20) Applications for all permits for the use or storage of pyrotechnics or the use of lasers or flame effects, will be made to the City Fire Chief by the party who is providing the liability insurance for the event, and/or the Ohio licensed exhibitor in charge of the display, as considered appropriate by the Fire Chief. The applicant must provide proof of insurance under Section 387.16 prior to permit issuance.

(c) The operator/exhibitor must have the original permit in their possession for inspection purposes by the Fire official. All information required in this chapter must be maintained on the premises.

(d) The City Fire Chief, prior to the event, must approve the issuance of the permit before any pyrotechnic effects are added to a performance, or the firing or the firing location of any pyrotechnic effects are altered.

(e) All laser displays must require a separate permit and an overall effects plan before issuance of a permit unless otherwise approved by the Fire Chief. This plan must include:

(1) the scope and use of the laser;

(2) the classification of the laser (for example, Class III-IV);

(3) the qualifications of the laser safety officer (LSO);

(4) the times that the laser will be used;

(5) a diagram of placement of mirrors or other materials that may produce hazardous specular reflections and their termination points;

(6) audience proximity, including distances from the beams to the audience;

(7) FDA variance number and a copy of the docket, as well as, any applicable attachments.

(8) safety factors and any other information required by the Fire Chief. Safety factors include placement of fire extinguishers, appropriate display of warning labels and signs, ratings of fire extinguishers and stand-by safety personnel. All laser usage must be documented that it is in conformity with the safety requirements of ANSI Z136, NFPA 115, and 21 C.F.R. Chapter I Part 1040. The laser safety officer or operator must sign applications for laser permits.

(d) *Flame effects.* Before the performance of any production, the permit applicant must submit a plan for the use of flame effects to the City of Cleveland Fire Prevention Bureau. The plan must be made in writing or other form that is acceptable to the City Fire Marshal and must demonstrate compliance with NFPA Standard 160 listed in Rule 1301:7-7-44 of the Ohio Administrative Code. The plan must include, but is not limited to include the following:

(1) The name of the person, group, or organization sponsoring the production;

(2) The date and time of day of the production;

(3) The exact location of the production;

(4) The name of the flame effect exhibitor and proof of a valid flame effect exhibitor license issued by the Fire Marshal;

(5) The number, names, and ages of all assistants that will be present;

(6) The qualifications and experience of the flame effect exhibitor;

(7) The flame effect classification and design criteria in accordance with NFPA 160 listed in Rule 1301:7-7-44 of the Ohio Administrative Code;

(8) A diagram of the site indicating the location of all flame effect devices, the areas affected by each device, location of the audience and separation distances, means of egress, and information on all fuels and ventilation for each effect;

(9) A narrative description of the flame effect, controls, and control sequences of all devices and emergency response procedures;

(10) A valid Material Safety Data Sheet (MSDS) for each fuel utilized;

(11) Documentation that the set, scenery, and rigging materials are treated with the appropriate flame retardant.

(12) After a permit has been granted, the person who obtained the permit must keep the plan available at the site for safety inspectors or other designated agents of each authority having jurisdiction.

(13) A permit holder must not add flame effects to any performance in a different manner than described in the plan submitted with the application for a permit unless the City Bureau of Fire Prevention first approves of it.

(e) It is the responsibility of the party seeking the permit to comply

with all applicable federal, State or City laws and regulations under the permit. This includes, but is not limited to, the requirements of the Federal Aviation Administration (FAA), Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE), Public Utilities Commission of Ohio (PUCO), and State of Ohio.

(f) The operator is responsible for operations, storage, and use of explosives, including pyrotechnics and special effects as covered by this chapter, including all safety issues related to the adopted rules and standards of this chapter. In events where the operator and the exhibitor are the same person, that person must assume the responsibilities of both positions.

(g) The exhibitor must ensure that all rules and standards governing the use of explosives including pyrotechnics and special effects, are being maintained to the current standards and rules adopted in this chapter, demonstrate compliance to the City Fire Chief or the Fire Chief's designee. It is the responsibility of the exhibitor, to the best of their professional judgment, to demonstrate to the City Fire Chief or the Fire Chief's designee that all aspects of the performance are being performed in a manner consistent with good work practices, as it applies to this chapter. In events where the exhibitor and operator is the same person, that person must assume the responsibilities of both positions.

Section 387.09 Permit Revocation; Ceasing Operations

(a) Any permit granted, may be revoked by the City Fire Chief and automatically becomes void if any of the conditions on which it was granted are violated.

(b) If the permit holder fails to ensure the restoration of the site of a display to a condition free of debris, equipment, and other material from the display, the City may clean the site and charge the permit holder with the costs of the cleanup.

(c) *Ceasing operations.* A fire official may order a pyrotechnic display, laser exhibition, the handling or use of explosives, or flame effects, to be postponed or cancelled due to unsafe conditions or operations, or inclement weather, or unsafe spectator conditions, or for any other condition in violation of this fire code or of any regulation or standard adopted in this chapter or of any other chapter of the fire code. In such a case, operations must immediately cease.

Section 387.10 Permit for Receipt or Shipping of Explosives and Pyrotechnic Materials; Fee

(a) Except as provided in division (d) of this section, every person who receives or ships explosives including pyrotechnic materials within the City must obtain an annual permit issued by the City Fire Chief for that receipt or shipment of explosives. This division applies to any fixed facility and land-based operation, person or entity that receives or ships explosives by motor vehi-

cle, railway, or other mode of transportation, including, without limitation, explosive interchange lots and explosive motor vehicle facilities, terminals, and intermodal facilities. This division does not apply to transporters of explosives while in transportation on highways, railways, or waterways.

(b) The permit application must be in writing and contain information describing the general storage conditions of explosives shipped or received, loaded, unloaded, or temporarily retained at the facility, including separation and secondary containment provisions, and must specify the classification and maximum quantity of explosive materials that are expected to be shipped, received, loaded, unloaded, or temporarily retained on an annual basis at each location where the operations are permitted.

The Fire Chief must decide either to issue a permit or provide notice to the applicant of deficiencies in the application within 10 business days of receipt of a completed permit application.

(c) The fee for any permit required under this section is \$75.00 unless the permit holder has also obtained a permit under Section 387.06 of this chapter, in which case only one \$75.00 fee is required.

(d) The City Fire Chief may waive the requirement for a permit under this section when the receiver or shipper of explosives obtains a permit under Section 387.06.

Section 387.11 Magazines for Explosives

(a) All magazine construction, location, and other applicable guidelines must conform to the accepted standards and laws incorporated into this chapter, and to the permitting requirements of this chapter.

(b) All indoor magazines must be on wheels and stored on the first floor, within 10 feet of an exit equipped with a ramped exit discharge, unless it is determined by the City Fire Chief that public safety can be maintained without following this rule.

(c) Distance tables for explosives, ammonium nitrate and blasting agents must be as indicated in the accepted standards, regulations and laws as referenced in Section 387.02.

Section 387.12 Storage Requirements for Small Arms Ammunition

(a) All storage requirements for small arms ammunition must comply with the accepted standards and laws incorporated into this chapter, and to the permitting requirements of this chapter.

(b) The provisions of this chapter do not apply to the storage of less than 1,000 pounds shipping weight of small arms ammunition.

Section 387.13 Change of Distance Requirements

(a) The American Table of Distances for Storage of Explosives or Low Explosives as contained in NFPA Standard 495 must be followed.

(b) Unbarricaded distances as referenced in division (c) of Section 387.11 must only be reduced to barricaded distances when the City Fire Chief so approves. Where added safety precautions have been taken, or particularly favorable conditions exist, the Fire Chief or an officer designated by the Fire Chief may be permitted to decrease the required separation distances as considered appropriate, on demonstration that the hazard has been reduced or the risk has been properly protected. Where unusual or safety threatening conditions exist, the Fire Chief or an officer designated by the Fire Chief may be permitted to increase the required separation distances considered appropriate.

(c) The separation distance of all fireworks and/or pyrotechnic displays from the public may be reduced where added safety precautions have been taken, or particularly favorable conditions exist indicating that the risk has been properly minimized as determined by the Chief or the Fire Chief's designee. Where unusual or safety threatening conditions exist, distances can be increased as determined to be necessary by the City Fire Chief or the Fire Chief's authorized representative.

Section 387.14 Containers Required; Articles Not to Remain Outside

A person must not have or keep explosives unless the explosives are completely enclosed or encased in tight metallic, wooden, or fiber containers, and must be kept in approved magazines. That provision that the explosives must be kept in approved magazines does not apply while they are being transported or used in the custody of a transporter, awaiting shipment, or pending delivery to a consignee during the time permitted by federal law. A person having explosives in their possession or control must not under any circumstances allow any grain or particles to be or remain on the outside or about the containers in which the explosives are kept. The containers in which explosives are kept shall be plainly marked in the manner required by 49 C.F.R. Sections 173 and 178.

Section 387.15 Seizure and Confiscation of Explosives

If the City Fire Chief or the Fire Chief's authorized representative, has probable cause to believe that explosives are being manufactured, sold, possessed, or used in violation of this chapter, the Fire Chief or the Fire Chief's authorized representative may seize the explosives. Any seizure of explosives must be made under statutory and constitutional provisions governing searches and seizures. This section does not affect the authority of a peace officer, as defined in Section 2935.01 of the Revised Code, to make arrests for violations of this chapter or to seize explosives manufactured, sold, possessed, or used in violation of this chapter.

Section 387.16 Insurance

(a) The applicant for a permit under the provisions of this chapter shall take out and maintain during the life of the permit such public liability and property damage insurance as will protect the public from damages for personal injury, including accidental death, as well as from property damage, that may occur by operations under the permit, whether the operations are by the permit holder or by anyone directly or indirectly employed by the permit holder.

(b) Except as otherwise stated in this chapter, the policy of insurance for all permits under this chapter shall be in an amount not less than \$1 million for injuries and property damage, including accidental death of any one person, and a general aggregate limit in an amount not less than \$5 million. The insurance required can be comprised of a combination of primary insurance and excess insurance. However, insurance for the use, handling, storage, receipt and shipment of explosives for permitted pyrotechnical displays and small arms ammunition must be in an amount not less than \$1 million for injuries, including accidental death to any one person, and a general aggregate limit in an amount not less than \$3 million on account of one accident, and property damage insurance in an amount not less than \$1 million. Each policy of insurance shall name the City of Cleveland as an additional insured, and the Certificate of Insurance required in this section in division (c) must designate that the City of Cleveland is an additional insured.

(c) A certificate of insurance reviewed by the Director of Law must be provided to the Fire Chief prior to the issuance of a permit. The certificate of insurance must clearly state that the insurer will give written notice to the City at least 10 days prior to the expiration date of the described policies. A copy of the certificate of insurance may be forwarded and utilized for the permit application review process, but an original copy must be forwarded to the Division of Fire prior to the issuance of the actual permit.

Section 387.17 Severability

If any portion of this chapter, or any section or part of a section is declared by a court of competent jurisdiction to be invalid, the declaration must be limited solely to that portion, section, or part of a section that was directly involved in the controversy before the court on which judgment was rendered and may not affect or impair the validity of the remainder of the chapter.

Section 387.18 Inspections and Investigations

Every person who receives a permit under this chapter and every person who receives or ships explosives including pyrotechnic materials that are located within the City, must allow the City Fire Chief, or the Fire Chief's duly authorized

representative, permission to enter, at any time, the place, building, or vehicle described in the permit. In addition, they must allow the Fire Chief or the Fire Chief's duly authorized representative permission to examine the facility that is permitted or that receives or ships the explosives, including the building and the contents of the building, and must maintain the space or building in a safe and proper manner as directed by the Chief.

Section 387.99 Penalty and Enforcement

(a) Any person who violates any provision of this chapter other than those which are felonies under state law, is guilty of a misdemeanor of the first degree. Each violation must be treated separately. When a violation is a continuing one, each day of the violation constitutes a separate offense.

(b) This chapter may be enforced by the City in a criminal proceeding without issuing a prior notice of violation other than the notice required under the Ohio Rules of Criminal Procedure. This chapter may also be enforced through orders issued by the Fire Chief or his or her designee, and any such order may provide a time period in which compliance is required and a date by which compliance is required. Except in an emergency, any order issued may be appealed to the Cleveland Board of Building Standards and Building Appeals within 30 days after issuance of the order. The filing of an appeal shall not constitute an automatic stay of the order. The City may also bring a civil collection and/or civil penalty and/or injunction action to enforce the provisions of this chapter.

Section 3. That the Codified Ordinances are supplemented by enacting new Sections 394.01 to 394.15 and 394.99 to read as follows:

Chapter 394**HAZARDOUS MATERIAL TRANSPORTATION****Section 394.01 Purpose**

The purpose and intent of this chapter is to protect the public health, safety, and welfare from the potential hazards of fire, explosion, and exposure to toxic substances that accompany a hazardous materials incident by regulating the transportation of hazardous substances or material in and through the City of Cleveland, and the development and maintenance of the capability for emergency response.

Section 394.02 Scope

This chapter applies to all substances or materials defined as hazardous materials in this chapter that are transported in and through the City of Cleveland. This chapter applies, in addition to all other sections of this Fire Prevention Code, all other ordinances of the City regarding hazardous substances or materials, and any rules or regulations of other City departments, boards, or commissions that apply.

Section 394.03 Definitions

(a) "City" means City of Cleveland unless specifically defined otherwise.

(b) "Fixed Facility" means any building or property where materials or articles are received, shipped, stored, transferred, picked up or delivered, and includes without limitation, a terminal, storage facility, explosives interchange lot, explosives motor vehicle terminal, and intermodal facility.

(c) "Hazardous material" means a substance or material defined as hazardous under Title 49 of the Code of Federal Regulations (C.F.R.) and includes explosives regulated under Chapter 387 of these Codified Ordinances.

(d) "Highway" means any interstate, public street, public alley, public road or other public thoroughfare.

(e) "Intermodal facilities" means any designated area where truck trailers, storage containers, and other vehicles used in the transportation of hazardous materials are received, shipped, loaded onto, unloaded from, or stored in connection with two or more modes of transportation.

(f) "Interstate highways" means those highways in the City of Cleveland designated as Interstates 71, 77, 90, 176, 480, and 490.

(g) "Person" means an individual, trustee, receiver, association, corporation, business, partnership, or other legal entity or group of individuals.

(h) "Terminal" means a fixed facility used by carriers or transporters for the receipt, shipment, transfer, storage, pick-up or delivery of, articles or materials.

(i) "Transporter" means a person engaged in the transport, movement, or carrying of hazardous material on highways.

(j) "Vehicles" means any conveyance that is, or was, at one time operated by mechanical power on a highway and includes any trailer or storage container incidental to such a vehicle whether attached or not to a vehicle.

Section 394.04 Adoption and Incorporation of Federal Regulations

(a) To ensure the application of their requirements to vehicles within the City limits, the following laws and regulations and their successor regulations are adopted and incorporated into this code as such laws and regulations exist at the time of passage of this chapter or as they may be amended: Title 49 C.F.R. Subchapter C-Hazardous Materials Regulations; Part 171-General Information, regulations, and definitions; Part 172-Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements; Part 173-Shippers-general requirements for shipments and packagings; Part 174-Carriage by rail; Part 175-Carriage by aircraft; Part 176-Carriage by vessel; Part 177-Carriage by public highway; Part 178-Specifications for packagings; Part 179-Specifications for tank cars; Part 180-Continuing

qualification and maintenance of packagings; and Part 397-Transportation of Hazardous Materials, Driving, and Parking Rules. Any violation of these federal rules and regulations within the City limits is a violation of this chapter.

(b) The requirements of the Federal Motor Carrier Safety Regulations 49 C.F.R. Parts 390 through 399 are adopted and incorporated. Any violation of those federal rules and regulations within the City limits is a violation of this chapter.

(c) When any provision of this chapter conflicts with the regulations adopted in divisions (a) or (b) above, or any other provision of these Codified Ordinances, the provision which establishes the stricter standard for the promotion and protection of the safety and welfare of the public must prevail. This division does not apply if the local regulation contains the stricter standard and compliance with both the local regulation and a federal regulation adopted in division (a) or (b) above is not possible and the local regulation is preempted by federal law. This division also does not apply if the local regulation as applied or enforced is an obstacle to accomplishing and carrying out the federal rules and regulations adopted in division (a) or (b) above and is preempted by federal law. Nothing in this provision may compromise the City's right to apply for and receive a waiver of preemption under 49 C.F.R. Section 107.215.

Section 394.05 Hazardous Material Subject to Regulation

(a) Transportation in commerce within the City of Cleveland of hazardous materials that is required to be placarded by 49 C.F.R. Part 172, Subpart F-Placarding, or any successor regulation, must be subject to the requirements of this chapter. If the hazardous materials are required to be placarded by 49 C.F.R. Part 172, Subpart F-Placarding, but are not, the transportation in commerce within the City of Cleveland of the hazardous materials is still subject to regulation under this Chapter.

(b) Transportation in commerce within the City of Cleveland of hazardous materials that are exempt, under Section 4921.02(A)(2) of the Revised Code from the requirements of Chapter 4921 of the Revised Code, are subject to the requirements of Section 387.10 of these Codified Ordinances, and to the requirements of this chapter to the extent that labeling is required by 49 C.F.R. Part 172, Subpart E, and shipping papers are required by 49 C.F.R. Part 172, Subpart C, for the transportation of hazardous materials.

Section 394.06 Restrictions on the Use of City Streets for the Transportation of Hazardous Materials

The following provisions must be complied with for the purpose of applying 49 C.F.R. Section 397.3 adopted in Section 394.04 of this Chapter:

(a) The use of City streets (other than interstate highways) for the transportation of materials specified in Section 394.05 of this Chapter is prohibited where there is neither a point of origin nor destination (delivery point) within the City. This division does not apply where the point of origin or destination (delivery point) is within one mile of the City limits or where the use of City streets provides the safest and most direct route and the shortest distance of travel from an interstate highway to the point of origin or destination, as determined by the City Fire Chief or his or her designee.

(b) The transportation of materials specified in Section 394.05 of this Chapter is prohibited on City streets in the Downtown Area, as defined in division (c) of this section, between 7 a.m. and 6 p.m. daily, except Saturdays and Sundays.

(c) The Downtown Area is defined as the area, not including the interstate highways, bounded by Lake Erie on the north, the Cuyahoga River on the west, Interstate 71 and the Inner Belt on the south and east, and Interstate 90/Route 2 on the northeast to and including the eastern boundary of Burke Lakefront Airport.

(d) Transporters of hazardous materials specified in Section 394.05 of this Chapter, where there is a point of origin or destination (delivery point) in the City or within one mile of the City limits, or where the use of City streets provides the safest and most direct route and the shortest distance of travel from an interstate highway to the point of origin or destination must use interstate highways and designated truck routes to a point as close as possible to the destination to reach their point of pickup or delivery, unless otherwise approved by the City Fire Chief. Only the Fire Chief or the Fire Chief's designee may determine that the use of City streets provides the safest and most direct route and the shortest distance of travel from an interstate highway to the point of origin or destination.

(e) The Fire Chief may grant permission in writing to operate in exception to division (b) of Section 394.06 of this Chapter only where the Fire Chief has determined that the following criteria are met:

(1) Need is shown, that is, the applicant must show that delivery or pick-up of the hazardous material identified in Section 394.05 of this Chapter can be practicably made only during the time period identified in division (b) of Section 394.06 of this Chapter; and

(2) Transportation of the hazardous material is in the public interest.

(f) Waivers granted under division (e) of this section are per calendar year. A person may obtain a waiver beyond the period of one year only by reapplying for, and meeting the criteria described in divisions (e)(1) and (e)(2) of this section, each calendar year that a waiver is applied for.

Section 394.07 Regulations Concerning the Operation of Motor Vehicles Carrying Hazardous Material(s); Parking Prohibited

(a) Vehicles transporting hazardous materials, as specified in Section 394.05 of this Chapter, must comply with 49 C.F.R. Section 397.3 while operating within the City. If a vehicle transporting hazardous materials commits a moving traffic violation, it is also a violation of this chapter, subject to the penalty established in Section 394.99 of this Chapter, in addition to any other penalty imposed for the violation.

(b) No vehicle containing hazardous materials as specified in Section 394.05 of this Chapter may be parked on any City street at any time, unless it is necessary for a pick-up or delivery and is otherwise permitted by law.

Section 394.08 Inspections and Investigations

(a) The City Fire Chief or the Fire Chief's authorized representative may inspect vehicles used in the transportation of hazardous materials at random. The vehicles must comply with all applicable laws and regulations in this chapter.

(b) The City, through its inspectors or other authorized employees, may enter and inspect premises at reasonable times where hazardous material or materials are stored, transferred, loaded, packaged, shipped or received. This authorization includes, without limitation, inspection of intermodal facilities and terminals as defined in Sections 387.01 and 394.03 of these Codified Ordinances. It also includes inspection at any time of the vehicle of any person who transports or offers for transportation hazardous materials subject to this chapter. Inspection, under this section, may include examination of any records or documents that relate to the transportation and the offering for transportation of hazardous materials subject to this chapter.

Section 394.09 Reporting Requirements

Any incident or incidents involving hazardous materials occurring within the City and required to be reported by 49 C.F.R. Section 171.15 must be reported immediately upon discovery by the operator of the vehicle. In the event any incident or incidents involving a release or spillage of hazardous materials poses or may pose a threat of danger to health, safety or the environment, the incident must be reported immediately on discovery by a representative of a fixed facility as the term is defined in Sections 387.01 and 394.03 of these Codified Ordinances. The reporting must be made to the City of Cleveland's emergency operator by telephone. The City Fire Chief must file a standing request with the Research and Special Programs Administration of the Department of Transportation, or its successor agency, for routine mailing to the Division of Fire of a copy of the written report required by 49 C.F.R. Section 171.16.

Section 394.10 Suspension of Operations

The City Fire Chief or Police Chief may temporarily reroute or suspend the operation of some or all vehicles carrying hazardous materials within the City, without notice, whenever road, weather, traffic, emergency, or other circumstances warrant that action. All vehicles carrying hazardous materials must comply with any rerouting, suspension of operation, or other order issued under this section.

Section 394.11 Suspension of Regulations

The City Fire Chief or Police Chief may suspend these regulations in whole or in part, when circumstances require the suspension to maintain the public safety.

Section 394.12 Liability/Response Costs

(a) In addition to the criminal penalty provided in Section 394.99 of this Chapter, in the event of a hazardous materials incident, as described in 49 C.F.R. Section 171.15, or 49 C.F.R. Section 171.16, or in the event of the declaration of a nuisance under this chapter, requiring the response of the Division of Fire or the Division of Police, or the Division of Emergency Medical Service, or other City employees or agents to control that incident, the transporter, the owner and/or lessee of the vehicle, the owner and/or source of the hazardous materials, and the operator of the vehicle must be jointly and severally liable to the City for the payment of all actual costs and expenses incurred in, and related to the incident. These costs and expenses must include the following: employee recall and overtime wages; equipment; supplies; uniforms; and materials and expenses necessary for the control and clean-up activities required through final regulatory closure of the incident. The amount of the costs and expenses must be determined by the City and must be billed to those liable, as described in this section. This responsibility is not conditioned on evidence of purpose, knowledge, recklessness, or negligence on the part of the transporter, or other party liable under this section.

(b) All billing for reimbursement of City costs described in division (a) of this section may be appealed to the Board of Zoning Appeals within 30 days after receipt of the billing. The Board has jurisdiction to either affirm, reverse, or modify the billing. If the City does not receive reimbursement within 15 days after a decision of affirmation or modification by the Board, the City may institute a court action to collect or recover the costs.

Section 394.13 Nuisance Abatement

The Fire Chief may consider any quantity of hazardous material or materials that has been discharged during transportation to be a nuisance, if it may affect or endanger the life, health, or senses of the inhabitants of the City. The Fire Chief is authorized to, and may order, the owner, operator, source, or

party in control of any vehicle or hazardous material to abate any nuisance in the manner required in Chapter 203 "Nuisance Abatement" (Health Code) or Chapter "Enforcement and General Provisions" (Fire Prevention Code) of these Codified Ordinances." An owner, operator, source, or party in control must comply with the order immediately, or within the time required in the order if a specific compliance date is provided. The City may take action to abate the nuisance and charge the owner, lessee, operator, or person most recently in control of the vehicle and/or the hazardous material or hazardous materials for the City's cost of abatement.

Section 394.14 Abandoned Vehicles; Nuisance

Any vehicle containing hazardous material, as specified in Section 394.05 of this Chapter, which is abandoned, as defined in Section 451.25 of these Codified Ordinances, or subject to being impounded as provided in Chapter 405 of these Codified Ordinances, is declared a nuisance. The Fire Chief may order the abatement of the nuisance as described in Section 394.13 of this Chapter, and the failure to comply with the order is a violation of this chapter. The City may take action to abate the nuisance and charge the owner, lessee, operator, or person most recently in control of the vehicle for the City's costs of abatement.

Section 394.15 Severability

If any portion of this chapter, or any section or part of a section is declared by a court or a governmental agency of competent jurisdiction to be invalid or preempted, such declaration must be limited solely to that portion, section, or part of a section that was directly involved in the controversy before the court or agency on which judgment was rendered. That declaration may not affect or impair the validity of the remainder of the section or chapter.

Section 394.99 Penalty and Enforcement

(a) Any person who violates Sections 394.07, 394.10, or 394.13 of this Chapter, is guilty of a minor misdemeanor. The City may issue a citation under Rule 4.1 of the Ohio Rules of Criminal Procedure to enforce these ordinances.

(b) Any person who violates any provision of this chapter other than those listed in division (a) above or those which are felonies under state law is considered guilty of a misdemeanor of the first degree.

(c) Each violation must be treated separately. When a violation is a continuing one, each day of the violation constitutes a separate offense.

(d) This chapter may be enforced by the City in a criminal proceeding, without providing a prior notice of violation other than the notice required under the Ohio Rules of Criminal Procedure. This chapter may also be enforced through orders issued by the City Fire Chief or his or her designee, and any order may provide a time in which compliance is required. Any order issued may be

appealed to the City Board of Zoning Appeals no later than 30 days after the date the order was issued. The filing of an appeal shall not constitute an automatic stay of the order. Nothing in the section limits the City's ability to bring a civil action for injunctive relief and apply for an adequate legal or equitable remedy. The City may also bring a civil injunction or collection action to enforce any provision of this chapter.

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 November 19, 2007.

Effective November 21, 2007.

**Ord. No. 1421-07.
By Council Members Cleveland and Sweeney (by departmental request).
An emergency ordinance to amend Section 127.43 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1027-07, passed July 11, 2007, relating to credit transfer services.**

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 127.43 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1027-07, passed July 11, 2007, is amended to read as follows:

Section 127.43 Credit Transfer Services

The Director of Finance is authorized to enter into agreements for credit transfer services on behalf of the various departments of City government and the Clerk of the Cleveland Municipal Court to enable payment of taxes, fees, fines and other charges through the use of a credit card. Each person that pays a tax, fee, fine or other charge through the use of a credit card over the telephone, electronically, or by internet may be assessed a fee equal in amount to the cost to the City or the Court to process the credit card payment over the telephone, electronically, or by internet.

Section 2. That existing Section 127.43 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 1027-07, passed July 11, 2007, 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 November 19, 2007.

Effective November 21, 2007.

Ord. No. 1769-07.

By Council Member Cimperman.

An ordinance changing the Use District of land between St. Clair Avenue and Spilker Avenue East of East 64th Street and West of Addison Road as shown by shading on the attached map to Local Retail (Map Change No. 2244; Sheet No. 4).

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

Section 1. That the Use District of lands bounded and described as follows:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublot No. 1 and all of Sublots Nos. 32 thru 36 in the Peter and Friederike Diemer's Subdivision of part of Original 100 Acre Lots Nos. 346 and 347, as shown by the recorded plat in Volume 14 of Maps, Page 29 of Cuyahoga County Records and being further described as follows:

Beginning at the Intersection of the Centerline of E. 64th Street (40' feet wide) and the Centerline of Spilker Avenue N.E. (40 feet wide);

Thence Northeasterly along said Centerline of Spilker Avenue to a point at its Intersection with the Northerly Prolongation of the Easterly Line of Sublot No. 32;

Thence Southerly along said Northerly Prolongation and Easterly Line of said Sublot No. 32 and its Southerly Prolongation to its Intersection with the Northeasterly Prolongation of the Southeasterly Line of Sublot No. 36;

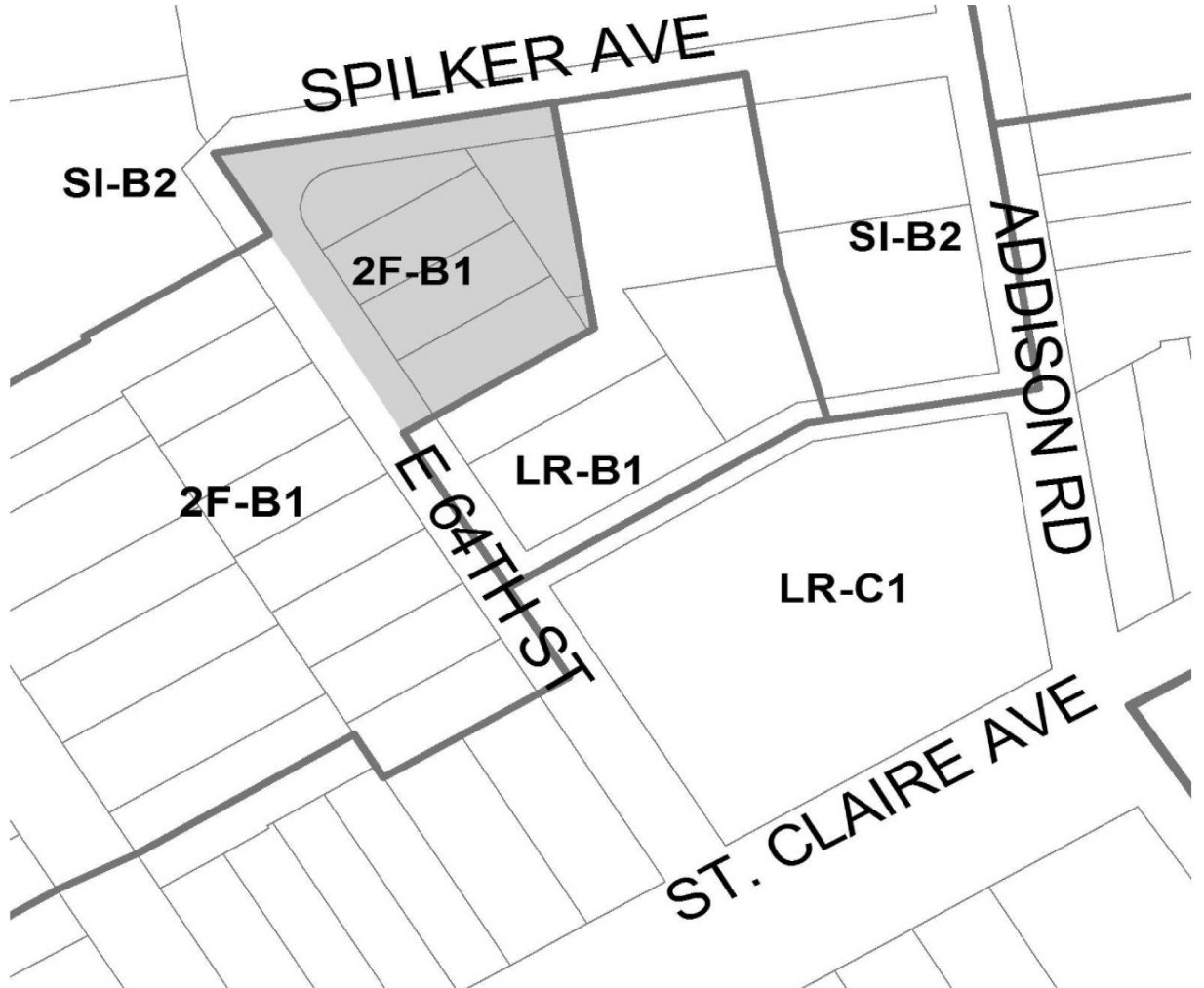
Thence Southwesterly along said Northeasterly Prolongation and Southeasterly Line of Sublot No. 36 and its Southwesterly Prolongation to its Intersection with the Centerline of E. 64th Street;

Thence Northwesterly along said Centerline of E. 64th Street to its Intersection with the Centerline of Spilker Avenue aforesaid and the Place of beginning;

and as shaded on the attached map is changed Local Retail Business.

Section 2. That the changed designation of lands described in Section 1 shall be identified as Map Change No. 2244, Sheet No. 4 and shall be made upon the Building Zone Maps of the City of Cleveland on file in the office of the Clerk of Council and on file in the office of the City Planning Commission by the appropriate person designated for this purpose by the City Planning Commission.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.



Passed November 19, 2007.
Effective December 29, 2007.

Ord. No. 1806-07.**By Council Members Polensek, Brady, Cimperman and Sweeney (by departmental request).****An emergency ordinance authorizing the Director of Public Service to issue a permit to Northeast Shores Development Corporation to encroach into the public right-of-way of East 185th Street with holiday wreaths to be attached to Cleveland Public Power and Cleveland Electric Illuminating Company utility poles (by separate permission).**

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, to Northeast Shores Development Corporation, 317 East 156th Street Cleveland, Ohio 44110 ("Permittee"), to encroach into the public right-of-way above East 185th Street by installing, using, and maintaining holiday wreaths to be attached to Cleveland Public Power and Cleveland Electric Illuminating Company utility poles (by separate permission), for the period starting approximately November 15th, 2007, and ending approximately January 15th, 2008, at the locations more fully described as follows:

LOCATION	POLE NUMBER	POLE OWNER
480 E. 185th St.	No Tag	CPP
542 E. 185th St.	65225	CEI
632 E. 185th St.	No Tag	CPP
744 E. 185th St.	39113	CPP
752 E. 185th St.	A8738	CPP
798 E. 185th St.	A8755	CPP
830 E. 185th St.	A8775	CPP
910 E. 185th St.	No Tag	CPP
960 E. 185th St.	A7936960	CPP
1020 E. 185th St.	No Tag	CPP
509 E. 185th St.	No Tag	CEI
595 E. 185th St.	62050	CEI
669 E. 185th St.	63995	CEI
701 E. 185th St.	63993	CEI
747 E. 185th St.	63992	CEI
751 E. 185th St.	63991	CEI
785 E. 185th St.	65232	CEI
813 E. 185th St.	63979	CEI
877 E. 185th St.	65236	CEI
1005 E. 185th St.	63979	CEI

Section 2. That Permittee may assign the permit only with the written consent of the Director of Public Service. That nothing in this ordinance grants or shall be considered to grant to Permittee any right, privilege, or permission to use, or to attach or affix any object to, poles; Permittee shall obtain such permission from the respective pole owner.

Section 3. That the encroaching structures permitted by this ordinance shall conform to plans and specifications approved by the Commissioner of Engineering and Construction. That Permittee shall obtain all other required permits, including but not limited to Building Permits, before installing the encroachments.

Section 4. That the Director of Law shall prepare the permit authorized by this ordinance and shall incorporate such additional provisions as the director determines necessary to protect and benefit the public interest. The permit shall be issued only when, in the opinion of the Director of Law, Permittee has properly indemnified the City against any loss that may result from the encroachment(s) permitted.

Section 5. That the Permit shall reserve reasonable right of entry to the City.

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.

Passed November 19, 2007.

Effective November 21, 2007.

Ord. No. 1894-07.**By Council Member Britt.****An emergency ordinance to amend Section 1 of Ordinance No. 1427-07, passed October 29, 2007, relating to the sale of real property as part of the Land Reutilization Program and located on East 93rd Street to the Cuyahoga County Board of Commissioners.**

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. 1427-07, passed October 29, 2007, is amended to read as follows:

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), 126-08-033, as more fully described below, to Cuyahoga County Board of Commissioners.

Section 2. That existing Section 1 of Ordinance No. 1427-07, passed October 29, 2007, 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 November 19, 2007.

Effective November 21, 2007.

**COUNCIL COMMITTEE
MEETINGS**

**Monday, November 26, 2007
9:30 a.m.**

Health and Human Services Committee: Present: Britt, Chair; Cleveland, Vice Chair; Kelley, Santiago,

Sweeney. *Authorized Absence:* Conwell, Reed. *Protempore:* Sweeney, Brancatelli.

2:00 p.m.

Finance Committee: Present: Sweeney, Chair; Cimperman, Vice Chair; Brady, Britt, Westbrook, Coats, White, Conwell, Pierce Scott, Brancatelli, Zone.

**Tuesday, November 27, 2007
9:30 a.m.**

Community and Economic Development Committee: Present: Pierce Scott, Chair; Brancatelli, Vice Chair; Cimperman, Cummins, Coats, Westbrook, Brady, Zone. *Authorized Absence:* Lewis.

**Wednesday, November 28, 2007
10:00 a.m.**

Aviation and Transportation Committee: Present: Kelley, Chair; Westbrook, Vice Chair; Brancatelli, Britt, Keane, Turner, Cleveland.

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O—Ordinance; R—Resolution; F—File
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