

The City Record

Official Publication of the Council of the City of Cleveland



November the Seventeenth, Two Thousand and Four

Jane L. Campbell
Mayor

Frank G. Jackson
President of Council

Valarie J. McCall
City Clerk, Clerk of Council

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

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Containing	PAGE
City Council	3
The Calendar	26
Board of Control	27
Civil Service	29
Board of Zoning Appeals	29
Board of Building Standards and Building Appeals	32
Public Notice	32
Public Hearings	32
City of Cleveland Bids	32
Adopted Resolutions and Ordinances	33
Committee Meetings	46
Index	47

DIRECTORY OF CITY OFFICIALS

CITY COUNCIL – LEGISLATIVE

President of Council – Frank G. Jackson

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

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

MAYOR – Jane L. Campbell

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DEPT. OF CONSUMER AFFAIRS – Kenya Taylor, Director

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

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

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

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

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

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

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

Margaret Hopkins, Ozell Dobbins, Joan Shaver Washington, Tim Donovan, _____, Secretary.

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

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

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

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

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

Subodh Chandra; Councilman Martin J. Sweeney.

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

Director _____; Council President Frank G. Jackson.

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

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

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

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

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

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

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

Doris Honsa, Richard Lenard.

CLEVELAND BOXING AND WRESTLING COMMISSION – Robert Jones, Chairman;

Clint Martin, Mark Rivera.

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

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

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

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

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

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

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

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

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

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

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

The City Record



OFFICIAL PUBLICATION OF THE COUNCIL OF THE CITY OF CLEVELAND

Vol. 91

WEDNESDAY, NOVEMBER 17, 2004

No. 4745

CITY COUNCIL

MONDAY, NOVEMBER 15, 2004

The City Record

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Address all communications to

VALARIE J. McCALL

City Clerk, Clerk of Council
216 City Hall

PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL 2002-2005

MONDAY

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

MONDAY—Alternating

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

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

MONDAY

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

TUESDAY

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

TUESDAY—Alternating

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

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

WEDNESDAY—Alternating

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

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

WEDNESDAY—Alternating

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

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

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

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

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

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

OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio

Monday, November 15, 2004

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

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

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

Pursuant to Ordinance No. 2926-76, prayer was offered by Minister James Davis of New Spirit Revival Center, located at 3130 Mayfield Road in Cleveland Heights. Pledge of Allegiance.

MOTION

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

MAYOR'S APPOINTMENTS

File No. 2163-04-A.

November 15, 2004

To the Honorable Council of the
City of Cleveland City Council

Ladies and Gentlemen:

Report of the Mayor's Appointment Committee's consideration of the Mayor's Reappointment to the City Planning Commission.

We have before us the Mayor's Letter wherein she names her reappointment to the City Planning Commission:

Gloria Jean Pinkney
(Reappointment-Term expires on
November 2, 2010)

The Mayor's Appointment Committee hereby recommends that Council approve the reappointment as stated above.

Mayor's Appointment Committee

Roosevelt Coats, Chair
Jay Westbrook
Zack Reed
Nelson Cintron Jr.
Sabra Pierce Scott

Without Objection Mayor's Reappointment Approved. Yeas 21. Nays 0.

File No. 2164-04-A.

November 15, 2004

To the Honorable Council of the
City of Cleveland City Council

Ladies and Gentlemen:

Report of the Mayor's Appointment Committee's consideration of the Mayor's Reappointment to the Fair Housing Board.

We have before us the Mayor's Letter wherein she names her reappointment to the Fair Housing Board:

Doris Honsa
(Reappointment-Term expires on
June 1, 2007)

The Mayor's Appointment Com-
mittee hereby recommends that
Council approve the reappointment
as stated above.

Mayor's Appointment Committee

Roosevelt Coats, Chair
Jay Westbrook
Zack Reed
Nelson Cintron Jr.
Sabra Pierce Scott

Without Objection Mayor's Reap-
pointment Approved. Yeas 21. Nays
0.

File No. 2165-04-A.

November 15, 2004

To the Honorable Council of the
City of Cleveland City Council

Ladies and Gentlemen:

Report of the Mayor's Appoint-
ment Committee's consideration of
the Mayor's Reappointment to the
Fair Housing Board.

We have before us the Mayor's
Letter wherein she names her reap-
pointment to the Fair Housing
Board:

Charles See
(Reappointment-Term expires on
June 1, 2007)

The Mayor's Appointment Com-
mittee hereby recommends that
Council approve the reappointment
as stated above.

Mayor's Appointment Committee

Roosevelt Coats, Chair
Jay Westbrook
Zack Reed
Nelson Cintron Jr.
Sabra Pierce Scott

Without Objection Mayor's Reap-
pointment Approved. Yeas 21. Nays
0.

File No. 2166-04-A.

November 15, 2004

To the Honorable Council of the
City of Cleveland City Council

Ladies and Gentlemen:

Report of the Mayor's Appoint-
ment Committee's consideration of
the Mayor's Reappointment to the
City Planning Commission.

We have before us the Mayor's
Letter wherein she names her reap-
pointment to the Landmark's Com-
mission:

Lillian Kuri
(Reappointment-Term expires on
November 2, 2010)

The Mayor's Appointment Com-
mittee hereby recommends that
Council approve the reappointment
as stated above.

Mayor's Appointment Committee

Roosevelt Coats, Chair
Jay Westbrook
Zack Reed
Nelson Cintron Jr.
Sabra Pierce Scott

Without Objection Mayor's Reap-
pointment Approved. Yeas 21. Nays 0.

**RECORDING OF VOTE
OF ABSENT MEMBER**

File No. 2216-04.

November 9, 2004

Valerie J. McCall,
Clerk of Council
City Hall, Room 216
601 Lakeside Avenue
Cleveland, Ohio 44114

Dear Clerk McCall:

In accordance with Rule 22 of the
Rules of Council, I hereby request
that my vote be recorded as a yea
on all ordinances and resolutions
passed and adopted by Cleveland
City Council on November 8, 2004.

Thank you.

Very truly yours,
Edward Rybka
Council Member, Ward 12

Received.

RECORD OF VOTE

In accordance with the request of
Council Member Rybka and Rule 22
of the Rules of Council, the vote on
the following ordinances and reso-
lutions passed and adopted by Cleve-
land City Council on November 8,
2004 is changed as follows:

Ord. No. 2125-04.
Yeas 21. Nays 0.

Ord. No. 2129-04.
Yeas 21. Nays 0.

Ord. No. 2135-04.
Yeas 21. Nays 0.

Res. No. 2131-04.
Yeas 21. Nays 0.

Res. No. 2132-04.
Yeas 21. Nays 0.

Res. No. 2133-04.
Yeas 21. Nays 0.

Res. No. 2134-04.
Yeas 21. Nays 0.

Ord. No. 1182-04.
Yeas 21. Nays 0.

Ord. No. 1480-04.
Yeas 21. Nays 0.

Ord. No. 1666-04.
Yeas 21. Nays 0.

Ord. No. 1674-04.
Yeas 21. Nays 0.

Ord. No. 1677-04.
Yeas 21. Nays 0.

Ord. No. 1679-04.
Yeas 21. Nays 0.

Ord. No. 1680-04.
Yeas 21. Nays 0.

Ord. No. 1681-04.
Yeas 21. Nays 0.

Ord. No. 1682-04.
Yeas 21. Nays 0.

Ord. No. 1684-04.
Yeas 21. Nays 0.

Ord. No. 1685-04.
Yeas 21. Nays 0.

Ord. No. 1772-04.
Yeas 21. Nays 0.

Ord. No. 1776-04.
Yeas 21. Nays 0.

Ord. No. 1962-04.
Yeas 21. Nays 0.

Ord. No. 2005-04.
Yeas 21. Nays 0.

Ord. No. 2006-04.
Yeas 21. Nays 0.

Ord. No. 2007-04.
Yeas 21. Nays 0.

Ord. No. 2008-04.
Yeas 21. Nays 0.

Ord. No. 2052-04.
Yeas 21. Nays 0.

Ord. No. 2053-04.
Yeas 21. Nays 0.

Ord. No. 1520-04.
Yeas 21. Nays 0.

COMMUNICATIONS

File No. 2217-04.

From the Cleveland Public
Library — supplement to Cleveland
Magazine — Cleveland Public
Library Treasures. Received.

File No. 2218-04.

From the Cleveland Public
Library — recommendations regard-
ing the scope and focus of unbiased
study of library cooperation. Re-
ceived.

**FROM DEPARTMENT OF
LIQUOR CONTROL**

File No. 2219-04

Re: Transfer of Ownership and
Location Application — 0146188 —
Alnahdi, LLC, 5417 Chester Avenue.
(Ward 7). Received.

File No. 2220-04.

Re: Transfer of Ownership Appli-
cation — 3438746 — Ricardo A. Guil-
fu, d.b.a. Luz Urban Groceries, 8000
Lawn Avenue. (Ward 17). Received.

**STATEMENT OF WORK
ACCEPTED**

File No. 2221-04.

From the Department of Parks,
Recreation and Properties — Con-
tract No. 62587, Maplewood Conces-
sion Building — accepted June 30,
2004. Received.

CONDOLENCE RESOLUTIONS

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

Res. No. 2222-04—Annie Lee Ward.
Res. No. 2223-04—Lela Dean Paterson.

Res. No. 2224-04—Marcus Garvey Powell, Sr.

CONGRATULATION RESOLUTIONS

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

Res. No. 2225-04 — Business Interiors and Environments, Inc.

Res. No. 2226-04—Church of Christ on the Boulevard.

Res. No. 2227-04—Bracy Lewis.

Res. No. 2228-04 — Danny H. Cameron.

Res. No. 2229-04—Mary Zone.

Res. No. 2230-04—C. Yolanda Cra-ciun.

Res. No. 2231-04—Patrol Officer William Adams.

Res. No. 2232-04 — Archbishop James P. Lyke School.

RECOGNITION RESOLUTION

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

Res. No. 2233-04 — Volunteers of America.

COMMEMORATION RESOLUTION

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

Res. No. 2234-04—Reverend Willie A. Killings, Sr.

FIRST READING EMERGENCY ORDINANCES REFERRED

Ord. No. 2195-04.
By Council Member Jackson (by departmental request).

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

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 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 years of the necessary items of paint and paint supplies, 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 City government. 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 Finance 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 Finance 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 118704)

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; Committee on Finance.

Ord. No. 2196-04.
By Council Members Coats and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Public Utilities to enter into a contract with WPS Energy Services, Inc. for retail electric aggregation services and power supply for the City's electric aggregation program for the period of 2006-2008.

Whereas, the City of Cleveland currently conducts an electric aggregation program that offers savings to residents and businesses that receive electric service from the Cleveland Electric Illuminating Company; and

Whereas, the City's contract with its current supplier for the aggregation program expires December 31, 2005, and the City wishes to enter into a contract for the provision of electric aggregation services and power supply for the period of 2006-2008; 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 129.331 of the Codified Ordinances of Cleveland, Ohio, 1976, the Director of Public Utilities is authorized to enter into a contract with WPS Energy Services, Inc. for retail electric aggregation services and power supply on the basis of its proposal dated November 5, 2004.

Section 2. That the contract authorized by this ordinance shall contain such terms and conditions as the Director of Law deems necessary to benefit and protect the City and the customers of the electric aggregation program.

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

Ord. No. 2197-04.
By Council Members Coats and Jackson (by departmental request).

An emergency ordinance authorizing the retention and use of revenue by the general fund from tax remittances collected by Cleveland Public Power during the year 2005, and authorizing Cleveland Public Power to apply any remaining proceeds from previously collected tax remittances and interest thereon, and up to \$2 million from revenues generated by an existing charge, to the replacement of copper naphthenate poles in the Cleveland Public Power System, for other capital improvements in the Cleveland Public Power System, or for payment of bonded indebtedness.

Whereas, under Ordinance No. 910-98, passed February 14, 2000, this Council authorized, among other things, that Cleveland Public Power shall receive from the general fund an amount equal to eighty-five percent (85%) of the tax remittances due the City collected by Cleveland Public Power under Section 5727.81 of the Revised Code; and

Whereas, under Ordinance No. 1886-02, passed October 28, 2002, this Council directed that the general fund shall retain all of the tax remittances collected by Cleveland Public Power during 2003 and authorized Cleveland Public Power to apply up to \$1 million from revenues generated by an increase in the incremental charge described in Ordinance No. 910-98, and up to \$1 million of tax remittances collected by Cleveland Public Power under Section 5727.81 of the Revised Code prior to January 1, 2003, to the cost in calendar year 2003 of replacing utility poles treated with copper naphthenate in the Cleveland Public Power distribution system; and

Whereas, under Ordinance No. 2088-03, passed October 27, 2003, this Council directed that the general fund shall retain all of the tax remittances collected by Cleveland Public Power during 2004 and authorized Cleveland Public Power to apply up to \$2 million from previously collected tax remittances and up to \$2 million from revenues generated by an existing charge to the replacement of copper naphthenate poles in the Cleveland Public Power distribution system during 2004; and

Whereas, legislative authority is necessary to permit the general fund to retain tax remittances collected by Cleveland Public Power during calendar year 2005 and to authorize Cleveland Public Power to apply up to \$2 million from the incremental charge described in Ordinance No. 910-98, and any remaining proceeds of tax remit-

tances collected by Cleveland Public Power under Section 5727.81 of the Revised Code prior to January 1, 2003, to the cost of replacing copper naphthenate poles, for other capital improvements to the Cleveland Public Power system, or for payment of bonded indebtedness; 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 Ordinance No. 910-98, passed February 14, 2000, as amended by Ordinance No. 1886-02, passed October 28, 2002, and Ordinance No. 2088-03, passed October 27, 2003, the general fund shall retain 100% of the tax remittances collected under Section 5727.81 of the Revised Code during calendar year 2005.

Section 2. That, notwithstanding and as an exception to Ordinance No. 910-98, passed February 14, 2000, as amended by Ordinance No. 1886-02, passed October 28, 2002, and Ordinance No. 2088-03, passed October 27, 2003, Cleveland Public Power is authorized to apply up to \$2 million from revenues generated by the increase in the incremental charge described in Ordinance No. 910-98, and any remaining proceeds of tax remittances and interest thereon collected by Cleveland Public Power under Section 5727.81 of the Revised Code prior to January 1, 2003, to the cost in calendar year 2005 of replacing utility poles treated with copper naphthenate in the Cleveland Public Power system, for other capital improvements to the Cleveland Public Power system, or for payment of bonded indebtedness.

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

Ord. No. 2198-04.

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

An emergency ordinance to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Sections 646.01 to 646.09 and 646.99 relating to the remittance of utility bill payments by unauthorized agents; and to repeal Section 129.19, as enacted by Ordinance No. 1501-74, passed November 18, 1974, relating to payment of bills for City 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 Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections 646.01 to 646.09 and 646.99 to read as follows:

**Chapter 646
REMITTANCE OF UTILITY BILL
PAYMENTS BY UNAUTHORIZED
AGENTS**

Section 646.01 Definitions

(a) "Unauthorized agent" means any person, firm, partnership, association, corporation or other entity, not authorized by a utility company to receive payments, that receives payment from a utility's customer and remits the payment to the utility. "Unauthorized agent" includes, but is not limited to, a person or entity regulated under Section 1315.21 et seq. of the Revised Code as a "check cashing business" or regulated under Section 1315.01 et seq. of the Revised Code as a "transmitter of money" that offers this service.

(b) "Utility company" means any person, firm, partnership, association, corporation, or other entity, including but not limited to the City of Cleveland Department of Public Utilities, providing residential utility service.

(c) "Remittance" means the transmittal by an unauthorized agent of payment from a residential utility customer to the customer's utility company.

Section 646.02 Excessive Fees for Remittance Prohibited

(a) No unauthorized agent shall charge a fee for remittance that results in a gross disparity between the price of the service and the value of the service, as measured by the fee for remittance service readily obtained by other customers, to the detriment of the customer.

(b) Whoever violates this Section has committed an unconscionable trade practice under the provisions of Section 641.12, and shall be subject to all of the legal remedies and penalties available to the Director of Consumer Affairs, who is authorized to enforce the provisions of this chapter.

Section 646.03 Failure to Post Fees Prohibited

(a) No unauthorized agent shall fail to conspicuously post on the premises the current fee for a utility bill payment remittance.

(b) Failure to post the fee for providing the service of utility bill remittance as set forth in this Section constitutes an unfair or deceptive trade practice under the provisions of Section 641.11, otherwise subject to all of the legal remedies and penalties available to the Director of Consumer Affairs, who is authorized to enforce the provisions of this chapter.

Section 646.04 Failure to Observe Time Limit for Remittance

(a) No unauthorized agent shall fail to remit a utility payment to the utility company within two business days from receipt of the payment from the customer.

(b) Failure to remit a utility payment within the time limit set forth in this chapter constitutes an unfair or deceptive trade practice under the provisions of Section 641.11, otherwise subject to all of the legal remedies and penalties available to the Director of Consumer Affairs, who is authorized to enforce the provisions of this chapter.

Section 646.05 Failure to Post Maximum Time for Remittance

(a) No unauthorized agent shall fail to conspicuously post on the premises the actual time between receipt of payment and remittance of payment to the utility company.

(b) Failure to post the actual time between receipt of payment and remittance of payment as set forth in this chapter constitutes an unfair or deceptive trade practice under the provisions of Section 641.11, otherwise subject to all of the legal remedies and penalties available to the Director of Consumer Affairs, who is authorized to enforce the provisions of this chapter.

Section 646.99 Penalty

Whoever violates any provisions of this Chapter shall be subject to the remedies and penalties provided in Section 643.99.

Section 2. That Section 129.19 of the Codified Ordinances of Cleveland, Ohio, 1976, as enacted by Ordinance No. 1501-74, passed November 18, 1974, 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 Utilities, Finance, Law; Committees on Public Utilities, Legislation, Finance.

Ord. No. 2199-04.

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

An emergency ordinance authorizing the Director of Public Service to issue a permit to The Cleveland Clinic Foundation to encroach into the public right-of-way of 10265 Carnegie Avenue to construct, install, use, and maintain a Ground Sign.

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 The Cleveland Clinic Foundation 10265 Carnegie Avenue to encroach into the public right-of-way above Carnegie Avenue by constructing, installing, using, and maintaining a ground sign, at the location more fully described as follows:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of original 100 Acre Lot No. 401.

Beginning at the intersection of the north line of Carnegie Avenue (width varies) and the center line of Vacated East 102nd Street 44' (Ord. No. 320-97 passed March 24, 1997);

thence easterly along said north line of Carnegie Avenue 156.0 feet to a point;

thence southerly perpendicular with said north line 6.00 feet to the principal place of beginning;

thence continuing southerly 6.00 feet to a point;

thence easterly parallel with said north line 3.00 feet to a point;

thence northerly perpendicular with said north line 6.00 feet to a point;

thence westerly parallel with said north line 3.0 feet to the place of beginning.

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

Permittee may assign the Permit only with the written consent of the Director of Public Service.

Section 2. That Permittee shall construct and install the encroaching structure(s) only conforming 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 encroaching structure(s).

Section 3. That the Director of Law shall prepare the permit authorized by this ordinance and shall include such additional provisions as he 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 which may result from the encroachments permitted.

Section 4. That the Permit shall reserve reasonable right of entry to the City.

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. 2201-04.

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

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to sell City-owned property no longer needed for public use located at 13004 Liberty Avenue and known as Emery Park to the St. Paul African Methodist Episcopal Church.

Whereas, the Director of Parks, Recreation and Properties has requested the sale of the City-owned

property to the St. Paul African Methodist Episcopal Church (the "Redeveloper") no longer needed for public use and located at 13004 Liberty Avenue and known as Emery Park; 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:

LEGAL DESCRIPTION

PARCEL 1 - BROOKSIDE BLVD.

Land to be conveyed from The City of Cleveland to St. Paul African Methodist Episcopal Church

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original Rockport Township Lot No. 10, bounded and described as follows:

Beginning at a 5/8 inch capped (Selee #5471) iron pin set at the intersection of the southeasterly right of way line of Interstate Route No. 71, width varies, with the westerly prolongation of the northerly line of The Ford Realty Company's Liberty Subdivision No. 6, as shown by the recorded Plat in Volume 69, Page 12 of Cuyahoga County Map Records;

Thence South 89° 54' 58" East, along the said westerly prolongation of the northerly line of Liberty Subdivision No. 6, the northerly line of said Liberty Subdivision No. 6 and the northerly line of The Ford Realty Company's Liberty Subdivision No. 3, a shown by the recorded Plat in Volume 67, Page 8 of Cuyahoga County Map Records, a distance of 619.34 feet to a 5/8 inch capped (Selee #5471) iron pin set;

Thence North 00° 05' 02" East, a distance of 548.25 feet to a 5/8 inch capped (Selee #5471) iron pin set in the said southeasterly right of way line of Interstate Route No. 71;

Thence South 51° 38' 10" West, along the said southeasterly right of way line of Interstate Route No. 71, a distance of 164.30 feet to a 5/8 inch capped (Selee #5471) iron pin set at an angle point therein;

Thence South 48° 18' 20" West, continuing along the said southeasterly right of way line of Interstate Route No. 71, a distance of 288.43 feet to a 5/8 inch capped (Selee #5471) iron pin set at an angle point therein;

Thence South 47° 25' 33" West, continuing along the said southeasterly right of way line of Interstate Route No. 71, a distance of 374.72 feet to the place of beginning and containing 4.000 acres of land as surveyed by Howard R. Selee, Registered Surveyor No. 5471 of Howard R. Selee and Associates, Inc., Professional Land Surveyors, dated June 4, 2004, be the same more or less, but subject to all 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. 2202-04.

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

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to accept a cash gift from the living trust of Lillian C. Alten to be used solely for the maintenance and operation of the Rockefeller Park Greenhouse; and authorizing the director to enter into one or more standard or written requirements contracts for utilization of the funds.

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

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

Section 1. The Director of Parks, Recreation and Properties is authorized to accept, on behalf of the Division of Park Maintenance, cash in the amount of \$64,403.69 from the living trust of Lillian C. Alten to be used solely for the maintenance and operation of the Rockefeller Park Greenhouse.

Section 2. That the Director of Parks, Recreation and Properties is authorized to file all papers and execute all documents necessary to receive the funds under this gift, and that the funds are appropriated for the purpose of the maintenance and operation of the Rockefeller Park Greenhouse.

Section 3. That the Director of Parks, Recreation and Properties is

authorized to make one or more written standard purchase contracts and written requirement contracts under the Charter and Codified Ordinances of Cleveland, Ohio, 1975, the period of requirements to be determined by the director, for the necessary items of necessary services, materials, labor, equipment, and supplies required in connection with maintaining and operating the Rockefeller Park Greenhouse, and labor and materials needed to install and maintain any or all of the foregoing items, if necessary, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Division of Park Maintenance, Department of Parks, Recreation and Properties. 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 determines.

Section 4. That the cost of the contract or contracts authorized by this ordinance shall not exceed a total of \$64,403.69 and shall be paid from the fund or funds which are credited the trust proceeds accepted in Section 1 of 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, Property and Recreation, Finance.

Ord. No. 2203-04.

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

An emergency ordinance authorizing the Director of Economic Development to enter into an Enterprise Zone Agreement with Sterling Data Center, LLC dba BlueBridge Networks to provide for a seven-year, sixty percent tax abatement on personal property acquisition in the form of new machinery and equipment investment at 1225 Euclid Avenue in the Cleveland Area Enterprise Zone.

Whereas, under Ordinance No. 948-95, passed June 19, 1995, this Council designated an area which is in the City of Cleveland and described in File No. 948-95-A, as the Cleveland Area Enterprise Zone (the "Zone") under Chapter 5709 of the Ohio Revised Code; and

Whereas, in August, 1995, the Director of Development of the State of Ohio determined that the Zone contains the characteristics in Section 5709.61(A) of the Revised Code and certified the area as an "Urban Jobs and Enterprise Zone" under Chapter 5709 of the Revised Code; and

Whereas, Sterling Data Center, LLC dba BlueBridge Networks (the "Enterprise") has proposed to enhance its company located at 1225

Euclid Avenue in the Cleveland Area Enterprise Zone; and

Whereas, the Enterprise has certified to the City it would be at a competitive disadvantage operating at this location if taxes on certain tangible personal property were not abated; and

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

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

Section 1. That this Council approves the application of the Enterprise for enterprise zone incentives on the basis that the Enterprise is qualified by financial responsibility and business experience to create and preserve employment opportunities in the Cleveland Area Enterprise Zone and to improve the economic climate of the City of Cleveland.

Section 2. That the Director of Economic Development is authorized to enter into an Enterprise Zone Agreement with the Enterprise to provide for a seven-year, sixty percent (60%) tax abatement on personal property acquisition in the form of new machinery and equipment investment; the abatement shall be subject to annual review of the Tax Incentive Review Council.

Section 3. That the terms of the tax abatement shall be in accordance with the terms in the Summary contained in File No. 2203-04-A. These terms shall not be amended, nor shall the tax abatement be assignable or transferable to any entity, without the prior legislative authorization by Cleveland City Council.

Section 4. That the Director of Economic Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable under Chapter 5709 of the Revised Code and the funds are appropriated for the purposes listed in Chapter 5709 of the Revised Code. The fees shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

Section 5. That the Director of Law shall prepare and approve the agreement and that the agreement shall contain the terms and provisions the Director deems necessary to protect the City's interest.

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

Ord. No. 2204-04.

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

An emergency ordinance to amend Section 5 of Ordinance No. 257-97, passed April 14, 1997, as amended, relating to expending Economic Development Initiative Grant Funds for the operation of the Empowerment Zone Business Opportunity Program and to enter into contracts under this program.

Whereas, the Empowerment Zone's economic development program is predicated on assisting businesses who typically have been excluded from conventional lending programs, both private and public, for reasons that include lack of effective financial and management systems, past credit problems, lack of access to broad consumer networks, and the inability to meet security and collateral underwriting requirements; and

Whereas, the Empowerment Zone's Business Opportunity Program ("EZ BOP") was created to meet unmet needs of Empowerment Zone businesses; and

Whereas, providing one-on-one technical assistance for those businesses is as important as providing loans and rebates; and

Whereas, EZ BOP represents one of several approaches to address the needs of small businesses; and

Whereas, the Empowerment Zone provides four to six months of assistance to determine suitability of EZ BOP assistance for those businesses; 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 5 of Ordinance No. 257-97, passed April 14, 1997, as amended by Ordinance No. 587-90, passed June 7, 1999, and Ordinance No. 905-01, passed June 11, 2001, is amended to read as follows:

Section 5. That the contracting authority granted herein shall expire on December 31, 2005, the Director of Economic Development shall, within six months of the effective date of this ordinance, report to Council on activity of the Program, including, but not limited to, the number and value of contracts entered into and projects completed under the Program.

Section 2. That existing Section 5 of Ordinance No. 257-97, passed April 14, 1997, as amended by Ordinance No. 587-90, passed June 7, 1999, Ordinance No. 905-01, passed June 11, 2001, 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 Economic Development, Finance, Law; Committees on Community and Economic Development, Finance.

Ord. No. 2205-04.
By Council Members Britt, Gordon,
Cimperman and Jackson (by depart-
mental request).

An emergency ordinance authorizing the Commissioner of Purchases and Supplies to sell City-owned property no longer needed for public use to PLV Associates, L.P., or its designated successors or assigns, for future development of the Park Lane Villa Apartments project; authorizing the Director of Community Development to enter into a Project Agreement with PLV for the sale and development of the property; and authorizing the director to enter into one or more contracts with PLV to provide economic development assistance to partially finance the construction of Park Lane Villa Apartments located at 10510 Park Lane, and all other associated costs necessary to redevelop the property.

Whereas, the City of Cleveland acquired certain property known as Park Lane Villa Apartments (the "Property") from the United States Department of Housing and Urban Development through a special Warranty Deed dated as of September 15, 2003 and amended March 16, 2004 (the "HUD Deed"); and

Whereas, PLV Associates, L.P., or its designated successors or assigns (the "Developer") has offered to purchase the Property from the City and to redevelop the Property for housing; and

Whereas, the Housing Advisory Board, after reviewing in excess of 15 days the proposed housing redevelopment, approved the project; and

Whereas, in order to complete the redevelopment of the Property, the City intends to sell the Property to the Developer and loan Core City funds to the Developer under a Project Agreement and Core-City Loan Agreement; and

Whereas, this Council finds that the sale and redevelopment of the Property has been approved by the Housing Advisory Board in compliance with the Ohio Constitution and statutory requirements and will enhance the availability of adequate housing in the City and will improve the economic and general well-being of the people of the City and it is in the public interest and a proper public purpose for the City to provide and/or assist in providing housing for individuals and families; 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:

Park Lane Villa Premises
 10510 Park Lane
 Cleveland, Ohio

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Original One Hundred Acre Lot No. 402, further bounded and described as follows:

Beginning at a stone monument in the center line of East 105th Street, 60 feet wide, at its intersection with

the Northerly line of Park Lane, 30.00 feet wide;

Thence North 89°-42'-22" East, along said Northerly line of Park Lane, 30.00 feet to a point therein;

Thence South, 30.00 feet to a point in the Southerly line of said Park Lane and the principal place of beginning;

Thence North 89°-42'-22" East, along said Southerly line of Park Lane, 310.00 feet to a point therein;

Thence South, 262.71 feet to a point;

Thence North 89°-59'-20" West, 310.00 feet to a drill hole in the Easterly line of the aforementioned East 105th Street;

Thence North, along said Easterly line of 105th Street, 261.06 feet to the principal place of beginning be the same more or less but subject to all legal highways and containing 1.864 acres, and being according to a survey dated May 16, 1978, made by Seymour D. Weiss, Registered Surveyor No. 4759.

Parcel No. 119-20-001 and 119-20-022

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 PLV Associates, L.P., or its designated successors or assigns (the "Developer"), 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 will be made by official quit claim deed prepared by the Director of Law and executed by the Mayor on behalf of the City of Cleveland. The deed must contain necessary provisions, including restrictive reversionary interests as may be specified by the Board of Control or Director of Law, that will protect the parties as their respective interests require and will specifically contain a provision against the erection of any advertising signs or billboards except permitted identification signs, and require compliance with the terms of the HUD Deed.

Section 4. That the Director of Community Development is authorized to enter into a Project Agreement with the Developer for the sale and development of the Property under this ordinance.

Section 5. That the Director of Community Development is authorized to enter into contracts with the Developer to provide economic development assistance to partially finance the rehabilitation of the Park Lane Villa Apartments project, and all other associated costs necessary to redevelop the Property.

Section 6. That the terms of the loan will be according to the terms set forth in the Summary contained in File No. 2205-04-A.

Section 7. That the costs of the contract will not exceed Two Million One Hundred Thousand Dollars (\$2,100,000), and will be paid from Fund No. 10 SF 545, which funds are appropriated for this purpose, Request No. 125783.

Section 8. That the Director of Community Development is authorized to accept the collateral as set forth in the file referenced above in order to secure repayment of the loan. Any loan agreement, security instrument, or other document must be prepared and approved by the Director of Law.

Section 9. That the Director of Community Development is authorized to accept monies in repayment of the loan and to deposit the monies in Fund No. 10 SF 546.

Section 10. That the Director of Community Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable fees under federal regulations and the fees are appropriated to cover costs incurred in the preparation of the loan application, closing and servicing of the loan. The fees will be deposited to and expended from Fund No. 10 SF 546.

Section 11. That the contract authorized by this ordinance will be prepared by the Director of Law and may contain any additional terms and conditions that the Director of Law and the Director of Community Development deem necessary and appropriate to protect and benefit the public interest.

Section 12. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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

Ord. No. 2206-04.

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

An emergency ordinance authorizing the Director of Community Development to apply for and accept a grant from the State of Ohio's Clean Ohio Assistance Fund, for a Clean Ohio Assistance Grant to conduct the remediation and demolition of the former Steel Slitting property located at 7011 Aetna Road to be used for future development; and authorizing the director to enter into one or more contracts with Zarembo Cleveland Communities, Inc., FBE, Inc., a subsidiary of Third Federal Savings and Loan Association of Cleveland, and/or Slavic Village Development, or their designee, to implement the project.

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

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

Section 1. That the Director of Community Development is authorized to apply for and accept a grant in an amount up to \$985,000, from the State of Ohio's Clean Ohio Assistance Fund, for a Clean Ohio Assistance Grant to conduct the remediation and demolition of part of the former Steel Slitting property located at 7011 Aetna Road to be used for future development, for the purposes described in the summary for the grant contained in the file described below. The director is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes set forth in the summary for the grant contained in the file described below.

Section 2. That the summary for the grant, File No. 2206-04-A, made a part of this ordinance as if fully rewritten, is approved in all respects.

Section 3. That the Director of Community Development is authorized to enter into one or more contracts with Zaremba Cleveland Communities, Inc., FBE, Inc., a subsidiary of Third Federal Savings and Loan Association of Cleveland, and/or Slavic Village Development, or their designee, to implement the project as described in the summary, including remediation and demolition of part of the former Steel Slitting property located at 7011 Aetna Road to be used for future development.

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

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

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

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

Ord. No. 2208-04.

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

An emergency ordinance to amend various sections of Chapter 191 of the Codified Ordinances of Cleveland, Ohio, 1976; to enact new Sections within Chapter 191 relating to municipal income tax to comply with the laws of the State of Ohio affecting municipal income taxation as set forth in Amended Substitute House Bill 95; and to authorize the Board of Review to authorize the Tax Administrator and/or designated employees to abate penalties, interest or both for good cause shown.

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 191.0101, as amended by Ordinance No. 2699-84, approved by voters February 5, 1985,

Sections 191.0302, 191.0303, 191.0305, 191.0306, 191.0307, 191.0308, and 191.0310 as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0311, as amended by Ordinance No. 2214-82, passed October 25, 1982,

Section 191.0314, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0318, as amended by Ordinance No. 116-04, passed February 9, 2004,

Sections 191.0319 and 191.0320, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0501, as amended by Ordinance No. 116-04, passed February 9, 2004,

Sections 191.0502, 191.0701, 191.0702, 191.0703, and 191.0704 as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0901, as amended by Ordinance No. 116-04, passed February 9, 2004,

Section 191.1101, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1102, as amended by Ordinance No. 116-04, passed February 9, 2004,

Sections 191.1103, 191.1104, 191.1105, and 191.1301, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1302, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Section 191.1303, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1304, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Section 191.1305, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1306, as amended by Ordinance No. 1704-72, passed December 12, 1972,

Section 191.1307, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Sections 191.1501 and 191.1502, as amended by Ordinance No. 229-81, passed March 9, 1981,

Sections 191.1503, 191.1504 and 191.1505, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1506, as amended by Ordinance No. 1670-85, passed September 23, 1985

Sections 191.1507, 191.1701, and 191.1702, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1902, as amended by Ordinance No. 3008-A-83, passed February 23, 1984,

Section 191.1903, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Sections 191.2001 and 191.2002, as amended by Ordinance No. 2027-69, passed June 1, 1970,

Section 191.2101, as amended by ordinance No. 1437-70, passed September 2, 1970,

Sections 191.2301, 191.2302, 191.2303, 191.2304, 191.2305, 191.2306, 191.2307, and 191.2308, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.2309, as amended by Ordinance No. 485-89, passed March 27, 1989,

Sections 191.2309, 191.2310, and 191.2311, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.2312, as amended by Ordinance No. 480-75, passed March 24, 1975

Sections 191.2501, 191.2503, 191.2701, and 191.99, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

are amended to read as follows:

Section 191.0101 Purpose of Levy

(a) To provide funds for the purposes of general municipal operations, procurement of fixed assets or permanent improvements, payment of debt charges, the elimination of deficits in City funds and for all other lawful purposes, there shall

be, and is hereby levied a tax on **qualifying wages as defined in this Chapter, on net profits, and on all other taxable income**, as hereinafter provided.

(b) Eight-ninths (8/9) of all **monies** derived from the tax so levied shall be unrestricted and may be applied to any of the purposes described in division (a) of this section.

(c) One-ninth (1/9) of all **monies** derived from the tax so levied shall be credited to a special revenue fund to be known as the Restricted Income Tax Fund. Monies credited to the Restricted Income Tax Fund may be applied to only the following purposes:

(1) Elimination of any deficit balance in any fund of the City, provided that such deficit balance existed as of December 31, 1984, or exists at any subsequent time during a fiscal emergency period, as defined in **Section 118.01 of the Revised Code**; or

(2) Payment of the principal or of interest or any premium on any bonds or notes issued by the City to finance the construction, purchase or acquisition of fixed assets or permanent improvements; or

(3) Payment of the costs of constructing or acquiring (whether by outright purchase, lease or lease-purchase and irrespective of whether payment is made in installments or in a lump sum) of fixed assets of permanent improvements.

Section 191.0302 Administrator

"Administrator" means the **Commissioner of the Division of Taxation, who also may be referred to in this Chapter as the "Tax Administrator."**

Section 191.0303 Association

"Association" means any partnership, limited partnership, **limited liability company, limited liability partnership, Subchapter S corporation ("S corporation") as defined in the Internal Revenue Code**, or any other form of unincorporated **business or enterprise taxed on a pass-through basis under the Internal Revenue Code. The terms "association," "pass-through entity," and "unincorporated business entity" are synonymous for purposes of this Chapter.**

Section 191.0305 Business

"Business" means any enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, **including but not limited to the renting or leasing of property, real, personal or mixed. For purposes of determining if "business is conducted within the city," any direct and/or indirect ownership of an interest in an association, pass-through entity or unincorporated business entity that conducts business within the city is considered included.**

Section 191.0306 Corporation

"Corporation" means a corporation or joint stock association organized under the laws of the United States, the State of Ohio or any other state, territory or foreign country or dependency, **or any unincorporated entity treated as a corporation for federal income tax purposes. "Corporation" also includes a combined company, an electric company and a**

telephone company, as defined in Section 5727.01 of the Revised Code.

Section 191.0307 Employee

"Employee" means one who works for qualifying wages in the service of an employer.

Section 191.0308 Employer

"Employer" means an individual, partnership, association corporation governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a qualifying wage basis.

Section 191.0310 Gross Receipts

"Gross receipts" means total revenue from any source whatever.

Section 191.0311 Net Profits

"Net profits" mean (i) if the taxpayer is a corporation, the corporation's "adjusted federal taxable" as that term is defined in Sections 718.01(A)(1)(a)-(f) of the Revised Code; (ii) if the taxpayer is an "association," "pass-through entity," or "unincorporated business entity," "adjusted federal taxable" as that term is defined in Section 718.01(A)(1)(g) of the Revised Code; and (iii) if the taxpayer is an individual, the individual's profit, other than amounts specifically excluded in Section 718.01(F) of the Revised Code, required to be reported on Schedule C, Schedule E, or Schedule F, as provided by the Internal Revenue Code.

The "net profits" of a taxpayer shall be adjusted in accordance with the provisions of this Chapter, and the Rules and Regulations.

Section 191.0314 Person

"Person" means individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities, and any other entity.

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

Section 191.0318 Taxable Income

"Taxable income" means all qualifying wages, net profits and all other income from whatever source derived set forth in Section 191.0501, and the Rules and Regulations as taxable.

Section 191.0319 Taxable Year

"Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

Section 191.0320 Taxpayer

"Taxpayer" means a person subject to the tax imposed by this chapter. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes, but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.

Section 191.0501 Rate and Taxable Income

For the purposes specified in Section 191.0101, on and after January 1, 1967, an annual tax of one-half of one percent (0.5%) per annum shall be imposed upon the hereinafter specified income; provided that on

an after July 1, 1968, the rate of tax shall be a total of one percent (1%) per annum; and that on and after March 1, 1979, the rate of such tax shall be a total of one and five-tenths percent (1.5%) per annum; and that on and after January 1, 1981, the rate of tax shall be two percent (2%) per annum. Such tax shall be imposed upon all taxable income as follows:

(a) On all qualifying wages, net profits and other taxable income earned and/or received on and after January 1, 1967 by residents of the City;

(b) (1) On all qualifying wages, earned and/or received on and after January 1, 1967, by nonresidents of the City for work done or services performed or rendered within the City or attributable to the City; on all net profits earned and/or received by a nonresident from the operation or conduct of any business or profession within the City; and on all other taxable income earned and/or received by a nonresident derived from or attributable to sources, events or transactions within the City;

(2) For nonresidents employed at a place of business or profession within the City, only those qualifying wages earned and/or received by such nonresident that are specifically attributable to a place or location worked that is outside the City will be treated as earned outside the City;

(c) (1) On the portion attributable to the City of the net profits earned and/or received on and after January 1, 1967, of all resident associations, pass-through entities or other unincorporated business entities treated as a pass-through entity for federal income tax purposes or professions or other activities, derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the City;

(2) On the portion of the distributive share of the net profits earned and/or received on and after January 1, 1967, of a resident partner or owner of a resident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the City and upon which the City's income tax has not been imposed and levied;

(d) (1) On the portion attributable to the City of the net profits earned and/or received on and after January 1, 1967, of all nonresident associations, pass-through entities or other unincorporated business entities treated as a pass-through entity for federal income tax purposes, professions or other activities, derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City and/or derived from sales made, work done, services performed or rendered and business or other activities attributable to the City, whether or not such association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes has an office or place of business in the City;

(2) On the portion of the distributive share of the net profits earned and/or received on and after Janu-

ary 1, 1967, of a resident partner or owner of a nonresident association, pass-through entity or other unincorporated business entity treated as a pass-through entity for federal income tax purposes not attributable to the City and upon which the City's income tax has not been imposed and levied from wherever such business is located;

(e) On the portion attributable to the City of the net profits earned and/or received on and after January 1, 1967, of all corporations and all other entities and business activities not defined herein as associations, pass-through entity or unincorporated business entity treated as a pass-through entity for federal income tax purposes derived from sales made, work done, services performed or rendered, and business, or other activities conducted in the City, and/or derived from sales made, work done, services performed or rendered, and business, or other activities attributable to the City, whether or not such corporations, entities or business activities have an office or place of business in the City;

(f) On the net profits of an electric company, combined company or telephone company apportioned and attributable to the City in accordance with Section 718.01(F)(6) of the Revised Code and Chapter 5745 of the Revised Code;

(g) On all income derived from prizes, awards, gaming, wagering, lotteries or other similar games of chance by a resident from whatever source and from anywhere derived;

(h) On all income earned and/or received from covenants not to compete or similar agreements and on all income attributable to cancellation of indebtedness to the extent reported on the taxpayer's federal income tax return;

(i) On all guardian, executor, conservator, trustee or administrator fees earned and/or received by a taxpayer in connection with the operation or conduct of a business or profession;

(j) On all other compensation, net profits and income earned and/or received by the taxpayer that is not specifically exempted from the tax imposed by this chapter as set forth in Division 191.0901 and Section 718.01(F) of the Revised Code;

(k) (1) For taxable years beginning on or after January 1, 2004, the net profits from a business or profession shall be taxed only to the extent of the taxpayer's adjusted federal taxable income except that nothing shall be construed as limiting the ability of the Tax Administrator to administer, audit, or enforce the provisions of this Chapter including making all necessary adjustments and allocations to adjusted federal taxable income to produce a fair and proper allocation of net profits to the City;

(2) Division (k)(1) of this section shall not apply to any taxpayer required to file a return under Section 5745.03 of the Revised Code or to the net profits from a sole proprietorship;

(1) For taxable years beginning on or after January 1, 2004, in the case of a taxpayer who has a net profit from a business or profession that is operated as a sole proprietorship, or in the case of a taxpayer who has a net profit from a business and the taxpayer is an individual, the City shall not tax or use as the base for determining the amount of the net profit that shall

be considered as having a taxable situs in the City, an amount other than the net profit required to be reported on Internal Revenue Service Schedules C or F from such sole proprietorship for the taxable year; and

(m) For taxable years beginning on or after January 1, 2004, in the case of a taxpayer who has a net profit from rental activity required to be reported on Schedule E, the City shall not tax or use as the base for determining the amount of the net profit that shall be considered as having a taxable situs in the City, an amount other than the net profit from rental activities required to be reported by the taxpayer on Schedule E for the taxable year.

Section 191.050101 Additional Taxable Income

The current income tax rate as specified in Section 191.0501 shall also be imposed upon the net portion attributable to the City of the net profits earned and/or received by all banks, savings and loan companies, insurance companies, dealers in tangibles and PUCO licensed companies derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such entities have an office or place of business in the City.

Section 191.0502 Effective Date

The city income tax shall be levied, imposed, collected and paid on any and all qualifying wages, net profits and taxable income as provided in Section 191.0501, earned and/or received on and after January 1, 1967.

Section 191.0701 Method of Determination

This Section does not apply to taxpayers that are subject to and required to file reports under Chapter 5745 of the Revised Code.

(a) Except as otherwise provided in division (b), for taxable years beginning on or after January 1, 2004, the net profits from a business or profession conducted both within and without the City shall be considered as having a taxable situs in the City for purposes of imposing the city income tax to the extent of the amount determined by multiplying the entire net profits by a business allocation percent determined by the average ratio of the following:

(1) The average original cost of the real and tangible personal property owned or used by the taxpayer in the business or profession in the City during the taxable period to the average original cost of all the real and tangible personal property owned or used by the taxpayer in the business or profession during the same period, wherever situated.

As used in this division (a)(1), "real property" means property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereof by eight (8).

(2) Wages, salaries and other compensation paid during the taxable period to persons employed in the business or profession for services performed in the City to wages, salaries and other compensation paid during the same period to persons employed in the business or profession, wherever their services are performed, excluding compensation that is not taxable by the

City under Section 718.011 of the Revised Code.

(3) Gross receipts of the business or profession from sales made and services performed during the taxable period in the City to gross receipts of the business or profession during the same period from sales and services, wherever made or performed.

(b) In the event that the foregoing apportionment formula does not produce an equitable result, another basis may be substituted, under uniform rules and regulations, so as to produce an equitable result.

(c) For taxable years beginning on or after January 1, 2004, no taxpayer shall use the books and records method of apportionment. Except as otherwise provided in Section 718.02 of the Revised Code, all taxpayers shall use the statutory apportionment formula set forth in this Chapter.

Section 191.0702 Sales Made in the City

As used in Section 191.0701(a)(3), "sales made in the City" means:

(a) All sales of tangible personal property delivered within the City regardless of where title passes if shipped or delivered from a stock of goods within the City;

(b) All sales of tangible personal property delivered within the City regardless of where title passes even though transported from a point outside the City, if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within the City, and the sales result from such solicitation or promotion; or

(c) All sales of tangible personal property shipped from a place within the City to purchasers outside of the City regardless of where title passes if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

Section 191.0703 Total Allocation

Add together the percentages determined in accordance with Section 191.0701(a), or such of the aforesaid percentages as are applicable to the particular taxpayer, and divide the total so obtained by the number of percentages used in deriving the total in order to obtain the business allocation percentage referred to in Section 191.0701.

A factor is applicable even though it may be allocable entirely within or without the City.

Section 191.0704 Rentals

(a) Rental income received by a taxpayer shall be included in the computation of net profits from business activities under divisions (e) to (e) of Section 191.0501, only if and to the extent that the rental, ownership, management or operations of the real estate from which such rentals are derived, whether so rented, managed or operated by a taxpayer individually or through agents or other representatives, constitutes a business activity of the taxpayer in whole or in part.

(b) Where the gross monthly rental of any and all real properties, regardless of number and value, aggregates in excess of one hundred twenty-five dollars (\$125.00) per month, it shall be prima-facie evidence that the rental, ownership, management or operation of such properties, is a business activity of such taxpayer, and the net income

of such rental property shall be subject to tax. However, in the case of commercial property, the owner shall be considered engaged in a business activity when the rental is based on a fixed or fluctuating percentage of gross or net sales, receipts or profits, of the lessee, whether or not such rental exceeds one hundred twenty-five dollars (\$125.00) per month; provided further that in the case of farm property, the owner shall be considered engaged in a business activity when he shares in crops or when the rental is based on a percentage of the gross or net receipts derived from the farm, whether or not the gross income exceeds one hundred twenty-five dollars (\$125.00) per month. It is provided further that the person who operates a licensed rooming house shall be considered in business whether or not the gross income exceeds one hundred twenty-five dollars per month (\$125.00).

(c) Except as otherwise provided in division (d) of this section, for taxable years beginning on or after January 1, 2004, the net profits from rental activity not constituting a business or profession shall be subject to tax by the City only if the property generating the net profit is located in the City.

(d) Division (c) shall not apply to individuals who are residents of the City and, except as otherwise provided in Section 718.01 of the Revised Code, the City shall impose its tax on all income earned and/or received by residents of the City from whatever source derived in accordance with Section 191.0501 of this chapter.

Section 191.0901 Sources of Income Not Taxed

The tax provided for in this chapter shall not be levied on the following:

(a) Military pay or allowance of members of the armed forces of the United States and of members of their reserve components, including the Ohio National Guard;

(b) Income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities;

(c) Proceeds from welfare benefits, unemployment benefits, social security benefits;

(d) Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities, or gratuities not in the nature of compensation for services rendered from whatever source derived;

(e) Receipts from seasonal or casual entertainment, amusements, sports events, and health and welfare activities when any such are conducted by bona fide charitable, religious, or educational organizations and associations;

(f) Alimony received;

(g) Personal earnings of any natural person under eighteen years of age;

(h) Compensation for personal injuries or for damages to property by way of insurance or otherwise;

(i) Interest, dividends, gains, and other revenue from intangible property described in Section 718.01(A)(5) of the Revised Code;

(j) Gains from involuntary conversion; cancellation of indebtedness, to the extent exempt from federal income tax; interest on Federal

obligations; items of income already taxed by the State that the City is specifically prohibited from taxing; and income of a decedent's estate during the period of administration, except such income from the operation of a business;

(k) An S corporation shareholder's distributive share of net profits to the extent such distributive shares are allocated or apportioned to sources outside the State of Ohio other than any portion of the distributive shares of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(a) of the Internal Revenue Service;

(l) The rental value of a parsonage, or the rental allowance furnished as compensation and actually used for a parsonage, by a minister;

(m) Compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce;

(n) Compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the City to impose net income tax;

(o) Only the income items listed in this Section 191.0901 are not subject to the tax imposed by this chapter. All other compensation, net profits and other income earned and/or received by a taxpayer shall be subject to the tax imposed by this chapter unless prohibited by state or federal law.

Section 191.1101 Date for Filing Returns

(a) Each taxpayer who engages in business or whose qualifying wages are subject to the tax imposed by this chapter, except as otherwise provided, shall, whether or not a municipal income tax is due thereon, make and file a return on or before April 30 of the year following November 28, 1966, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or period.

(b) Unless exempted, for taxable years beginning after 2003, each taxpayer shall, whether or not a city income tax is due thereon, make and file an annual city income tax return or report on the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year.

(c) No taxpayer shall be required to file an annual city income tax return or report prior to the filing date for the corresponding tax reporting period as prescribed for such taxpayer under the Internal Revenue Code.

(d) Tax returns required to be filed under this section 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 Sections 5703.056 of the Revised Code. Tax returns otherwise delivered to the Tax Administrator during normal business hours shall be deemed filed on the date received.

(e) The Tax Administrator is authorized to provide by regulation that the return of an employer, showing the amount of tax deducted by the employer from the qualifying wages of an employee, and paid by him or them to the Tax Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter, is such qualifying wages. This filing exemption is limited to nonresident taxpayers whose sole income is qualifying wages for which the tax imposed by this chapter has been withheld and remitted to the City by the employer.

Section 191.1102 Form and Content of Return

The city income tax return shall be filed with the Tax Administrator on a form prescribed by and obtainable upon request from the Tax Administrator or on a generic form in accordance with Section 718.05 of the Revised Code, setting forth:

(a) The aggregate amounts of all qualifying wages and all other taxable income earned and/or received by the taxpayer and gross income from business, profession, or other enterprise or business activity, less allowable expenses incurred in the acquisition of such gross income earned and/or received during the taxable year and subject to the city income tax;

(b) The amount of the tax imposed by this chapter on such qualifying wages, net profits; and all other taxable income;

(c) Such other pertinent statements, schedules, information, returns, copies of federal or state tax returns or any other information as the Tax Administrator may require; and

(d) In accordance with Section 718.051 of the Revised Code and the Rules and Regulations, taxpayers subject to the city income tax on the net profits from a business or profession may file the city income tax return by using the Ohio Business Gateway.

Section 191.1103 Extension of Time for Filing Returns

(a) Except as otherwise provided in division (f) of this section, any taxpayer who has requested an extension for filing a federal income tax return may request an extension for filing the city income tax return for the same taxable year by filing a copy of the request for federal extension with the Tax Administrator in accordance with Section 718.05 of the Revised Code and the Rules and Regulations. Any taxpayer not required to file a federal income tax return may request an extension for filing the city income tax return in accordance with Section 718.05 of the Revised Code and the Rules and Regulations.

(b) Requests for extensions are not automatic and may be denied in accordance with Section 718.05 of the Revised Code.

(c) If granted, request for extensions filed before January 1, 2004, shall extend the due date of the city income tax return for a period not less than the period of the federal extension requested.

(d) For taxable years beginning after 2003, if the request for extension to file the city income tax return is granted, the extended due date shall be the last day of the month following the month to which

the due date of the federal income tax return has been extended.

(e) The granting of an extension to file the city income tax return does not extend the last date to pay any city income tax due without penalty or interest in accordance with Sections 191.1501 and 191.1502 of this chapter.

(f) No late filing penalty shall be imposed if the city income tax return is filed on or before the due date as extended.

(g) In accordance with Section 718.051 of the Revised Code and the Rules and Regulations, taxpayers subject to the city income tax on the net profits from a business or profession that have received an extension to file the federal income tax return by using the Ohio Business Gateway will receive an extension to file the city income tax return for the same taxable year provided that, the requirements of Section 718.051 of the Revised Code are met. In accordance with that Section, the extended due date will be the last day of the same month to which the due date for filing the federal return has been extended.

(h) Extensions to file the city income tax return granted through the Ohio Business Gateway do not extend the time to pay any city income tax due without penalty or interest in accordance with Sections 191.1501 and 191.1502 of this chapter.

Section 191.1104 Consolidated Returns

(a) Filing of consolidated returns may be permitted or required in accordance with the Rules and Regulations prescribed by the Tax Administrator. A consolidated return may be filed by any affiliated group of corporations subject to the tax imposed by this chapter if that affiliated group filed for the same taxable year a consolidated return for federal income tax purposes pursuant to Section 1501 of the Internal Revenue Code. If an affiliated group of corporations subject to the tax imposed by this chapter is required to file a consolidated return or files a consolidated return in accordance with this Section, the affiliated group of corporations must continue to file consolidated returns including that group of corporations for all subsequent taxable years that the group files a consolidated tax return for federal tax purposes unless, on or before the due date for filing the city income tax return for the taxable year, the affiliated group obtains written permission from the Tax Administrator to file separate returns for that year.

(b) In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within the City constituting a portion only of its total business, the Tax Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to the City. If the Tax Administrator finds that net profits are not properly allocated to the City by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates or transactions with such division, branch, factory, office, laboratory or activity or by some other method, the Tax Administrator shall

make such allocation to produce a fair and proper allocation of net profits to the City.

Section 191.1105 Amended Returns

(a) Where necessary an amended return shall be filed in order to report additional income and pay any additional city income tax due, or claim a refund of city income tax overpaid, subject to the requirements, limitations, or both, contained in Sections 191.1701 to 191.1703, 191.1902 and 191.1903. Such amended return shall be on a form prescribed by and obtainable upon request from the Tax Administrator. A taxpayer may not change the method of accounting, filing status or method of apportionment of the net profits after the due date for filing the original city income tax return.

(b) Within three months from the final determination of any federal tax liability affecting the taxpayer's city tax liability, such taxpayer shall make and file an amended city return showing income subject to the city income tax based upon such final determination of federal tax liability, and pay any additional city income tax shown due thereon or make claim for refund of any overpayment.

Section 191.1301 Payment of Tax on Filing of Return

(a) The taxpayer making a city income tax return shall, at the time of the filing thereof, pay to the Tax Administrator the amount of taxes shown as due thereon. However, where any portion of the tax so due has been deducted at the source pursuant to the provisions of Section 191.1302, or where any portion of the tax has been paid by the taxpayer pursuant to the provisions of Section 191.1303, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 191.1902, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing the return.

(b) Subject to the limitations set forth in Section 191.1702, any taxpayer who has overpaid the amount of tax to which the City is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment, or part thereof, shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be assessed, collected or refunded.

Section 191.1302 Collection at Source

(a) In accordance with this Chapter, and the Rules and Regulations, each employer, agent of any employer or other payer within or doing business within the City who employs one or more persons shall deduct when any qualifying wages are earned and/or received by the taxpayer, the amount of city income tax imposed by Section 191.0501 on the gross qualifying wages earned and/or received by the taxpayer and except as otherwise provided in divisions (f) and (g) of this section shall, on or before the twentieth day of the month following the close of each calendar quarter make a return and pay to the Tax Administrator the amount of city income taxes so deducted from such qualifying wages, subject to the provi-

sions of divisions (c) to (e) of this section. Returns shall be on a form or forms prescribed by or acceptable to the Tax Administrator, and shall be subject to the Rules and Regulations prescribed therefor by the Tax Administrator. Such employer shall be liable for the payment of the city income tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(b) Each employer, agent of any employer or other payer in collecting the city income tax shall be deemed to hold the same, until payment is made by such employer, agent of any employer or other payer to the City, as a trustee for the benefit of the City and any such tax collected by such employer, agent of any employer or other payer from his employees shall, until the same is paid to the City, be deemed a trust fund in the hands of such employer, agent of any employer or other payer. Each employer, agent of any employer and other payer shall be liable for the payment of city income tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

(c) Each employer, agent of any employer or other payer who deducts and withholds city income tax of one hundred dollars (\$100.00) or more per month shall pay to the Tax Administrator before the twentieth of the following month the amount of taxes so deducted on a monthly basis beginning with the first month the employer, agent of any employer or other payer exceeds one hundred dollars (\$100.00) in city income taxes withheld.

(d) Payments shall be reported on a form or forms prescribed by and obtainable upon request from the Tax Administrator.

(e) No employer, agent of an employer or other payer shall be required to withhold the city income tax on qualifying wages or other taxable income paid to domestic servants employed by such employer or other payer exclusively in or about such employer or other payer's residence, even though such residence is in the City, but such employee shall be subject to all of the requirements of this chapter.

(f) (1) Any person who shall employ or contract for the services of any entertainer, entertainment act, sports event, promotional booth, special event, band, orchestra, rock group, theatrical performance, or

(2) Any person who, acting as a promoter, booking agent or employer, engages the services of, or arranges the appearance of any entertainer, entertainment act, sports event, band, orchestra, rock group, theatrical performance in the City of Cleveland, and who makes any payment arising from said appearance in the City shall be deemed to be an employer and shall, for purposes of the collection of the city income tax, be required to withhold, report and remit as required by this section to the Tax Administrator the city income tax at the rate provided in Section 191.0501 hereof, on the gross amount so paid to the entertainer, athlete, etc. on completion of the engagement for the services performed. The reports required by this section shall be made and filed on forms prescribed by and obtainable from the Tax Administrator.

(g) Any person, as defined in Section 191.0314, who rents facilities to

any entertainer, entertainment act, sport event, promotional booth, special event, band, orchestra, rock group, theatrical performance for use in performing services in the City of Cleveland, and who makes any payment arising from said use of facilities shall be deemed to be an employer and shall, for purposes of the collection of the city income tax, be required to withhold, report and remit as required by this section to the Tax Administrator the city income tax at the rate provided in Section 191.0501 hereof based on the gross amount so paid on completion of the engagement. The reports required by this section shall be made and filed on forms prescribed by and obtainable from the Tax Administrator.

(h) For taxable years beginning after 2003, no employer or agent of an employer or other payer shall be required to withhold tax with respect to any amount other than qualifying wages. Nothing in this Section prohibits an employer from withholding tax on a basis greater than qualifying wages.

(i) Every employer, agent of an employer or other payer required to withhold and remit the city income tax in accordance with this chapter, shall be directly liable to the City for the payment of such tax, whether or not actually withheld or collected.

(j) For taxable years beginning after 2003, no employer is required to make any withholding with respect to an individual's disqualifying disposition of an incentive stock option if, at the time of the disqualifying disposition, the individual is not an employee of the corporation with respect to whose stock the option has been issued.

(k) (1) An employee is not relieved from liability for paying the city income tax by the failure of the employer to withhold the tax as required by this Section 191.1302 or the employer's exemption from the requirement to withhold the tax.

(2) The failure of an employer to remit to the City the tax withheld relieves the employee from liability for that tax unless the employee colluded with the employer in connection with the failure to remit the tax withheld.

(l) In accordance with Section 718.051 of the Revised Code, the Rules and Regulations of the State Tax Commissioner, this Chapter and the Rules and Regulations, any employer subject to this section 191.1302 may report the amount of city income tax withheld from qualifying wages and remit such amounts by using the Ohio Business Gateway.

Section 191.1303 Declarations of Income Not Collected at Source

Every person who anticipates earning and/or receiving any taxable income which is not subject to Section 191.1302, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 191.0501 shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any. However, if a person's income is wholly from qualifying wages from which the city income tax will be withheld and remitted to the City in accordance with Section 191.1302, such person need not file a declaration.

Section 191.1304 Filing of Declaration

(a) For taxable years beginning after 2003, the declaration required by Section 191.1303 shall be filed on or before April 15 of each year during the effective period set forth in Section 191.0502 or on or before the fifteenth (15th) day of the fourth (4th) month following the date the taxpayer becomes subject to tax for the first time.

(b) For taxable years beginning after 2003, for those taxpayers reporting on a fiscal year or period other than a calendar year, the declaration required by Section 191.1303 shall be filed on or before the fifteenth (15th) day of the fourth (4th) month after the beginning of each fiscal year or period.

(c) In accordance with Section 718.051 of the Revised Code, the Rules and Regulations of the State Tax Commissioner, this Chapter, and the Rules and Regulations, any taxpayer subject to the city income tax on the net profits from a business or profession may file declarations of estimated net profits and pay estimated city tax due thereon by using the Ohio Business Gateway.

Section 191.1305 Form of Declaration

(a) The declaration required by Section 191.1303 shall be filed upon forms prescribed by and obtainable from the Tax Administrator, or acceptable generic form, and credit shall be taken for City income tax to be withheld from any portion of such income. In accordance with the provisions of Section 191.1902, credit may be taken for city income tax to be paid to or withheld and remitted to another taxing municipality.

(b) The original declaration, or any subsequent amendment thereof, may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

Section 191.1306 Payment to Accompany Declaration

(a) For taxpayers who are individuals, the declaration of estimated city income tax required by Section 191.1303, shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of such taxpayer's estimated city income tax for the taxable year, and at least twenty-two and one-half percent (22.5%) of such estimated city income tax shall be paid on or before each of the last day of the seventh, tenth and thirteenth months after the beginning of the taxable year.

(b) For taxpayers that are not individuals, the declaration of estimated city income tax required by Section 191.1303, shall be accompanied by a payment of at least twenty-two and one-half percent (22.5%) of such taxpayer's estimated city income tax for the taxable year, and at least twenty-two and one-half percent (22.5%) of such estimated city tax shall be paid on or before each of the fifteenth (15th) day of the sixth, ninth and twelfth months after the beginning of the taxable year.

(c) No declaration shall be deemed filed unless accompanied by the required payment of estimated city income tax.

(d) Declarations required to be filed by Section 191.1303 shall be deemed filed when the declaration with required payment are post-

marked 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. Declarations otherwise delivered with required payment to the Tax Administrator during normal business hours shall be deemed filed on the date received.

(e) A declaration of estimated city income tax may be amended at any time, in accordance with the Rules and Regulations. In the event that an amended declaration has been filed, the unpaid balance shown due thereon shall be paid in equal installments on or before the remaining payment dates set forth in this Section.

Section 191.1307 Annual Return

For taxable years beginning after 2003, the annual city income tax return required to be filed after filing such declaration or amended declaration shall be filed on or before the fifteenth (15th) day of the fourth (4th) month following the end of the taxpayer's taxable year (calendar or fiscal year). Any balance of city income tax remaining due in accordance with Section 191.1301 shall be remitted with the city income tax return.

Section 191.1501 Interest on Unpaid Tax

All city income taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this chapter and 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.

Section 191.1502 Penalties on Unpaid Tax

In addition to interest as provided in Section 191.1501, penalties are imposed on all city income tax remaining unpaid after it becomes due as follows:

(a) For failure to pay city income taxes due other than taxes withheld: one and one-half percent (1-1/2%) of such outstanding tax per month for each month that the tax remains outstanding or fraction thereof;

(b) For failure to file an annual city income tax return by the due date or extended due date: a minimum of twenty-five dollars (\$25.00);

(c) For failure to remit city income taxes withheld or required to be withheld from employees: ten percent (10%) per month or fraction thereof that the unremitted tax remains outstanding; and

(d) In accordance with the Rules and Regulations, the Tax Administrator may impose such other interest and penalty assessment as the Tax Administrator deems necessary for the administration and enforcement of the provisions of this chapter.

Section 191.1503 Exceptions to Penalties

A penalty shall not be assessed on an additional tax assessment made by the Tax Administrator when a city income tax return has been filed in good faith and the tax paid thereon within the time prescribed by Section 191.1101; and provided further, that in the absence of fraud, neither penalty nor interest shall be assessed on any additional city income tax assessment resulting from a federal audit, providing an amended city income tax return is filed and the additional city income tax is paid within three months

after a final determination of the federal income tax liability.

Section 191.1504 Abatement of Interest and Penalty

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

The Rules and Regulations may authorize the Tax Administrator to abate penalty, interest, or both, for good cause shown in certain circumstances.

Section 191.1505 Violations

No person shall:

(a) Fail, neglect, or refuse to make any return or declaration required by this chapter; or

(b) Knowingly make any incomplete, false, or fraudulent return; or

(c) Willfully fail, neglect, or refuse to pay the tax, penalties or interest imposed by this chapter; or

(d) Fail, neglect, or refuse to withhold city income tax from his employees; or

(e) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers, and federal income tax returns relating to the income or net profits of a taxpayer; or

(f) Fail to appear before the Tax Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or

(g) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits or, in the case of a person responsible for maintaining information relating to his employers' income or net profits, such person's employer's income or net profits; or

(h) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator authorized hereby; or

(i) To avoid imposition or collection of city income tax, willfully give to an employer or prospective employer false information as to his true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or

(j) Fail, as an employer, agent of an employer, or other payer, to use ordinary diligence to maintain proper records of employees residence addresses, total wages paid and city tax withheld, or to knowingly give the Tax Administrator false information; or

(k) Fail to remit or cause to be remitted the city income tax withheld from all qualifying wages of employees to the City as required by Section 191.1302; or

(l) Willfully fail, neglect, or refuse to make any payment of estimated city income tax for any taxable year or part of any taxable year in accordance with Section 191.1306; or

(m) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this chapter.

(n) For purposes of this Section 191.1505, 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 that violation.

(o) For purposes of this Section 191.1505, the term "person" shall, in addition to the meaning prescribed in Section 191.0314, 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 city income tax returns and making 1302 and Section 191.1306.

Section 191.1506 Limitation of Prosecution

Prosecutions for an offense made punishable under this chapter shall be commenced within three (3) years after the commission of the offense, except that in the case of fraud, failure to file a return, or the omission of twenty-five (25%) or more of the taxable income required to be reported, prosecutions shall be commenced within six (6) years after the commission of the offense.

Section 191.1507 Failure to Procure Tax Forms

The failure of any employer, other payer, taxpayer or person to receive or procure a city income tax return, declaration or other required form shall not excuse such employer, other payer, taxpayer or person from making any information return, or city income tax return or declaration, from filing such return, or from paying the city income tax due.

Section 191.1701 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 city income tax was due or the return was filed, whichever is later. Except in the case of fraud, of omission of twenty-five (25%) or more of income subject to city income tax, or of failure to file a return, no additional assessment shall be made after three (3) years from the time the city income tax was due or the city income tax return was filed, whichever is later.

Section 191.1702 Refund of Taxes Erroneously Paid

(a) Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date on which such payment was made or the return was due, or within three (3) months after the final determination of the federal tax liability, whichever is later.

(b) No refund of the tax imposed by this chapter on "qualifying wages" shall be granted for services performed or rendered outside the city on twelve (12) or fewer days in a calendar year unless the taxpayer demonstrates to the satisfaction of the Tax Administrator that another

municipality other than the taxpayer's resident city taxed such "qualifying wages" on the days outside the City.

(c) No interest shall be paid by the City on any refunded overpayment of city income tax if the overpayment is refunded within ninety (90) days after the due date for filing the city income tax return or ninety (90) days after the complete return is filed, whichever is later. For purposes of computing the payment of interest on overpayments, no amount of city income tax for any taxable year shall be treated as having been paid before the date on which the city income tax return for that taxable year was due, without regard to any extension of time for filing that return. Interest on any overpayment of city income tax shall be paid at the rate of interest prescribed by Sections 718.12 and 5703.47 of the Revised Code.

Section 191.1902 Cleveland Resident Subject to Income Tax in Other Municipality

(a) When a resident is subject to and has paid a municipal income tax in another municipality on the same income taxable under this chapter, regardless of whether such other municipality allows a credit to its non-residents, and the rate of Cleveland's municipal income tax is less than two and one-half percent (2.5%), such resident may claim a credit of the amount of income tax paid to the other municipality, but not in excess of fifty percent (50%) of the tax imposed by this chapter. When a resident is subject to and has paid a municipal income tax in another municipality on the same income taxable under this chapter regardless of whether such other municipality allows a credit to its non-residents and the rate of Cleveland's municipal income tax is two and one-half percent (2.5%) or more, such resident may claim a credit of the amount of income tax paid to the other municipality, which credit shall not exceed the tax assessed by this chapter on the resident's taxable income subject to tax by another municipality.

(b) In the event a resident is entitled to credit for taxes paid another municipality, such resident is required to file a return on a form in such manner as the Tax Administrator may prescribe.

(c) Assignment of any claim for refund to which a resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of city income tax represented by such assignment. However, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefor because of fault or neglect on the part of either municipality.

(d) In the event such resident fails, neglects or refuses to file such return or form as is prescribed by the Tax Administrator, such resident shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

(e) A resident owner of a pass-through entity that does not conduct business in the City and that has paid an income tax to another municipality may claim a credit equal to the lesser of (1) the resident owner's proportionate share of

the amount, if any, of income tax paid by the pass-through entity to another municipality in the State; (ii) the resident owner's proportionate share of the amount of city income tax that would be imposed on the pass-through entity if the pass-through entity conducted business in the City.

(f) In no case shall the amount of the credit allowed under division (e) of this Section exceed the city income tax assessed by this chapter on the taxable income subject to tax in another municipality.

(g) The credits provided in Section 718.021 and 718.121 shall be available to residents, if applicable.

(h) Except as otherwise provided in Sections 718.021; 718.121 and 718.14 of the Revised Code, this chapter, and the Rules and Regulations, where a nonresident is subject to the tax imposed by this chapter and is subject to tax on the same taxable income in the municipality where such nonresident resides, no credit against the city income tax levied by this chapter shall be allowed.

Section 191.1903 Claim for Credit

Any claim for credit for taxes paid by a resident to another municipality on the same income taxable under this chapter or claim for or assignment of any refund due to the credit provided for in Section 191.1902, must be filed with the Tax Administrator on a form acceptable to the Tax Administrator within three (3) years from the due date of the city income tax return. If the resident, fails, neglects, or refuses to file such claim for refund or credit within the time prescribed by this section, such failure, neglect, or refusal shall render such credit, claim for refund, or assignment null and void and the resident shall be liable for the full amount of tax assessed by this chapter, together with interest and penalties.

Section 191.2001 Deposit of Funds

All monies collected by the Tax Administrator under the provisions of this chapter shall be kept in a fund segregated from and not commingled with any other funds from any sources whatsoever.

Section 191.2002 Monthly Report of Undistributed Balance

The Tax Administrator shall prepare and furnish to Cleveland City Council each month a statement containing the following information:

(a) Total undistributed balance from the previous month;

(b) Actual income for the month of the report including a summary of the amount of delinquent taxes, penalties and interest collected for that month;

(c) Disbursements made during the month, identifying to whom and from which collection period.

(d) Undistributed balance and indicate thereon:

(1) Current income in the process of collection for current distribution;

(2) Current income reserved for collection agency expenses;

(3) Funds belonging to nonparticipating municipalities and period of collection of the fund;

(4) Sources of balance of fund, if any.

For the purpose of this section "current income" means income received during the preceding three

(3) month period; "current distribution" means quarterly distribution, and "source of funds" means the period of time during which funds were collected.

Section 191.2101 Disbursement of Funds Collected

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the **city income tax** levied by this chapter shall be paid.

(b) The balance remaining after payment of the expenses referred to in **division (a)** hereof shall be deposited in the General Fund for Municipal purposes set forth in Section 191.0101.

Section 191.2301 Receipt and Records of Tax

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

Section 191.2302 Enforcement of Collection

The **Tax Administrator** shall enforce payment of all **income taxes** owing to the City, keep accurate records for a minimum of five (5) years, showing the amount due from each taxpayer required to file a declaration of **estimated municipal income tax** and make any return, or both, including **returns** of taxes withheld and show the dates and amounts of payments thereof.

Section 191.2303 Authority to Make and Enforce Regulations

(a) The **Tax Administrator** is hereby charged with the enforcement of the provisions of this chapter and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce and interpret rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the re-examination and correction of returns.

(b) Upon the request of a taxpayer or employer subject to this chapter, the **Tax Administrator** is empowered to issue **Administrative Rulings interpreting this chapter and the Rules and Regulations**. Those **Administrative Rulings** shall be binding and effective upon issuance as to the taxpayer or employer requesting the **Ruling**. **Administrative Rulings** may be appealed to the Board of Review.

Section 191.2304 Authority to Arrange Installment Payments

(a) The **Tax Administrator** is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, **not to exceed twelve (12) months**, when the taxpayer has proved to the **Tax Administrator** that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under this chapter.

(b) Failure to make any deferred

payment when due, shall cause the total unpaid amount, including penalty and interest, to become payable on demand, and the provisions of Sections 191.1701 and 191.1505 shall apply.

Section 191.2305 Authority to Determine Amount of Tax Due

In any case where a taxpayer has failed to file a return or has filed a **city income tax** return which does not show the proper amount of tax due, the **Tax Administrator** may determine the amount of **city income tax** appearing to be due the City from the taxpayer and may send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

Section 191.2306 Investigations

The **Tax Administrator**, or any authorized agent, representative or employee, is authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or any person subject to, or whom the **Tax Administrator** 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 or withholding due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is directed and required to furnish **within fifteen (15) days** upon written request by the Administrator, or his duly authorized agent, representative, or employee, the means, facilities and opportunities for making such examinations and investigations as are hereby authorized.

Section 191.2307 Authority to Compel Production of Records

The **Tax Administrator** 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 income which was or should have been reported or withheld for **city income tax purposes** or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

Section 191.2308 Refusal to Produce Records

The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or persons subject or presumed to be subject to the **city income tax** or by any officer, agent or employee of a person subject to the **city income tax** or required to withhold such tax or the failure of any person to comply with the provisions of this chapter, including this section, or with an order or subpoena of the **Tax Administrator** is a violation of this chapter **punishable in accordance with Section 191.99**.

Section 191.2309 Confidential Nature of Information; Disclosure of Returns and Return Information

(a) Any information gained as a result of returns, investigations,

hearings or verifications required or authorized by this chapter or Chapter 718 of the Revised Code 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 **Tax Administrator** may furnish copies of returns filed under this chapter to the Internal Revenue Service and to the State Tax Commissioner.

Section 191.2310 Taxpayer Required to Retain Records

Every taxpayer shall retain all records necessary to compute his **city income tax** liability for a period of five (5) years from the date his **city income tax** return is filed or the **city income taxes** required to be withheld are paid.

Section 191.2311 Authority to Contract for Central Collection Facilities

The **Tax Administrator** is authorized to enter into an agreement on behalf of the City with any other municipality or village for the purpose of administering the **city income tax** laws of the other municipality or village as its agent and for the purpose of providing a central collection facility for the collection of the **city income tax** on behalf of the other municipality or village.

Section 191.2312 Withholding Taxes from Federal Employees

The **Tax Administrator** is authorized to enter into an agreement on behalf of the City with the United States Secretary of the Treasury for the purpose of withholding **city income** or employment taxes from the compensation of federal employees whose regular place of federal employment is within the territorial jurisdiction of the City.

Section 191.2501 Board of Review Established

A Board of Review, consisting of the Director of Public Utilities, or a person or employee in the Department of Public Utilities designated by him, the Director of Law, or an Assistant Director of Law designated by him and a member of Council to be elected by that body, is hereby created and shall be maintained to hear appeals by taxpayers of decisions and Administrative Rulings issued by the **Tax Administrator** regarding a municipal income tax obligation that is subject to appeal as provided in Section 718.11 of the Revised Code, this chapter or the Rules and Regulations. The Board shall select, each year for a one (1) year term, one of its members to serve as Chairman and one to serve as Secretary. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 191.2309 with reference to the confidential character of information required to be disclosed by this chapter shall apply to such matters as may be heard before the Board on appeal.

Section 191.2503 Right of Appeal In accordance with Section 718.11 of the Revised Code and Rules and Regulations, any person dissatisfied with any ruling or decision of the Tax Administrator that is made under the authority conferred by this chapter may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Tax Administrator. The Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, 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 Sections 5703.056 of the Revised Code. Appeals otherwise delivered to the Tax Administrator during normal business hours shall be deemed filed on the date received.**

Section 191.2701 Declaration of Legislative Intent

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein 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 191.99 Penalty

(a) Whoever violates any of the provisions of Sections 191.1505 or 191.2308 shall be guilty of a misdemeanor of the first degree for each violation. Each violation constitutes a separate offense.

(b) Whoever violates Section 191.2309 shall be guilty of a misdemeanor of the first degree for each such disclosure and shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of the City who violates Section 191.2309 shall be guilty of an offense punishable by immediate dismissal.

Section 2. That the following sections of the Codified Ordinances of Cleveland, Ohio, 1976,

Section 191.0101, as amended by Ordinance No. 2699-84, approved by the voters on February 5, 1985;

Sections 191.0302, 191.0303, 191.0305, 191.0306, 191.0307, 191.0308, and 191.0310 as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0311, as amended by Ordinance No. 2214-82, passed October 25, 1982,

Section 191.0314, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0318, as amended by Ordinance No. 116-04, passed February 9, 2004,

Sections 191.0319 and 191.0320, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0501, as amended by Ordinance No. 116-04, passed February 9, 2004,

Sections 191.0502, 191.0701, 191.0702, 191.0703, and 191.0704 as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.0901, as amended by Ordinance No. 116-04, passed February 9, 2004,

Section 191.1101, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1102, as amended by Ordinance No. 116-04, passed February 9, 2004,

Sections 191.1103, 191.1104, 191.1105, and 191.1301, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1302, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Section 191.1303, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1304, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Section 191.1305, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1306, as amended by Ordinance No. 1704-72, passed December 12, 1972,

Section 191.1307, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1501 and 191.1502, as amended by Ordinance No. 229-81, passed March 9, 1981,

Sections 191.1503, 191.1504 and 191.1505, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1506, as amended by Ordinance No. 1670-85, passed September 23, 1985

Sections 191.1507, 191.1701, and 191.1702, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.1902, as amended by Ordinance No. 3008-A-83, passed February 23, 1984,

Section 191.1903, as amended by Ordinance No. 1670-85, passed September 23, 1985,

Sections 191.2001 and 191.2002, as amended by Ordinance No. 2027-69, passed June 1, 1970,

Section 191.2101, as amended by ordinance No. 1437-70, passed September 2, 1970,

Sections 191.2301, 191.2302, 191.2303, 191.2304, 191.2305, 191.2306, 191.2307, and 191.2308, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.2309, as amended by Ordinance No. 485-89, passed March 27, 1989,

Sections 191.2309, 191.2310, and 191.2311, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

Section 191.2312, as amended by Ordinance No. 480-75, passed March 24, 1975

Sections 191.2501, 191.2503, 191.2701, and 191.99, as enacted by Ordinance No. 2393-66, passed November 28, 1966,

are repealed.

Section 3. That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Sections

191.030101,	191.030401,
191.030501,	191.031001,
191.031201,	191.031202,
191.031301,	191.031302,
191.031601,	191.03701,
	191.03702,

191.031801, and 191.0321 to read as follows:

Section 191.030101 Adjusted Federal Taxable Income

"Adjusted Federal Taxable Income" means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code adjusted, as set forth in Sections 718.01(A)(1) of the Revised Code.

Section 191.030401 Board of Tax Appeals

"Board of Tax Appeals" means the state board created pursuant to Section 5703.02 of the Revised Code.

Section 191.030501 City
"City" means the City of Cleveland, Ohio.

Section 191.031001 Intangible Income

"Intangible income" means that income specified in Section 718.01(A)(5) of the Revised Code including any of the following types of income: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange or other disposition of intangible property including, but not limited to, investments, deposits, money or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, tradenames, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards or other income associated with, attributable to or derived from any lottery winnings or other similar games of chance.

Section 191.031002 Internal Revenue Code

"Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.

Section 191.031201 Nonresident Owner

"Nonresident owner" means an individual domiciled outside the City who has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the city or a corporation that has a direct or indirect ownership interest in an association, pass-through entity or unincorporated business entity that conducts business in the City.

Section 191.031301 Ohio Revised Code

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

Section 191.031302 Other Payer

"Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the qualifying wages of the individual.

Section 191.031303 Owner

"Owner" means an individual, partner, member, or any other person having an ownership interest in an association, pass-through entity, or unincorporated business entity.

Section 191.031302 Pass-Through Entity

"Pass-through entity" means a partnership, limited liability company, S corporation or any other type of entity the income or profits of which are given pass-through treatment under the Internal Revenue Code. "Income from a pass-through entity" includes partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.

Section 191.031501 Qualifying Wages

"Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as provided in division (A)(2) of Section 718.03 of the Revised Code. "Qualifying wages" includes compensation attributable to a nonqualified deferred compensation plan or program as defined in section 3121(v)(2)(C) of the Internal Revenue Code and compensation arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased by the stock option. "Qualifying wages" does not include compensation deferred before January 1, 2004, to the extent that the deferred compensation does not constitute "qualifying wages" when paid or distributed.

Section 191.031601 Resident Owner

"Resident owner" means an individual domiciled in the City who has an interest in an association, pass-through entity or unincorporated business entity.

Section 191.031701 Rules and Regulations

"Rules and Regulations" mean the Rules and Regulations promulgated by the Tax Administrator and approved by the Board of Review.

Section 191.031702 Tax Commissioner

"Tax Commissioner" means the Tax Commissioner of the State of Ohio.

Section 191.031801 Taxable Situs

"Taxable Situs" means that portion of a taxpayer's net profits attributable to the City where the taxpayer conducts a business or profession both within and without the City, determined in accordance with Section 718.02 of the Ohio Revised Code.

Section 191.0321 Unincorporated Business Entity

"Unincorporated Business Entity" means either an "association," "pass-through entity" or "corporation," determined by the treatment afforded such entity for federal income tax purposes.

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 Finance, Law; Committees on Legislation, Finance.

**Ord. No. 2209-04.
By Council Member Coats.
An emergency ordinance disapproving Adelphia's Proposed Monthly Network Upgrade Surcharge**

Whereas, Cleveland Adelphia LLC, a wholly-owned subsidiary of Adelphia Communications Corporation (collectively, "Adelphia"), has the right to own, operate and maintain a cable system in the City of Cleveland, Ohio (the "City") pursuant to a franchise agreement granted on or about September 16, 1986, as further amended; and

Whereas, in accordance with applicable provisions of the Cable Consumer Protection and Competition Act of 1992, as amended (hereinafter the "Cable Act") and regulations adopted by the Federal Communications Commission (the "FCC"), the City is certified to regulate the basic cable service tier rate and related equipment rental, service and installation rates; and

Whereas, on or about November 26, 2003, the City received from Adelphia an Abbreviated Cost of Service Filing for Cable Network Upgrades on FCC Form 1235 for pre-approval (the "FCC Form 1235") proposing a Maximum Permitted Network Upgrade Surcharge of \$0.47 per month, per subscriber to be assessed against basic service tier subscribers (in addition to the Basic Tier Rate) over the next 12 years in order to recover the cost, plus a rate of return, related to the network upgrade completed in the City in 2003; and

Whereas, pursuant to FCC regulations, the City issued a tolling order on December 24, 2003, notifying Adelphia that additional time in which to review the FCC Form 1235 was required; and

Whereas, Adelphia's filing of its FCC Form 1235 on a pre-approval basis is contrary to FCC regulations because the system-wide upgrade had been completed at the time of filing; and

Whereas, in response to correspondence and discussions with the City's representatives, Adelphia filed an amended FCC Form 1235 (the "Amended FCC Form 1235") on July 17, 2004 changing the FCC Form 1235 from a pre-approval to a final filing; and

Whereas, Adelphia has not implemented the FCC Form 1235 Monthly Network Upgrade surcharge of \$0.47; and

Whereas, it was necessary for the City to make several requests to Adelphia for additional information and clarification in connection with the FCC Form 1235 and the Amended FCC Form 1235; and

Whereas, interested parties, including Adelphia, were afforded an opportunity to present information to the City regarding these rates; and

Whereas, Adelphia's FCC Form 1235 and Amended FCC Form 1235, as well as other rate justification information requested of Adelphia and supplied to the City by Adelphia are on file with the Clerk of Council in File No. 2209-04-A and incorporated into this Ordinance by reference; and

Whereas, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health or safety in that disapproving the proposed Network Upgrade Surcharge protects the City of Cleve-

land's cable television subscribers from excessive rates to the fullest extent permitted by law and enables the City to act upon such proposal within the federally mandated time requirements for review of Adelphia's cable television rate proposals; now, therefore,

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

Section 1. That based on the information presented to City Council, the information submitted by Adelphia, the documents on file with the Clerk of Council and contained in File No. 2209-04-A, and the advice of the City's cable television legal consultants regarding Adelphia's Amended FCC Form 1235, the City makes the below listed findings and orders:

1. For the reasons stated in the November 5, 2004 memorandum attached to and incorporated into this Ordinance by reference, Adelphia has failed to provide sufficient information in the Amended FCC Form 1235 and supporting documentation from which to determine whether the **Network Upgrade Surcharge** of \$0.47 per month, per subscriber as proposed in the Amended FCC Form 1235 is calculated in accordance with FCC regulations.

2. For the reasons stated in the attached memorandum, Adelphia has failed to provide sufficient information in the Amended FCC Form 1235 and supporting documentation from which the City can calculate, in accordance with FCC regulations, an appropriate **Network Upgrade Surcharge** and the one-year time period in which the City must rule on Adelphia's **Network Upgrade Surcharge** as proposed in the Amended FCC Form 1235 will expire on November 25, 2004.

3. The proposed **Network Upgrade Surcharge** of \$0.47 per month, per subscriber as calculated in the Amended FCC Form 1235 is, therefore, **disapproved**.

4. If Adelphia intends to justify its **Network Upgrade Surcharge**, Adelphia is ordered to refile its FCC Form 1235 with supporting documentation and information in conformance with the attached memorandum.

Section 2. That the City reserves the right to reconsider this Ordinance for the sole purpose of further reducing rates should new information arise which was not disclosed by Adelphia or should modifications or clarifications to FCC rules and regulations so provide and permit.

Section 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees or subcommittees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

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 earlier period allowed by law.

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

FIRST READING ORDINANCES REFERRED**Ord. No. 2207-04.****By Council Member Conwell.**

An ordinance establishing a Planned Unit Development (PUD) Overlay District and changing the Area District from "E" to "H" on parcels located at the Northeast corner of Euclid Avenue and Ford Drive in University Circle (Map Change No. 2128, Sheet No. 9).

Be it ordained by the Council of Cleveland:

Section 1. That the Use and Area Districts of lands bounded and described as follows:

Thence, S.43°48;00"W., along said centerline of Euclid Avenue, 722.96 feet to the centerline of Ford Drive, as shown by plat of Ford Drive N.E. Widening recorded in volume 227 Page 50 of the Cuyahoga County Records;

Thence, N.46°12'03"W., along said centerline of Ford Drive, 215 feet to the westerly prolongation of the southeasterly line of land conveyed to University Circle Development Foundation (UCDF), who claims title by instrument recorded in Volume 10902, Page 665 of the Cuyahoga County Records;

Thence, N.43°44'36"E., along said westerly prolongation and southerly line of land conveyed to UCDF, 177.5 feet to the east corner of said land conveyed to UCDF;

Thence, N.46°12'03"W., along the northeasterly line of said land conveyed to UCDF, 45.42 feet to and iron pin "5714" found at the south corner of land conveyed to Josephine Bonenelli and Lilian Weber who claims title by instrument recorded in Volume 6898, page 151 of the Cuyahoga County Records;

Thence, N.44°57;00"E., along the southeasterly line said land conveyed to Bonenelli and Weber, 47.00 feet to the southerly corner of land conveyed to Maria Ciraolo who claims title by instrument recorded in Volume 90-0672, Page 48 of the Cuyahoga County Records;

Thence, N.42°23'32"E., along the southeasterly line of said land conveyed to Ciraolo, 47.08 feet to the south corner of land conveyed to Henry and Carol Hudson who claims title by instrument recorded in Volume 15423, Page 705 of the Cuyahoga County Records;

Thence, N.43°40'39"E., along the southeasterly line of said land conveyed to Henry and Carol Hudson, 47.26 feet to an iron pin "5714" in the southwesterly line of Sublot 1 in Hessler Terrace Subdivision as recorded in Volume 227, Page 7 of the Cuyahoga County Records;

Thence, S.46°15'14"E., along said southeasterly line of said Sublot 1, 30.86 feet to the south corner of said Sublot 1;

Thence, N.43°48'00"E., along the southeast line of said Hessler Terrace Subdivision, 150.04 feet to east corner of Sublot 5 in said Hessler Terrace Subdivision;

Thence, N.46°15'14"W., along the northeasterly line of said Sublot 5, 4.70 feet to the south corner of land conveyed to Donna Lee Pratt and Patrick J. Holland, who claims title by instrument recorded in Volume 85-2126, Page 42 of the Cuyahoga County Records;

Thence, N.43°48'00"E., along the southeasterly line of said land conveyed to Pratt & Holland and along the southeasterly line of land conveyed to Polaris Group, LLC who claims title by instrument recorded in Auditor's File #200011130907 of the Cuyahoga County Records, to a 5/8" iron pin found at the east corner of said land conveyed to Polaris Group;

Thence, N.46°15'14"W., along the northeasterly line of said land conveyed to Polaris Group, 45.07 feet to a southerly corner of land conveyed to Walter & Sylvia Kugelman who claim title by instrument recorded in Volume 83-258, Page 235 of Cuyahoga County Records as referenced by an iron pin "5714" found 0.07 feet east and 0.06 feet north;

Thence, N.43°48'00"E., along the southeasterly line of said land conveyed to Kugelman, 74.67 feet to an iron pin "5714" at an east corner of said land conveyed to Kugelman;

Thence, N.46°12'00"W., along a northeasterly line of said land conveyed to Kugelman and a northeasterly line of land conveyed to Plaza Investment Co., who claims title by instrument recorded in Volume 13629, Page 417 of the Cuyahoga County Records, 100.00 feet to a south corner of land conveyed to UCDF by instrument recorded in Volume 11881, Page 631 of the Cuyahoga County Records;

Thence, N.43°47'50"E., along the southeasterly line of said land conveyed to UCDF, and its easterly prolongation to the Centerline of East 115th Street;

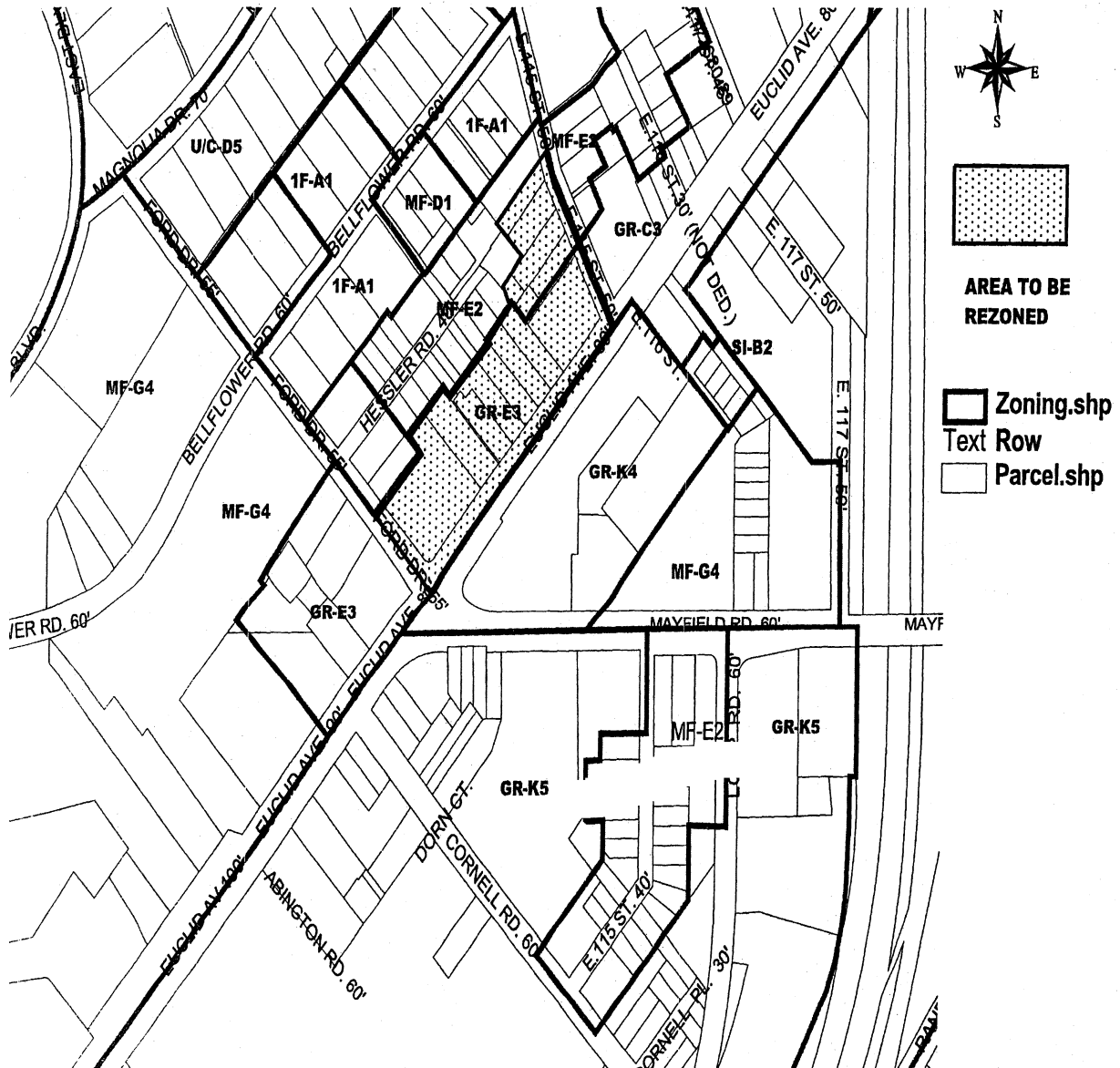
Thence, S.18°32'10"E., along said Centerline of East 115th Street, to an angle therein;

Thence, S.30°12'10"E., continuing along said Centerline of East 115th Street, to the point of beginning, and as outlined and shaded on the attached map is changed to a Planned Unit Development Overlay District and an "H" Area District.

Section 2. That the changed designation of lands described in Section 1 shall be identified as Map Change No. 2128, Sheet No. 9, 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.

Establishing a PUD Overlay District and changing the Area District from "E" to "H" on parcels located at the Northeast corner of Euclid Avenue and Ford Drive in University Circle (Map Change No. 2128, Sheet No. 9).



Referred to Directors of City Planning Commission, Law; Committee on City Planning.

Ord. No. 2210-04.

By Council Member Cimperman.

An ordinance to change to change the zoning of properties on the west side of East 62nd Street, south of Grdina Avenue to an RA-2 Townhouse (Map Change No. 2142, Sheet No. 4).

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

Section 1. That the Use, Area and Height Districts of lands described as follows:

Permanent Parcel Nos. 105-07-067, 105-07-068, 105-07-069, 105-07-070, 105-07-071, 105-07-072, 105-07-073, and 105-07-074, located on East 62nd Street; and

One half the width of the street right-of-way of the portions of East 62nd Street and Grdina Avenue abutting the aforementioned parcels;

and as outlined in red on the attached map are changed to an RA-2 Townhouse District.

Section 2. That the changed designation of lands described in Section 1 shall be identified as Map Change No. 2142, 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.



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Referred to Directors of City Planning Commission, Law; Committee on City Planning.

FIRST READING EMERGENCY RESOLUTIONS READ IN FULL AND ADOPTED

Res. No. 2211-04.

By Council Member Coats.

An emergency resolution condemning the atrocities committed by the Janjaweed against Sudanese villagers; urging the United States Government to support the African Union with resources to end the genocide; and urging the United Nations to supply humanitarian goods to the Sudanese refugees.

Whereas, Sudan obtained its independence from the United Kingdom in 1956; and

Whereas, since obtaining its independence, Sudan has been embroiled in civil wars for all but ten years (1972-1982); and

Whereas, the civil wars are rooted in northern economic, political, and social domination of non-Muslim, non-Arab southern Sudanese; and

Whereas, since 1983, the war and war related famines have led to more than two million deaths and the displacement of over 4 million people; and

Whereas, in the past year, more than one million people have been forced from their homes in the region of Darfur by a government backed militia known as the Janjaweed; and

Whereas, the Janjaweed has raided villages, killed villagers and raped village women; and

Whereas, the violence carried out by the Janjaweed has created a serious humanitarian crisis as refugees lack access to food, clothing, shelter, and health care; and

Whereas, the United States Congress passed a resolution declaring the Sudan situation genocide; and

Whereas, Secretary of State Colin Powell in testimony before the Senate Foreign Relations Committee on Thursday, September 9, 2004, stated that "genocide has been committed in Darfur and that the government of Sudan and the Janjaweed bear responsibility, and that genocide may still be occurring"; and

Whereas, Secretary of State Powell's declaration occurred one day after the United States circulated a draft Security Council resolution on Sudan threatening economic penalties if the Sudanese government did

not control its militias and permit a large force from the African Union to patrol the area; 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 condemns the atrocities committed by the Janjaweed against Sudanese villagers.

Section 2. That this Council urges the United States Government to support the African Union with resources to end the genocide.

Section 3. That this Council urges the United Nations to supply humanitarian goods, such as food, clothing, shelter, and health care, to the Sudanese refugees.

Section 4. That the Clerk of Council is hereby directed to transmit a copy of this resolution to President George W. Bush, Secretary of State Colin Powell, U.S. Senator Michael DeWine, U.S. Senator George Voinovich, Congresswoman Stephanie Tubbs Jones, Congressman Dennis Kucinich, Congressman Sherrod

Brown, Congressman Steven La-Tourette, Kofi A. Annan, Secretary—General of the United Nations, the Executive Director and the Board of the National League of Cities, the Executive Director and Board of the National Black Caucus of Local Elected Officials, and the Executive Director of the Ohio Municipal League.

Section 5. 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 21. Nays 0. Read second time. Read third time in full. Adopted. Yeas 21. Nays 0.

Res. No. 2212-04.

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

An emergency resolution strongly opposing the proposed rate increase in natural gas sought by Dominion East Ohio Gas Company and Columbia Gas of Ohio, Inc. and urging the PUCO to reject such proposals.

Whereas, on November 12, 2004, Dominion East Ohio Gas Company (Dominion) filed a request with the Public Utilities Commission of Ohio (the PUCO) to increase rates for their customers by more than \$1.00 per 1,000 cubic feet; and

Whereas, just last month, the PUCO allowed Dominion to increase its rate by \$0.44 to \$8.79 for November through January; and

Whereas, the proposed new rate would add another \$1.19 to gas costs, boosting the rate to \$9.98 per 1,000 cubic feet; and

Whereas, Columbia Gas of Ohio Incorporated (Columbia) has requested an 11.5-cent increase, which would cause its rates to go from \$8.79 to \$9.94; and

Whereas, rate increases such as those proposed by Dominion and Columbia impose an extreme financial hardship on many of the City's residents and most severely impact those citizens on fixed incomes; and

Whereas, such extreme increases could force some families to choose between paying their utility bills, buying food, or purchasing prescription drugs; and

Whereas, this Council believes that forcing citizens to make such choices is reprehensible and further believes that utility companies serving Cleveland residents should place the health, safety, and welfare of their customers above their bottom-line during our coldest months of the year; and

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

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

Section 1. That this Council

strongly opposes the proposed rate increase in natural gas sought by Dominion East Ohio Gas Company and Columbia Gas of Ohio, Inc. and urges the PUCO to reject such proposal.

Section 2. That the Clerk is hereby directed to transmit certified copies of this resolution to representatives from Dominion East Ohio Gas Company and Columbia Gas of Ohio Incorporated, to each of the Commissioners of the PUCO and to the Consumers Counsel.

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 21. Nays 0. Read second time. Read third time in full. Adopted. Yeas 21. Nays 0.

Ord. No. 2213-04.

By Council Member Brady.

An emergency resolution objecting to the transfer of ownership of a D5 and D6 Liquor Permit at 11120 & 24 Lorain Avenue, 1st floor only and 11118 Lorain Avenue, 1st floor rear.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a D5 and D6 Liquor Permit from 10410 Lorain Avenue, Inc., DBA Porky's Café, 11120 & 24 Lorain Avenue, 1st floor only and 11118 Lorain Avenue, 1st floor rear, Cleveland, Ohio 44111, Permanent Number 8843651 to Lisa M. Salajcik, DBA Bar 112, 11120 & 24 Lorain Avenue, 1st floor only and 11118 Lorain Avenue, 1st floor rear, Cleveland, Ohio 44111, Permanent Number 7679172; 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 D5 and D6 Liquor Permit from 10410 Lorain Avenue, Inc., DBA Porky's Café, 11120 & 24 Lorain Avenue, 1st floor only and 11118 Lorain Avenue, 1st floor rear, Cleveland, Ohio 44111, Permanent Number 8843651 to Lisa M. Salajcik, DBA Bar 112, 11120 & 24 Lorain Avenue, 1st floor only and 11118 Lorain Avenue, 1st floor rear, Cleveland, Ohio 44111, Permanent Number 7679172; 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 21. Nays 0. Read second time. Read third time in full. Adopted. Yeas 21. Nays 0.

Res. No. 2214-04.

By Council Member O'Malley.

An emergency resolution requesting that the Cuyahoga County Court of Common Pleas, in Housing Advocates, Inc. v. American Fire & Casualty Company, et. al., order appellee insurance companies to produce certain documents and evidence necessary to fully investigate housing discrimination charges and requesting that the Director of Law of the City of Cleveland review the brief and exhibits submitted by Housing Advocates and file a brief supporting the position of Housing Advocates.

Whereas, Federal and Ohio law prohibits discrimination in the sale of fire, extended coverage or homeowners insurance because of race, color, religion, sex, familial status, ancestry, handicap, or national origin or because of the racial composition of the neighborhood in which housing accommodations are located; and

Whereas, Section 665.03(e) of the Codified Ordinances of the City of Cleveland, Ohio, 1976, prohibits dis-

crimination against any person in the provision of property and casualty insurance; and

Whereas, it has been brought to the attention of members of Cleveland City Council that insurance companies require residents of the City of Cleveland to pay higher premiums for property and casualty insurance than residents of surrounding communities are required to pay; and

Whereas, such premiums are, in many instances, significantly higher; and

Whereas, the City of Cleveland is a diverse City with a greater number of persons of color compared to the remainder of Cuyahoga County; and

Whereas, the practice of requiring higher insurance premiums for City of Cleveland residents has a discriminatory impact on City of Cleveland residents; and

Whereas, The Housing Advocates, Inc. ("Housing Advocates"), has undertaken an investigation and did several studies to review base rate premiums and geographical territorial rating zones for the City of Cleveland and the remainder of Cuyahoga County; and

Whereas, this investigation has shown that City of Cleveland residents pay more for homeowners insurance than residents living in surrounding cities and this has a racial and ethnic disparate impact on City of Cleveland residents; and

Whereas, Housing Advocates filed a total of twenty-five charges of housing discrimination against twenty-eight insurance companies based on its investigation with the Ohio Civil Rights Commission; and

Whereas, the Ohio Civil Rights Commission completed its investigation of these charges and found that there is no probable cause to believe that discrimination occurred; and

Whereas, during this investigation the Ohio Civil Rights Commission failed to request certain documents from the insurance companies; and

Whereas, these documents are only available from the insurance companies and are relevant to the charges of housing discrimination filed by Housing Advocates; and

Whereas, it appears that the Commission's investigation failed to address Housing Advocates suggestion for a less restrictive alternative methods to avoid or at least reduce the imposition of much higher premiums on our residents; and

Whereas, it appears that Housing Advocates have made a case for disparate impact by the insurance companies in the pricing of insurance products in the City of Cleveland versus the remainder of Cuyahoga County; and

Whereas, Housing Advocates has filed a lawsuit under the Ohio Revised Code entitled The Housing Advocates, Inc. v. American Fire & Casualty Company, et. al. in the Cuyahoga County Common Pleas Court requesting that the no probable cause determination of the Ohio Civil Rights Commission be reversed and that the Court compel the appellee insurance companies to provide the requested documents in order to enable a full and fair inves-

tigation of the housing discrimination charges; and

Whereas, this Council is concerned about all persons receiving a full and fair investigation of their claims before the Ohio Civil Rights Commission; and

Whereas, the Ohio Civil Rights Commission is mandated by State law to carry out and enforce the fair housing laws of the State of Ohio; and

Whereas, the Ohio Civil Rights Commission has authority to demand access to records, documents, and evidence in the course of investigations; and

Whereas, the Ohio Civil Rights Commission should have compelled the appellee insurance companies to provide certain documents and other evidence as part of its investigation in order to determine the validity of the housing discrimination charges filed by Housing Advocates; and

Whereas, members of Cleveland City Council, after being provided information about the scope and findings of the Commission investigation, urge the Cuyahoga County Common Pleas Court to order that appellee insurance companies produce certain documents and evidence necessary to investigate the housing discrimination charges filed by Housing Advocates; and

Whereas, this resolution constitutes and 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 requests that the Cuyahoga County Court of Common Pleas, in *Housing Advocates, Inc. v. American Fire & Casualty Company, et. al.*, order appellee insurance companies to produce certain documents and evidence necessary to fully investigate housing discrimination charges.

Section 2. That this Council hereby requests that the Director of Law of the City of Cleveland review the brief and exhibits submitted by Housing Advocates and file a brief supporting the position of Housing Advocates.

Section 3. That the Clerk of Council is hereby directed to transmit a copy of this resolution to Ohio Governor Bob Taft, Pastor Aaron Wheeler Sr., Chairperson and Commissioner, Ohio Civil Rights Commission; Jeanine P. Donaldson, Commissioner, Ohio Civil Rights Commission; Altagracia Ramos, Commissioner, Ohio Civil Rights Commission; Nirmal K. Sinha, Commissioner, Ohio Civil Rights Commission; Charles Winburn, Commissioner, Ohio Civil Rights Commission; G. Michael Peyton, Executive Director, Ohio Civil Rights Commission; and Jim Petro, Attorney General, State of Ohio.

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 21. Nays 0. Read second time. Read third time in full. Adopted. Yeas 21. Nays 0.

Res. No. 2215-04.

By Council Member Zone.

An emergency resolution declaring Cleveland City Council's support of the proposal of Stockyard Redevelopment Organization and Stock Development Company to provide affordable housing for the citizens of Cleveland through the use of Housing Development Assistance financing from the Ohio House Finance Agency.

Whereas, the Council of the City of Cleveland has recognized the need to maintain affordable housing in Cleveland's neighborhoods; and

Whereas, each year the Ohio Housing Finance Agency allocates non tax credit Housing Development Assistance financing using a competitive proposal process; and

Whereas, Stockyard Redevelopment Organization and Stock Development Company are proposing to develop at least five (5) single family homes; and

Whereas, these homes will consist of three (3) and four (4) bedroom homes; and

Whereas, all of these homes will be sold to families whose household income does not exceed eighty percent (80%) of the area median income; and

Whereas, at least twenty percent (20%) of these units will be set aside for families with a disability; and

Whereas, the Stockyard Redevelopment Organization and Stock Development Company project will benefit the citizens of the City; 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 the Council of the City of Cleveland supports the proposal of Stockyard Redevelopment Organization and Stock Development Company to provide affordable housing for the citizens of Cleveland through the use of Housing Development Assistance financing from the Ohio House Finance Agency.

Section 2. That the Clerk of Council is hereby requested to transmit a copy of this resolution to the Director of the Stockyard Redevelopment Organization and the Director of the Stock Development Company.

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 21. Nays 0. Read second time. Read third time in full. Adopted. Yeas 21. Nays 0.

**SECOND READING
EMERGENCY ORDINANCE**

Ord. No. 1269-04.

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

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant from the State of Ohio, Homeland Security, for the Cuyahoga Regional Response Team Program; authorizing the director to employ one or more professional consultants to implement the grant; and authorizing the director to enter into one or more requirement contracts for the purchase of equipment and vehicles to implement the grant.

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

1. Strike the title in its entirety and insert:

"An Emergency Ordinance authorizing the Director of Public Safety to apply for and accept a grant of equipment from the Ohio Emergency Management Agency, for the Ohio State Homeland Security Program; and authorizing the Director to enter into one or more agreements with the County of Cuyahoga and other public entities necessary to accept the equipment under the grant."

2. Strike Section 1 in its entirety and insert:

"Section 1. That the Director of Public Safety is authorized to apply for and accept a grant of equipment in the amount of approximately \$18,000, from the Ohio Emergency Management Agency, for the Ohio State Homeland Security Program, that the Director is authorized to file all papers and execute all documents necessary to receive the equipment under the grant."

3. Strike Sections 4, 5, 6, and 7 in their entirety.

4. Insert new Section 4 to read as follows:

"Section 4. That the Director of Public Safety is authorized to enter into one or more agreements with the County of Cuyahoga and other public entities necessary to accept equipment from them under the grant."

5. Renumber existing Section 8 as new **"Section 5"**.

Amendments agreed to.

**SECOND READING EMERGENCY
ORDINANCES PASSED**

Ord. No. 1290-04.

By Council Member White.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 131st Street to Eleanor R. Barrett.

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

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 1490-04.

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

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to enter into a property-adoption agreement with

Great Lakes Brewing Co. Inc., or their designee, for the construction, operation, and maintenance of a greenhouse at Fairview Park, located at West 38th Street and Franklin Avenue.

Approved by Directors of Parks, Recreation and Properties, City Planning Commission, Finance, Law; Relieved of Committee on City Planning; Passage recommended by Committees on Public Parks, Property and Recreation, Finance; when amended as follows:

1. In Section 1, lines 6 and 7, strike "32' x 12' (384 square feet)" and insert **"up to 36' x 14' (up to 506 square feet)"**.

Amendment agreed to.

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. 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. 1508-04.

By Council Member Cintron.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on West 20th Street to Breyerwood Homes, LLC.

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

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 1670-04.

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

An emergency ordinance to supplement Ordinance No. 2243-03, passed December 15, 2003, by adding new Sections 8a and 8b; and to amend Section 9 of the ordinance relating to the property acquisition, design, and construction of an all weather track and football-field complex in the Collinwood area; and authorizing an agreement with United Way to cooperate in the cost of this project.

Approved by Directors of Parks, Recreation and Properties, City Planning Commission, Finance, Law; Relieved of Committee on City Planning; Passage recommended by Committees on Public Parks, Property and Recreation, Finance.

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 1850-04.

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

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to apply for and accept a grant from the United States Department of Commerce, National Oceanic and Atmospheric Administration for the Canal Basin Park Program.

Approved by Directors of Parks, Recreation and Properties, Finance, Law; Passage recommended by Committees on Public Parks, Property and Recreation, Finance.

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 1961-04.

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

An emergency ordinance approving a Memorandum of Understanding with Continental Airlines, Inc.; authorizing the Mayor and the Director of Port Control to enter into the MOU; and authorizing the Director of Port Control to enter into an amendment to Contract No. 38171 and similar contracts with other signatory airlines necessary to effectuate the purposes of the Memorandum of Understanding.

Approved by Directors of Port Control, Finance, Law; Passage recommended by Committees on Aviation and Transportation, Finance; when amended as follows:

1. Insert new Section 5 to read as follows:

"Section 5. That the Director of Finance and the Director of Port Control are authorized to enter into a supplemental trust indenture with J.P. Morgan Trust Company, National Association, as Trustee for the City's outstanding Airport System Revenue Bonds in order to supplement and amend the Trust Indenture dated as of November 1, 1976, as supplemented and amended by the First through Fifth Supplemental Trust Indentures, each between the City and the Trustee (collectively comprising the Indenture) in order to conform certain provisions of the Indenture to provisions of the MOU, Amended Agreement and Other Agreements relating to the deposit and expenditure of the Airport Revenues, as defined in the Indenture."

2. Renumber existing Section 5 to new **"Section 6"**.

Amendments agreed to.

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. 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. 2014-04.

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

An emergency ordinance to appropriate property for the redevelopment of the blighted premises located at 16800 Lorain Avenue.

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 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 2017-04.

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

An emergency ordinance authorizing the Director of Economic Development to enter into a grant agreement with IntelliNet Enterprise Management Services Corporation to provide economic development assistance to partially finance relocation costs, leasehold improvements, and soft costs associated with their relocation to 1255 Euclid Avenue in the City of Cleveland.

Approved by Directors of Economic 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 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 2051-04.

By Council Member Jackson (by departmental request).

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

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

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 2059-04.

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

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

Approved by Directors of Parks, Recreation and Properties, Finance, Law; Passage recommended by Committees on Public Parks, Property, and Recreation, Finance.

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 2060-04.

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

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

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

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 2063-04.

By Council Member Cimperman.

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

Approved by Directors of Community Development, City Planning

Commission, Finance, Law; Passage recommended by Committees on Community and Economic Development, Finance.

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

Ord. No. 2070-04.

By Council Member Jones.

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

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

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Passed. Yeas 21. Nays 0.

SECOND READING EMERGENCY RESOLUTIONS ADOPTED

Res. No. 1966-04.

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

An emergency resolution declaring the necessity and intention to appropriate property for the public use of developing a park on Ansel Road near Korman Avenue for the Department of Parks, Recreation and Properties.

Approved by Directors of Parks, Recreation and Properties, City Planning Commission, Finance, Law; Relieved of Committee on City Planning; Passage recommended by Committees on Public Parks, Property and Recreation, Finance.

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Adopted. Yeas 21. Nays 0.

Res. No. 2018-04.

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

An emergency resolution declaring the necessity and intention to appropriate property for the public use of park and recreational purposes, located at 16300 Lakeshore Boulevard; and to repeal Resolution No. 2254-02, adopted December 16, 2002, relating to the property appropriation.

Approved by Directors of Parks, Recreation and Properties, City Planning Commission, Finance, Law; Relieved of Committee on City Planning; Passage recommended by Committees on Public Parks, Property and Recreation, Finance.

The rules were suspended. Yeas 21. Nays 0. Read second time. Read third time in full. Adopted. Yeas 21. Nays 0.

LAID ON THE TABLE

Ord. No. 1491-04.

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

An emergency ordinance authorizing the Director of Parks, Recreation and Properties to enter into an agreement with the Puritas Baseball League for the maintenance of Maplewood Park and operation of the concession stand at the park.

Without objection, Ordinance No. 1491-04, was relieved of further con-

sideration of all committees and laid on the table pursuant to the Rules of Council.

The rules were suspended. Yeas 21. Nays 0. Ordinance No. 1491-04 Laid on the table.

MOTION

The Council Meeting adjourned at 8:20 p.m. to meet on Monday, November 22, 2004 at 7:00 p.m. in the Council Chambers.



City Clerk, Clerk of Council

THE CALENDAR

The following measure will be on its final passage at the next meeting:

ORDINANCE

Ord. No. 1269-04.

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

An emergency ordinance authorizing the Director of Public Safety to apply for and accept a grant of equipment from the Ohio Emergency Management Agency, for the Ohio State Homeland Security Program; and authorizing the Director to enter into one or more agreements with the County of Cuyahoga and other public entities necessary to accept the equipment under the grant.

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 Safety is authorized to apply for and accept a grant of equipment in the amount of approximately \$18,000, from the Ohio Emergency Management Agency, for the Ohio State Homeland Security Program, that the Director is authorized to file all papers and execute all documents necessary to receive the equipment under the grant.

Section 2. That the summary for the grant, File No. 1269-04-A, made a part hereof as if fully rewritten, is approved in all respects.

Section 3. That the Director of Public Safety shall have the authority to extend the term of the grant if the extension does not involve an increase in the dollar amount of the grant specified above.

Section 4. That the Director of Public Safety is authorized to enter into one or more agreements with the County of Cuyahoga and other public entities necessary to accept equipment from them under the grant.

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.

BOARD OF CONTROL

November 10, 2004

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, November 3, 2004, at 10:30 a.m. with Mayor Campbell presiding.

Present: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McQuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Absent: Director Mok.

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

Carol Whitaker, Acting Director, Office of Equal Opportunity.

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

Resolution No. 630-04.

By Director Ciaccia.

Be it resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractor by Terrace Construction Company, Inc. under the contract for an estimated quantity of labor & materials to repair water mains-area west, for the Division of Water, Department of Public Utilities, authorized by Ordinance No. 2311-03, passed December 15, 2003, and Board of Control Resolution No. 221-04, adopted April 21, 2004, is approved:

Subcontractor	Work Percentage
Corlett Trenching and Plumbing (MBE)	\$100,000.00 5.29%

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McQuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: Director Mok.

Resolution No. 631-04.

By Director Ciaccia.

Be it resolved by the Board of Control of the City of Cleveland that all bids received on August 20, 2004, for the estimated quantity of labor and materials necessary to test, inspect, and repair bucket trucks, for the Division of Cleveland Public Power, Department of Public Utilities, pursuant to the authority Ordinance No. 250-04, passed by the Council of the City of Cleveland on June 7, 2004, be and the same are hereby rejected.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McQuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: Director Mok.

Resolution No. 632-04.

By Director Ciaccia.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Fisher Scientific Company L.L.C. for an estimated quantity

of laboratory equipment, testing and analytical services; biological and chemical testing supplies, apparatus and appurtenances (items 1, 3A-3J, 3L-3AO, and 4) for the Division of Water, Department of Public Utilities, for a period of two (2) years beginning with the later of the date of execution of a contract or receipt of a notice to proceed, received on the 12th day of August, 2004, under the authority of Section 129.28 of the Codified Ordinances of Cleveland Ohio, 1976, which on the basis of the estimated quantity would amount to One Hundred Forty Four Thousand and 00/100 Dollars (\$144,000.00), is affirmed and approved as the lowest and best bid, and the Director of Public Utilities is requested to enter into a requirement contract for such commodities, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 148837

which shall be certified against such contract in the sum of Twenty Five Thousand and 00/100 Dollars (\$25,000.00).

Said requirement contract shall further provide that the Contractor will furnish the remainder of the requirement for such commodities, whether more or less than the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McQuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: Director Mok.

Resolution No. 633-04.

By Director Ciaccia.

Be it resolved by the Board of Control of the City of Cleveland that the bid of BissNuss, Inc. for an estimated quantity of laboratory equipment, testing and analytical services; biological and chemical testing supplies, apparatus and appurtenances (item 6) for the Division of Water, Department of Public Utilities, for a period of two (2) years beginning with the later of the date of execution of a contract or receipt of a notice to proceed, received on the 12th day of August, 2004, under the authority of Section 129.28 of the Codified Ordinances of Cleveland Ohio, 1976, which on the basis of the estimated quantity would amount to Thirty Six Thousand and 00/100 Dollars (\$36,000.00), is affirmed and approved as the lowest and best bid, and the Director of Public Utilities is requested to enter into a requirement contract for such commodities, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 148851

which shall be certified against such contract in the sum of Fifteen Thousand and 00/100 Dollars (\$15,000.00).

Said requirement contract shall further provide that the Contractor will furnish the remainder of the requirement for such commodities, whether more or less than said estimated quantity, as may be ordered under subsequent requisitions separately certified against said contract.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McQuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: Director Mok.

Resolution No. 634-04.

By Director Ciaccia.

Be it resolved by the Board of Control of the City of Cleveland that the bid of US Filter/Ionpure for an estimated quantity of laboratory equipment, testing and analytical services; biological and chemical testing supplies, apparatus and appurtenances (item 7) for the Division of Water, Department of Public Utilities, for a period of two (2) years beginning with the later of the date of execution of a contract or receipt of a notice to proceed, received on the 12th day of August, 2004, under the authority of Section 129.28 of the Codified Ordinances of Cleveland Ohio, 1976, which on the basis of the estimated quantity would amount to Nine Thousand Eight Hundred Eighty and 00/100 Dollars (\$9,880.00), is affirmed and approved as the lowest and best bid, and the Director of Public Utilities is requested to enter into a requirement contract for such commodities, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 148850

which shall be certified against such contract in the sum of Nine Thousand Eight Hundred Eighty and 00/100 Dollars (\$9,880.00).

Said requirement contract shall further provide that the Contractor will furnish the remainder of the requirement for such commodities, whether more or less than the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McQuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: Director Mok.

Resolution No. 635-04.

By Director Ricchiuto.

Resolved, by the Board of Control of the City of Cleveland that the bid of Valley Sterling Truck Sales, Inc. for an estimated quantity of cab/chassis with flat bed/crane, for the various divisions of City government, for the period of one (1) year beginning with the date of execution of a contract, received on June 23, 2004, pursuant to the authority of Ordinance No. 1262-02, passed by the Council of the City of Cleveland on July 17, 2002, which on the basis of the estimated quantity would amount to Two Hundred Twenty-One Thousand Nine Hundred Eleven and 00/100 Dollars (\$221,911.00) (0%-30 Days), is hereby affirmed and approved as the lowest and best bid, and the Director of Public Service is hereby requested to enter into a requirement contract for such goods and/or services, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 153949 which shall be certified against such contract in the sum of Two Hundred Twenty-One Thousand Nine Hundred Eleven and 00/100 Dollars (\$221,911.00).

Said requirement contract shall further provide that the Contractor shall furnish the remainder of the City's requirements for such goods and/or services, whether more or less than said estimated quantity, as may be ordered under subsequent requisitions separately certified against said contract.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by Valley Sterling Truck Sales, Inc. for the above mentioned purchase is hereby approved:

Logical Services, Inc.
FBE — \$800.00 per unit — 0.36%

Smith Truck Cranes &
Equipment Co., Inc.
\$129,511.00 per unit — 58.36%

All Points Systems
\$2,882.00 per unit — 1.30%

Ziebart Rustproofing
\$310.00 per unit — 0.14%

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McGuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.
Absent: Director Mok.

Resolution No. 636-04.

By Director Ricchiuto.

Be it resolved by the Board of Control of the City of Cleveland, that the bid of Vandra Brothers Construction, 24629 Broadway Ave., Oakwood Village, Ohio 44146, for the public improvement of Grayton Road (Puritas Avenue to I-480 Bridge), for the Division of Engineering and Construction, Department of Public Service, received on October 21, 2004, pursuant to the authority of Ordinance No. 2334-03, passed February 9, 2004, upon a unit basis for the improvement in the aggregate amount of Two Million, Four Hundred Seventy-Five Thousand, Six Hundred Seventy-Six and 90/100 Dollars (\$2,475,676.90), is hereby affirmed and approved as the lowest responsible bid; and the Director of Public Service is hereby authorized to enter into contract for said improvement with said bidder.

Be it further resolved that the employment of the following subcontractors by Vandra Brothers Construction for the aforementioned public improvement hereby is approved:

Collinwood Shale Brick &
Concrete Co.
12400 Broadway
Cleveland, Ohio 44125
\$75,000 — 3.03% — (FBE)

Cuyahoga Supply & Tool, Inc.
5340 Perkins Road
Broadview Hts., Ohio 44146
\$20,000 — 0.81% — (FBE)

McTech Corp. / Tech Ready Mix
5000 Crayton Road
Cleveland, Ohio 44101
\$375,000 — 15.15% — (MBE)

Traftech
1754 E. 47th Street
Cleveland, Ohio 44103
\$150,000 — 6.0%

Monte Construction
9290 Amberwood
Kirtland, Ohio 44280
\$270,000 — 10.9%

East Ohio Grass
6466 Foxglove
Medina, Ohio 44256
\$16,000 — 0.6%

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McGuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.
Absent: Director Mok.

Resolution No. 637-04.

By Director Watson.

Resolved by the Board of Control of the City of Cleveland that the bid of Vance Outdoor, Inc. dba Vance's Law Enforcement for an estimated quantity of ammunition, Group A, Item Nos. 3, 4, 5, 6, 7, 10 and 11, for the Division of Police, Department of Public Safety, for the period of one (1) year beginning with the date of execution of a contract, received on May 7, 2004, under Section 135.065 of the Codified Ordinances of the City of Cleveland, 1976, which on the basis of the estimated quantity would amount to Forty-Nine Thousand Eight Hundred Sixty-Three and 00/100 Dollars (\$49,863.00), is affirmed and approved as the lowest and best bid, and the Director of Public Safety is requested to enter into a requirement contract for such goods and/or services, which shall provide for the immediate purchase as the initial amount of such contract of the following:

Requisition No. 145119
Various police ammunition which shall be certified against such contract in the sum of Twenty-Five Thousand and 00/100 Dollars (\$25,000).

The requirement contract shall further provide that the Contractor shall furnish the remainder of the City's requirements for the goods and/or services, whether more or less than the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McGuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.
Absent: Director Mok.

Resolution No. 638-04.

By Director Watson.

Resolved by the Board of Control of the City of Cleveland that all bids received on May 7, 2004, for ammunition, Group A, Items 1, 2 and 8, for the Division of Police, Department of Public Safety, pursuant to the authority of Section 135.06 of the Codified Ordinances of the City of Cleveland, 1976, are hereby rejected.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McGuirk, Directors Ricchiuto, Carroll, Acting Director

Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.
Absent: Director Mok.

Resolution No. 639-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No. 012-15-017, located at 4817 Biddulph Avenue under said Land Reutilization Program; and

Whereas, Ordinance No. 269-04 passed October 18, 2004, authorized the sale of said parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Ronald Ziegler has proposed to the City to purchase and develop said parcel; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 269-04 passed October 18, 2004, by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Ronald Ziegler for the sale and development of Permanent Parcel No. 012-15-017, as described in said Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of said program.

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

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McGuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.
Absent: Director Mok.

Resolution No. 640-04.

By Director Rush.

Whereas, pursuant to Ordinance No. 2076-76 passed October 25, 1976, the City is conducting a Land Reutilization Program in accordance with the provision of Chapter 5722 of the Ohio Revised Code; and

Whereas, City has acquired Permanent Parcel No. 119-05-018, located at East 88th Street under said Land Reutilization Program; and

Whereas, Ordinance No. 1284-04 passed October 4, 2004, authorized the sale of said parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Ora D. Gildersleeve has proposed to the City to purchase and develop said parcel; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that pursuant to the authorization of Ordinance No. 1284-04 passed October 4, 2004, by the Cleveland City Council, the Mayor is hereby authorized to execute an official deed for and on behalf of the City of Cleveland with Ora D. Gildersleeve for the sale and development of Permanent Parcel No. 119-05-018, as described in said Ordinance in accordance with

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

Be it further resolved that the consideration for said parcel shall be \$1.00, which amount is hereby determined to be not less than the fair market value of said parcel for uses in accordance with the Land Reutilization Program.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McGuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: Director Mok.

Resolution No. 641-04.

By Director Baker.

Be it resolved by the Board of Control of the City of Cleveland that the bid of Professional Electric Products Company (PEPCO) for an estimated quantity of PVC Conduit, Fittings and Accessories for the various divisions of City Government, Department of Finance, for a period of two (2) years beginning with the date of execution of a contract, received on September 22, 2004, under the authority of Ordinance No. 1257-04, passed August 11, 2004, which on the basis of the estimated quantity would amount to Thirteen Thousand Seven Hundred Eighty-Three Dollars and Twenty-Four Cents (\$13,783.24) net, is affirmed and approved as the lowest and best bid, and the Director of Finance is requested to enter into requirement contract for the commodities, which shall provide for the immediate purchase as the initial amount of the contract of the following:

Requisition No. 141853

which shall be certified against the contract in the sum of One Thousand Two Hundred Fifty and 00/100 Dollars (\$1,250.00).

The requirement contract shall further provide that the Contractor will furnish the remainder of the requirements for such commodities, whether more or less than the estimated quantity, as may be ordered under subsequent requisitions separately certified against the contract.

Yeas: Mayor Campbell, Acting Director Horvath, Director Baker, Acting Director McGuirk, Directors Ricchiuto, Carroll, Acting Director Pettus, Directors Ronayne, Rush, Routen, Huth, Fumich, Taylor and Williams.

Nays: None.

Absent: Director Mok.

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, NOVEMBER 29, 2004

9:30 A.M.

Calendar No. 04-259: 917 East 105th Street (Ward 8)

James Lee Richardson, owner, appeals to convert to a carryout restaurant/drive-through establishment a 46' x 52' one-story auto repair garage building on the 110' x 175' corner lot in a Local Retail Business District on the southeast corner of East 105th Street and Gooding Avenue; contrary to the requirements of Section 347.16(d)(4), no clear pavement markings or signage are proposed to identify pedestrian routes between entrances to the restaurant and any parking area or sidewalk which require the crossing of drive-through lanes; and no wheel or bumper guards are proposed for off-street parking spaces as are required in Section 349.07(b) and there is no landscaping proposed where an 8' wide landscaping strip, providing a 75% year-round opacity, is required between the Local Retail Business District and the abutting Two-Family District as required in Section 352.11 of the Codified Ordinances.

Calendar No. 04-261: 2059 Hamilton Avenue (Ward 13)

Stricker Realty Ltd., owner and Bruce Diamond, agent, appeal to install approximately 140' of 6' high chain link with three strands of barbed wire along the front and along the rear of a 70' x 120' lot in a Semi-Industry District on the north side of Hamilton Avenue at 2059 Hamilton Avenue; contrary to the Fence Regulations, the location of the fence is 1' instead of the required 4' from the sidewalk public right-of-way and no landscape barrier is proposed, where it is required that the setback from a sidewalk shall be planted with shrubs spaced no more than 5' apart or trees spaced no more than 20' apart, as stated in Sections 358.05(b)(1)(3) of the Codified Ordinances.

Calendar No. 04-262: 383 East 156th Street (Ward 11)

John Dimmian, owner, appeals to construct a 2 1/2 story retail and residential building on an approximate 50' x 101' corner lot in a Local

Retail Business District on the southeast corner of East 156th Street and Trafalgar Avenue; contrary to Section 357.04 a front yard depth of 25' is required and none is provided; and Section 352.10, requires a 6' wide landscape strip along East 156th Street between the parking lot and street; and contrary to Section 355.04, a maximum gross floor area of 19,484 s/f is allowed and 23,691 s/f is proposed; and the driveway apron radius must be 15' from a prolongation of the property line according to Section 343.18(c) and a plot plan drawn to scale is required as stated in Section 327.02(e) of the Codified Ordinances.

Calendar No. 04-263: 7524 Spafford Avenue (Ward 12)

Gwendolyn Gartin, owner, appeals to erect a 5' x 8'-6" landing onto an existing front porch and a 3' x 4' manufactured wheelchair lift, subject to the provisions of Section 357.13(b)(4), open porches shall not project more than 6' for the landing and the wheelchair lift and shall not extend within 10' from the street line.

Calendar No. 04-265: 3680-3716 East 65th Street — Lot #1 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 30.42' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 2,754 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5. is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the interior side and rear yards shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-266: 3680-3716 East 65th Street — Lot #2 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 16' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 832 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 6' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-267: 3680-3716 East 65th Street — Lot #3 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 20' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 1,120 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear

yard depth where 6' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-268: 3680-3716 East 65th Street — Lot #4 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 25' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 1,525 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 6' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-269: 3680-3716 East 65th Street — Lot #5 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 25' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 1,500 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 10' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-270: 3680-3716 East 65th Street — Lot #6 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 16' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 832 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 6' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-271: 3680-3716 East 65th Street — Lot #7 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 25.5' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 2,180 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-272: 3680-3716 East 65th Street — Lot #8 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 25.5' lot width is proposed and 40' is required and instead of the required 4,800 s/f min-

imum lot area, 2,180 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-273: 3680-3716 East 65th Street — Lot #9 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 16' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 832 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-274: 3680-3716 East 65th Street — Lot #10 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 25' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 1,500 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 8' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-275: 3680-3716 East 65th Street — Lot #11 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 25' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 1,525 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 6' is proposed and an 8' interior side yard is required where none is proposed; and subject to the limitations of Section 357.13(b)(4), where an open front yard porch shall not project more than 6' there is 8' proposed.

Calendar No. 04-276: 3680-3716 East 65th Street — Lot #12 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 20' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 1,120 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 6' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-277: 3680-3716 East 65th Street — Lot #13 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent,

appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 16' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 832 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 6' is proposed and an 8' interior side yard is required where none is proposed.

Calendar No. 04-278: 3680-3716 East 65th Street — Lot #14 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; contrary to Section 355.04, a 30.52' lot width is proposed and 40' is required and instead of the required 4,800 s/f minimum lot area, 2,756 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5' is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the interior side and rear yards shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-279: 3680-3716 East 65th Street — Lot #15 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; subject to Section 352.11, an 8' wide transition landscape strip is required to provide 75% year round opacity at the rear of the lot to separate the retail district from the residential district; and contrary to Section 355.04 where a 4,800 s/f minimum lot area is required, 2,865 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 8.61' is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the interior side and rear yards shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-280: 3680-3716 East 65th Street — Lot #16 (Ward 12)

The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; subject to Section 352.11, an 8' wide transition landscape strip is required to provide 75% year round opacity at the rear of the lot to separate the retail district from the residential district; and contrary to Section 355.04 where a 4,800 s/f minimum lot area is required, 1,529 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5.82' is proposed and an 8' interior side yard is required where none is proposed;

and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the interior side and rear yards shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-281: 3680-3716 East 65th Street — Lot #17 (Ward 12)
The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; subject to Section 352.11, an 8' wide transition landscape strip is required to provide 75% year round opacity at the rear of the lot to separate the retail district from the residential district; and contrary to Section 355.04 where a 4,800 s/f minimum lot area is required, 1,526 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5.76' is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the rear yard shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-282: 3680-3716 East 65th Street — Lot #18 (Ward 12)
The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; subject to Section 352.11, an 8' wide transition landscape strip is required to provide 75% year round opacity at the rear of the lot to separate the retail district from the residential district; and contrary to Section 355.04 where a 4,800 s/f minimum lot area is required, 2,724 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 12.4' is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the rear yard shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-283: 3680-3716 East 65th Street — Lot #19 (Ward 12)
The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; subject to Section 352.11, an 8' wide transition landscape strip is required to provide 75% year round opacity at the rear of the lot to separate the retail district from the residential district; and contrary to Section 355.04 where a 4,800 s/f minimum lot area is required, 2,721 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 12.37' is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the rear yard

shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-284: 3680-3716 East 65th Street — Lot #20 (Ward 12)
The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; subject to Section 352.11, an 8' wide transition landscape strip is required to provide 75% year round opacity at the rear of the lot to separate the retail district from the residential district; and contrary to Section 355.04 where a 4,800 s/f minimum lot area is required, 1,518 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5.6' is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the rear yard shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-285: 3680-3716 East 65th Street — Lot #21 (Ward 12)
The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; subject to Section 352.11, an 8' wide transition landscape strip is required to provide 75% year round opacity at the rear of the lot to separate the retail district from the residential district; and contrary to Section 355.04 where a 4,800 s/f minimum lot area is required, 1,516 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 5.54' is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the rear yard shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-286: 3680-3716 East 65th Street — Lot #22 (Ward 12)
The Pulaski Franciscan Community Development Corporation, owner, and Peter DeCrane, agent, appeal to erect a one family townhouse unit on a 56,000 s/f lot in a Local Retail Business District at 3680-3716 East 65th Street; subject to Section 352.11, an 8' wide transition landscape strip is required to provide 75% year round opacity at the rear of the lot to separate the retail district from the residential district; and contrary to Section 355.04 where a 4,800 s/f minimum lot area is required, 2,845 s/f is proposed; and Sections 357.08(b)(2) and 357.09(b)(2)(C) require a 20' rear yard depth where 8.25' is proposed and an 8' interior side yard is required where none is proposed; and contrary to the Fence Regulations, an 8' fence height is proposed where the fence in the interior side and rear yards shall not exceed a 6' height as stated in Section 358.05(a)(2) of the Codified Ordinances.

Calendar No. 04-204: 2927 Bridge Avenue (Ward 13)

The 2927 Bridge Ltd, owner, and Argile Jani, tenant, appeal to use the second floor to expand the occupancy and use of an existing, non-conforming restaurant in a 22' x 47' 6" two-story masonry building, situated on a 29' x 72' 6" corner lot in a B1 Two-Family District on the southeast corner of West 30th Street and Bridge Avenue at 2927 Bridge Avenue; the proposed use being subject to the residential limitations of Section 337.03, where a restaurant is not a permitted use; and contrary to Section 349.04(f) of the Off-Street Parking and Loading Requirements, no accessory off-street parking is provided; and the new use expansion requires 1 parking space per 4 seats or an additional 11 off-street parking spaces to accommodate 43 seats; and the expansion of a non-conforming use requires the Board of Zoning Appeals approval, as stated in Section 359.01 of the Codified Ordinances. (Filed 8-24-04; reinstated 11-1-04.)

Secretary

REPORT OF THE BOARD OF ZONING APPEALS

MONDAY, NOVEMBER 15, 2004

At the meeting of the Board of Zoning Appeals on Monday, November 15, 2004, the following appeals were heard by the Board:

The following appeals were **Approved**:

Calendar No. 04-250: 14704 Hale Avenue

Byron Thomas appealed to erect and enclose a rear porch addition to a two-story dwelling in a Two-Family District.

Calendar No. 04-253: 13221 Sprecher Avenue

Bobby and Thelma Conley appealed to erect a two-story additional floor area to a single family dwelling in an A1 One-Family District.

Calendar No. 040-254: 16200 Munn Road

William and Donna Trunko appealed to erect a one-story frame accessory garage on the rear portion of a corner lot in an A1 One-Family District; subject to conditions.

Calendar No. 04-143: 2202 Broadview Road

Speedway SuperAmerica appealed to construct a combined service station/convenient store in a Local Retail and a One-Family District.

Calendar No. 04-205: 3500 Woodland Avenue

Neal Desatnik appealed to erect an 84 s/f, 25' high, free-standing sign in a Semi-Industry District.

The following appeal was **Denied**:

Calendar No. 04-249: 15709 Lorain Avenue

Tracy Brown appealed to establish use as a tattoo/body piercing operation in a mixed use building in a General Retail Business District.

The following appeals were **Postponed**:

Calendar No. 04-248: 17877 St. Clair Avenue postponed to December 6, 2004.

Calendar No. 04-225: 16911 Euclid Avenue postponed to December 6, 2004.

The following appeal was **Dismissed**:

Calendar No. 04-251: Appeal of Victor Keshishian, d.b.a. Leader Builders
Victor Keshishian appealed under Section 76-6(b) of the Charter of the City of Cleveland from an indefinite suspension from all work sponsored and funded by the City of Cleveland Department of Community Development.

In Executive Session on November 15, 2004, the following appeals heard by the Board on November 8, 2004 were adopted and approved.

The following appeal was **Approved**:

Calendar No. 04-241: 2240 St. Clair Avenue
2240 St. Clair, Inc. appealed to change from a machine shop to four condominium units a two-story brick building in a Semi-Industry District.

The following appeal was **Denied**:

Calendar No. 04-244: 7904 Cedar Avenue
Jaber Mahmoud appealed to replace an existing cabinet sign and add a cabinet sign on a free-standing 19'2" sign pole in a Local Retail Business District.

Secretary

REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS

NO MEETING

PUBLIC NOTICE

NONE

NOTICE OF PUBLIC HEARING

NONE

CITY OF CLEVELAND BIDS

For All Departments

Sealed bids will be received at the office of the Commissioner of Purchases and Supplies, Room 128, City Hall, in accordance with the appended schedule, and will be opened and read in Room 128, City Hall, immediately thereafter.

Each bid must be made in accordance with the specifications and must be submitted on the blanks

supplied for the purpose, all of which may be obtained at the office of the said Commissioner of Purchases and Supplies, but no bid will be considered unless delivered to the office of the said commissioner previous to 12:00 noon (Eastern Standard Time) on the date specified in the schedule.

187.10 Negotiated contracts; Notice required in Advertisement for Bids.

Where invitations for bids are advertised, the following notice shall be included in the advertisement: "Pursuant to the MBE/FBE Code, each prime bidder, each minority business enterprise ("MBE") and each female business enterprise ("FBE") must be certified before doing business with the City. Therefore, any prime contractor wishing to receive credit for using an MBE or FBE should ensure that applications for certification as to MBE or FBE status compliance with the Code, affirmative action in employment and, if applicable, joint venture status, are submitted to the Office of Equal Opportunity ("OEO") prior to the date of bid opening or submission of proposals or as specified by the Director. Failure to comply with the business enterprise code or with representations made on these forms may result in cancellation of the contract or other civil or criminal penalties."

WEDNESDAY, DECEMBER 1, 2004

Laverne Avenue and Superior Avenue Sewer Relining, for Division of Water Pollution Control, Department of Public Utilities as authorized by Ordinance No. 644-03 and 837-04, passed by the Council of the City of Cleveland, July 16, 2003 and June 14, 2004.

THERE WILL BE A **REFUNDABLE FEE OF FIFTY DOLLARS (\$50.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER.**

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING FRIDAY, NOVEMBER 19, 2004 AT 10:00 A.M., DIVISION OF WATER POLLUTION CONTROL, 12302 KIRBY AVENUE, CLEVELAND, OHIO 44108.**

November 10, 2004 and November 17, 2004

WEDNESDAY, DECEMBER 8, 2004

Purchase of Diesel Fuel, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 764-04, passed by the Council of the City of Cleveland, May 17, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING TUESDAY, NOVEMBER 23, 2004 AT 3:00 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH ST., BUILDING #1, CLEVELAND, OHIO 44105.**

One (1) Cab/Chassis with Fuel Tanker Body, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 1683-03, passed by the Council of the City of Cleveland, September 22, 2003.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING WEDNESDAY, DECEMBER 1, 2004 AT 2:30 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, BUILDING #1, CLEVELAND, OHIO 44105.**

Ford Truck Parts and Labor, for the Division of Motor Vehicle Maintenance, Department of Public Service, as authorized by Ordinance No. 1981-03, passed by the Council of the City of Cleveland, October 27, 2003.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING WEDNESDAY, DECEMBER 1, 2004 AT 3:00 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, BUILDING #1, CLEVELAND, OHIO 44105.**

November 10, 2004 and November 17, 2004

FRIDAY, DECEMBER 10, 2004

Purchase of Laboratory Equipment, Testing and Analytical Services; Biological and Chemical Testing Supplies, Apparatus and Appurtenances, for the Division of Water, Department of Public Utilities, as authorized by Section 129.28, of the Codified Ordinances of Cleveland, Ohio, 1976.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING WEDNESDAY, DECEMBER 1, 2004 AT 1:00 P.M., PUBLIC UTILITIES BUILDING, 4TH FLOOR ATRIUM, CONFERENCE ROOM, 1201 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

November 10, 2004 and November 17, 2004

WEDNESDAY, DECEMBER 1, 2004

Estabrook Park & Loew Park Site Improvements, for the Division of Research, Planning & Development, Department of Parks, Recreation and Properties, as authorized by Ordinance Nos. 1748-99 and 1728-2000, passed by the Council of the City of Cleveland, April 17, 2000 and April 9, 2001.

THERE WILL BE A **REFUNDABLE FEE FOR PLANS/SPECIFICATIONS IN THE AMOUNT OF TWENTY-FIVE DOLLARS (\$25.00) IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER.**

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING, WEDNESDAY, NOVEMBER 24, 2004, AT 10:00 A.M., BURKE LAKEFRONT AIRPORT, 1ST FLOOR CONFERENCE ROOM, 1501 NORTH MARGINAL ROAD, CLEVELAND, OHIO 44114.**

November 17, 2004 and November 24, 2004

FRIDAY, DECEMBER 3, 2004

Rehabilitation of Euclid Avenue, for the Division of Engineering and Construction, Department of Public Service, as authorized by Ordinance No. 2330-03, passed by the Council of the City of Cleveland, February 9, 2004.

THERE WILL BE A **REFUNDABLE FEE OF FIFTY DOLLARS (\$50.00)** IN THE FORM OF A CASHIER'S CHECK AND/OR MONEY ORDER.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, MONDAY, NOVEMBER 29, 2004, AT 10:00 A.M., CITY HALL, CONFERENCE ROOM 518, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.

November 17, 2004 and November 24, 2004

WEDNESDAY, DECEMBER 8, 2004

Industrial Paper Products and Cloth Wipers, for the Various Divisions of City Government, Department of Finance, as authorized by Ordinance No. 1658-04, passed by the Council of the City of Cleveland, October 4, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, TUESDAY, NOVEMBER 30, 2004 AT 10:00 A.M., CITY HALL, 601 LAKESIDE AVENUE, ROOM 514, CLEVELAND, OHIO 44114.

November 17, 2004 and November 24, 2004

THURSDAY, DECEMBER 9, 2004

(ITX) Multi-Gas Monitor, for the Division of Fire, Department of Public Safety, as authorized by Ordinance No. 1012-03, passed by the Council of the City of Cleveland, July 16, 2003.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, FRIDAY, NOVEMBER 26, 2004 AT 10:00 A.M., CLEVELAND FIRE HEADQUARTERS, 1645 SUPERIOR AVENUE, CLEVELAND, OHIO 44114.

Medical Supplies for First Responder Runs, for the Division of Fire, Department of Public Safety, as authorized by Ordinance No. 1007-04, passed by the Council of the City of Cleveland, July 14, 2004.

THERE WILL BE A **NON-MANDATORY PRE-BID MEETING**, FRIDAY, NOVEMBER 26, 2004 AT 10:30 A.M., CLEVELAND FIRE HEADQUARTERS, 1645 SUPERIOR AVENUE, CLEVELAND, OHIO 44114.

November 17, 2004 and November 24, 2004

THURSDAY, DECEMBER 16, 2004

Miscellaneous Line and Street Lighting Materials-Fre Conduit and Fittings, for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 1630-92, passed by the Council of the City of Cleveland, September 21, 1992.

THERE WILL BE A **MANDATORY PRE-BID MEETING**, WEDNESDAY, DECEMBER 1, 2004 AT 10:00 A.M., CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVE., CLEVELAND, OHIO 44114.

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

November 17, 2004 and November 24, 2004

ADOPTED RESOLUTIONS AND ORDINANCES

Res. No. 2131-04.

By Council Member Cimperman. An emergency resolution objecting to the transfer of ownership of a D1, D2, D3, D3A and D6 Liquor Permit at 3232 Lakeside Avenue.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a D1, D2, D3, D3A and D6 Liquor Permit from Gotcha Inn, Inc., 3232 Lakeside Avenue, Cleveland, Ohio 44114, Permanent Number 3300133 to Flextron, LLC, DBA Gotcha Inn, 3232 Lakeside Avenue, Cleveland, Ohio 44114, Permanent Number 2779680; 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 D1, D2, D3, D3A and D6 Liquor Permit from Gotcha Inn, Inc., 3232 Lakeside Avenue, Cleveland, Ohio 44114, Permanent Number 3300133 to Flextron, LLC, DBA Gotcha Inn, 3232 Lakeside Avenue, Cleveland, Ohio 44114, Permanent Number 2779680; 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 8, 2004.

Effective November 10, 2004.

Res. No. 2132-04.

By Council Member Reed. An emergency resolution objecting to the transfer of a liquor license of a C2 and C2X Liquor Permit to 3744 East 144th Street.

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of a liquor license of a C2 and C2X Liquor Permit from Trend Cross Enterprises, Inc., DBA Capital Beverage St. Clair, 6104 St. Clair Avenue, 1st Floor, Cleveland, Ohio 44103, Permanent Number 9041659 to Nader Assad, DBA One Stop Market, 3744 East 144th Street, Cleveland, Ohio 44120, Permanent Number 0300177; 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 a liquor license of a C2 and C2X Liquor Permit from Trend Cross Enterprises, Inc., DBA Capital Beverage St. Clair, 6104 St. Clair Avenue, 1st Floor, Cleveland, Ohio 44103, Permanent Number 9041659 to Nader Assad, DBA One Stop Market, 3744 East 144th Street, Cleveland, Ohio 44120, Permanent Number 0300177, 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 8, 2004.
Effective November 10, 2004.

Res. No. 2133-04.

By Council Member Reed.

An emergency resolution objecting to the transfer of a liquor license of a C2 and C2X Liquor Permit at 14101 1/2 Kinsman Road.

Whereas, Council has been notified by the Department of Liquor Control of an application for a transfer of a liquor license of a C2 and C2X Liquor Permit from Zetawi, Inc., 14010 Kinsman Road, Cleveland, Ohio 44120, Permanent Number 9902056 to Zetawi, Inc., DBA Mt. Pleasant Beverage, 14101 1/2 Kinsman Road, Cleveland, Ohio 44120, Permanent Number 99020560001; 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 a liquor license of a C2 and C2X Liquor Permit from Zetawi, Inc., 14010 Kinsman Road, Cleveland, Ohio 44120, Permanent Number 9902056 to Zetawi, Inc., DBA Mt. Pleasant Beverage, 14101 1/2 Kinsman Road, Cleveland, Ohio 44120, Permanent Number 99020560001, 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 8, 2004.
Effective November 10, 2004.

Res. No. 2134-04.

By Council Member White.

An emergency resolution withdrawing objection to the renewal of a C1 Liquor Permit at 9911 Miles Avenue and repealing Resolution No. 1354-04, objecting to said renewal.

Whereas, this Council objected to a C1 Liquor Permit to 9911 Miles Avenue by Resolution No. 1354-04 adopted by the Council on July 14, 2004; 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 Liquor Permit to Jiryes Unlimited, Inc., DBA Neighborhood Market, 9911 Miles Avenue, Cleveland, Ohio 44105, Permanent Number 4290858 be and the same is hereby withdrawn and Resolution No. 1354-04, 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 8, 2004.
Effective November 10, 2004.

Ord. No. 1182-04.

By Council Member Jones.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located at 4740 East 176th Street to Anna Marie Fletcher.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 143-19-081, as more fully described below, to Anna Marie Fletcher.

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

P. P. No. 143-19-081

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Original Warrensville Township Lot No. 92, bounded and described as follows:

Beginning on the Westerly line of East 176th Street 50 feet wide, as dedicated by Ordinance No. 1918-57, dated September 23, 1957 at the Northeasterly corner of Sublot No. 596 as shown by the recorded plat in Volume 167 of Maps, Page 35 of Cuyahoga County Records, thence Northerly along the Westerly line of said East 176th Street, 124.46 feet to the principal place of beginning; thence continuing Northerly, along the Westerly line of East 176th Street, 42 feet; thence Westerly parallel with the Northerly line of said Sublot No. 596 as shown by the recorded plat in Volume 167 of Maps, Page 35 of Cuyahoga County

Records, 150 feet, thence Southerly parallel with the Westerly line of East 176th Street, 42 feet, thence Easterly parallel with the Northerly line of said Sublot No. 596, 150 feet to the principal place of beginning and being further known as Sublot No. 592 in William J. Lang's Lee Heights Allotment proposed, of part of Original Warrensville Township Lots Nos. 83, 84, 92, 93, be the same more or less, but subject to all legal highways.

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

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

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

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1480-04.

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

An emergency ordinance authorizing the Director of Public Service to issue a permit to Northeast Shores Development Corp. to encroach into the public right-of-way of Waterloo Road to construct, install, use, and maintain bicycle racks at the location(s).

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 Corp., 317 East 156th Street, Cleveland, Ohio 44110 ("Permittee") to encroach into the public right-of-way of Waterloo Road by constructing, installing, using, and maintaining bicycle racks at the location(s) more fully described as follows:

1. 15619 Waterloo Road
2. 15710-12 Waterloo Road
3. 15711 Waterloo Road
4. 16001 Waterloo Road

Permittee may assign the Permit only with the written consent of the Director of Public Service.

Section 2. That Permittee shall construct and install the encroaching structures only conforming 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 encroaching structure(s).

Section 3. That the Director of Law shall prepare the permit authorized by this ordinance and shall include such additional provisions as he 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 which may result from the encroachments permitted.

Section 4. That the Permit shall reserve reasonable right of entry to the City.

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1520-04.

By Council Member Britt.

An ordinance designating The Weizer Building as a Cleveland Landmark.

Whereas, the Cleveland Landmarks Commission (the "Commission") under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976, has proposed the designation of The Weizer Building as a landmark; and

Whereas, the owner of The Weizer Building has been properly notified of the proposed designation and has consented in writing to the proposed designation; and

Whereas, the Commission has recommended designation of The Weizer Building as a landmark and has set forth certain findings of fact for its decision; and

Whereas, this ordinance provides for the preservation of the public peace, property, health, and safety in that the protection of the historic landmark is necessary to safeguard the special historical, community, or

aesthetic interest or value in the landmark; now therefore

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

Section 1. That The Weizer Building, whose street address in the City of Cleveland is 11801 Buckeye Road, S.E., also known as Cuyahoga County Auditor's permanent parcel number 129-14-029 and the land embracing the site thereof, which in its entirety is a property having special character or special historical or aesthetic value as part of the development, heritage, or cultural characteristics of the City, State, or the United States, is designated a landmark under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976.

Section 2. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed November 8, 2004.

Effective December 18, 2004.

Ord. No. 1666-04.

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

An emergency ordinance authorizing the Director of Public Service to enter into a Local Project Administration agreement with the Ohio Department of Transportation to fund and construct the Bessemer Avenue Extension Phase II project; authorizing the Director of Public Service to enter into one or more contracts with ARCADIS FPS, Inc. for preliminary engineering services for the improvement; determining the method of making the public improvement; and authorizing the director to enter into one or more public improvement contracts for the making of the improvement.

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

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

Section 1. That the Director of Public Service is authorized to enter into a Local Project Administration ("LPA") Agreement with the Ohio Department of Transportation to fund and construct the Bessemer Avenue Extension Phase II project (the "Improvement").

Section 2. That the Director of Public Service is authorized to enter into one or more contracts with ARCADIS FPS, Inc. for professional services necessary to perform preliminary engineering services on the basis of its revised proposal dated August 4, 2004, in the total sum of \$270,000, for the Department of Public Service.

Section 3. That, under Section 167 of the Charter of the City of Cleveland, it is determined to make the public improvement of constructing the Improvement, for the Division of Engineering and Construction, Department of Public Service, 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 4. That the Director of Public Service 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 5. That the cost of the 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, and from the fund or funds which are credited the funds received under the Local Project Administration Agreement with the Ohio Department of Transportation authorized by this ordinance and which funds are appropriated for this purpose, Request No. 149311.

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 8, 2004.
Effective November 10, 2004.

Ord. No. 1674-04.

By Council Member Jones.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located at on East 162nd Street to Janis E. Adams.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 141-07-113, as more fully described below, to Janis E. Adams.

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

P. P. No. 141-07-113

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublots Nos. 376 and 377 in Sorrento Park Subdivision of part of Original Warrensville Township Lots Nos. 72 and 82, as shown by the recorded plat in Volume 15 of Maps, Page 13 of Cuyahoga County Records, and being 50 feet front on the Westerly side of East 162nd Street, and extending back of equal width, 125 feet deep as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to all zoning ordinances, if any.

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

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

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

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

Passed November 8, 2004.
Effective November 10, 2004.

Ord. No. 1677-04.

By Council Member Britt.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 79th Street to Gregory Taylor.

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

Whereas, real property acquired under the City's Land Reutilization Program is acquired, held, adminis-

tered and disposed by the City of Cleveland through its Department of Community Development under the terms of Chapter 5722 of the Ohio Revised Code and Section 183.021 of Codified Ordinances of the City of Cleveland, 1976; and

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 119-14-012, as more fully described below, to Gregory Taylor.

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

P. P. No. 119-14-012

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublots Nos. 12 and 13 in H. and A. Jaynes' Subdivision of part of Original One Hundred Acre Lots Nos. 399 and 407, as shown by the recorded plat in Volume 5 of Maps, Page 24 of Cuyahoga County Records, and together forming a parcel of land bounded and described as follows: Beginning at the intersection of the centerline of East 79th Street (formerly East Madison Avenue 50 feet wide) and the center line of Euclid Avenue (80 feet wide); thence Southerly along said centerline of East 79th Street, 470 feet; thence Easterly parallel with the Westerly prolongation of the Northerly line of said Sublot No. 12 to the Easterly line of East 79th Street and the principal place of beginning of the premises herein intended to be described; thence continuing Easterly along a line parallel with the Northerly line of said Sublot No. 12 to a point distant Easterly measured along said line and the Westerly prolongation thereof 193 feet 11 inches from said centerline of East 79th Street; thence Southerly parallel with the centerline of East 79th Street, 40 feet; thence Westerly parallel with the Northerly line of said Sublot No. 12 to the Easterly line of East 79th Street; thence Northerly along the Easterly line of East 79th Street 40 feet to the principal place of beginning, as appears by said plat.

Also subject to zoning ordinances, if any.

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

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

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

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

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1679-04.

By Council Member Lewis.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on East 87th Street to Lawrence M. Jenkins.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 119-05-047 and 119-05-048, as more fully described below, to Lawrence M. Jenkins.

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

P. P. No. 119-05-047

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Southerly 27 feet of Sublot No. 32 and the Northerly 11.5 feet of Sublot

No. 33 in Perry H. Babcock's Allotment of part of Original One Hundred Acre Lot No. 400, as shown by the recorded plat in Volume 15 of Maps, Page 38 of Cuyahoga County Records and together forming a parcel of land having a frontage of 38.5 feet on the Easterly side of East 87th Street (formerly Brookfield Street), and extending back about 169.66 feet on the Northerly line, about 169.83 feet on the Southerly line, and having a rear line of 38.5 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

P.P. No. 119-05-048

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being the Southerly 12 feet of Sublot No. 31 and the Northerly 23 feet of Sublot No. 32 in P. H. Babcock's Allotment of part of Original One Hundred Acre Lot No. 400, as shown by the recorded plat in Volume 15 of Maps, Page 38 of Cuyahoga County Records and together forming a parcel of land 35 feet front on the Easterly side of East 87th Street (formerly Brookfield Street) and extending back of equal width 169.56 feet, as appears by said plat.

Also subject to Zoning Ordinances, if any.

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

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

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

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1680-04.

By Council Member Lewis.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Lexington Avenue to Mohammed J. Zachariah.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 104-19-034 and 104-19-035, as more fully described below, to Mohammed J. Zachariah.

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

P. P. No. 104-19-034

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 56 in Luther and Arvilla Moses Subdivision of part of Original One Hundred Acre Lot No. 340, as shown by the recorded plat in Volume 5 of Maps, Page 48 of Cuyahoga County Records and being 40 feet front on the Northerly side of Lexington Avenue and extending back of equal width 150 feet deep, be the same more or less, but subject to all legal highways.

P. P. No. 104-19-035

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 54 in the Luther Moses "et.al." Allotment of part of Original One Hundred Acre Lot No. 340 as shown by the recorded plat in Volume 5 of Maps, Page 48 of Cuyahoga County Records and being 40 feet front on the Northerly side of Lexington Avenue, and extending back between parallel lines 150 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the

Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

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

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

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1681-04.

By Council Member Lewis.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Star Avenue to Catherine McCollum.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 106-04-039, as more fully described below, to Catherine McCollum.

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

P. P. No. 106-04-039

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio and known as being part of Sublot No. 8 in Geo. Sell's Subdivision of part of Original 100 Acre Lot No. 345, as shown by the recorded plat in Volume 14 of Maps, Page 26 of Cuyahoga County Records and bounded and described as follows: Beginning on the Southerly line of Star Avenue, N.E. (formerly Star Avenue) at the Northeastly corner of said Sublot No. 8; thence Westerly along said Southerly line of Star Avenue, N.E., 33 and 96/100 feet to the Northeastly corner of land conveyed by George Sell and Sarah E. Sell (husband and wife) to Frank L. Merkel and Helena E. Merkel by deed dated August 1, 1888, and recorded in Volume 437, Page 106 of Cuyahoga County Records; thence Southerly along the Easterly line of land so conveyed to said Frank L. Merkel and Helena E. Merkel, 122 and 44/100 feet to the Southerly line of said Sublot No. 8; thence Easterly along said Southerly line of Sublot No. 8, 46 and 93/100 feet to the Southeastly corner of said Sublot No. 8; thence Northerly along the Easterly line of Sublot No. 8; 124 and 80/100 feet to the place of beginning.

Also subject to zoning ordinances, if any.

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

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

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

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1682-04.

By Council Member Lewis.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on Whittier Avenue to Dionne Whitaker.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 104-18-072 and 104-18-073, as more fully described below, to Dionne Whitaker.

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

P. P. No. 104-18-072

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 98 in Luther Moses Allotment of part of Original One Hundred Acre Lot No. 340 as shown by the recorded plat in Volume 7 of Maps, Page 13 of Cuyahoga County Records, and being 40 feet front on the Northerly side of Whittier Avenue, N.E., (formerly Sixth Street) and extending back between parallel lines 180 feet deep, as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to all zoning ordinances, if any.

P. P. No. 104-18-073

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being Sublot No. 97 in Luther Moses Subdivision of part of Original 100 Acre Lot No. 340, as shown by the recorded plat in Volume 7 of Maps, Page 13 of Cuyahoga County Records and being 40 feet front on the Northerly side of Whittier Avenue, Formerly Sixth Avenue, and extending back of equal width 180 feet, as appears by said plat, be the same more or less, but subject to all legal highways.

Also subject to zoning ordinances, if any.

Section 3. That all documents necessary to complete the conveyance authorized by this ordinance shall be executed within six (6) months of the effective date of this ordinance. If all of the documents are

not executed within six (6) months of the effective date of this ordinance, or such additional time as may be granted by the Director of Community Development, this ordinance shall be repealed and shall be of no further force or effect.

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

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

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1684-04.

By Council Member Cintron.

An emergency ordinance authorizing the sale of real property as part of the Land Reutilization Program and located on West 51st Street to Gary Nettgen.

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

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

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

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

Section 1. That pursuant to Section 183.021 of the Codified Ordinances of Cleveland, Ohio 1976, the Commissioner of Purchases and Supplies is hereby authorized to sell Permanent Parcel No(s). 006-23-051, as more fully described below, to Gary Nettgen.

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

P. P. No. 006-23-051

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio, and known as being part of Sublot No. 506 and all of Sublot No. 507 in Taylor and Hoyt's Allotment of part of Original Brooklyn Township Lot No. 48, as shown by the recorded plat in Volume 1 of Maps, Page 36 of Cuyahoga County Records and together forming a parcel of land bounded and described as follows:

Beginning on the Easterly line of West 51st Street, (formerly Beech Street), at the Southwesterly corner of said Sublot No. 507; thence Northerly along the Easterly line of West 51st Street, 45 feet to the Southwesterly corner of land conveyed to William and Anna Gottwald by deed dated September 25th, 1900 and recorded in Volume 762, Page 577 of Cuyahoga County Records; thence Easterly along the Southerly line of land so conveyed to William and Anna Gottwald, 125 feet to the Westerly line of West 50th Place; thence Southerly, along said Westerly line of West 50th Place, 45 feet to the Southeasterly corner of said Sublot No. 507; thence Westerly along the Southerly line of Sublot No. 507, 125 feet to the place of beginning, as appears by said plat, be the same more or less, but subject to all legal highways.

Subject to zoning ordinances, if any.

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

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

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

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1685-04.

By Council Member Polensek.

An emergency ordinance designating Oliver Hazard Perry School as a Cleveland landmark.

Whereas, under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976, the Cleveland Landmarks Commission (the "Commission"), has proposed to designate Oliver Hazard Perry School as a landmark; and

Whereas, a public hearing under division (b)(2) of Section 161.04 was held on September 9, 2004 to discuss the proposed designation of Oliver Hazard Perry School as a landmark; and

Whereas, the Commission has recommended designation of Oliver Hazard Perry School as a landmark and has set forth certain findings of fact constituting the basis for its decision; and

Whereas, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, and safety in that the immediate protection of the historic landmark is necessary to safeguard the special historical, community, or aesthetic interest or value in the landmark; now, therefore

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

Section 1. That Oliver Hazard Perry School whose street address in the City of Cleveland is 18400 Schenely Avenue, N. E., also known as Cuyahoga County Auditor's Permanent Parcel Number 114-04-001, and the land embracing the site thereof, which in its entirety is a property having special character or special historical or aesthetic value as part of the development, heritage, or cultural characteristics of the City, State, or the United States, is designated a landmark under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976.

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1772-04.

By Council Member Gordon.

An emergency ordinance designating The Krather Building School as a Cleveland Landmark.

Whereas, under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976, the Cleveland Landmarks Commission (the "Commission"), has proposed to designate The Krather Building as a landmark; and

Whereas, the owner of The Krather Building has been properly notified and has consented in writing to the proposed designation; and

Whereas, the Commission has recommended designation of The Krather Building as a landmark and has set forth certain findings of fact constituting the basis for its decision; and

Whereas, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, and safety in that the immediate protection of the historic landmark is necessary to safeguard the special historical, community, or aesthetic interest or value in the landmark; now, therefore

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

Section 1. That The Krather Building whose street address in the City of Cleveland is 4138-46 Pearl Road, S.W., also known as Cuyahoga County Auditor's Permanent Parcel Number 014-12-049, and the land embracing the site thereof, which in its entirety is a property having special character or special historical or aesthetic value as part of the development, heritage, or cultural characteristics of the City, State, or the United States, is designated a landmark under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976.

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1776-04.
By Council Member Brady.
An emergency ordinance designating Wilbur Wright Middle School as a Cleveland Landmark.

Whereas, under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976, the Cleveland Landmarks Commission (the "Commission"), has proposed to designate Wilbur Wright Middle School as a landmark; and

Whereas, a public hearing under division (b)(2) of Section 161.04 was held on April 22, 2004 to discuss the proposed designation of Wilbur Wright Middle School as a landmark; and

Whereas, the Commission has recommended designation of Wilbur Wright Middle School as a landmark and has set forth certain findings of fact constituting the basis for its decision; and

Whereas, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, and safety in that the immediate protection of the historic landmark is necessary to safeguard the special historical, community, or aesthetic interest or value in the landmark; now, therefore

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

Section 1. That Wilbur Wright Middle School whose street address in the City of Cleveland is 11005 Parkhurst Drive, S.W., also known as Cuyahoga County Auditor's Permanent Parcel Number 018-08-031, and the land embracing the site

thereof, which in its entirety is a property having special character or special historical or aesthetic value as part of the development, heritage, or cultural characteristics of the City, State, or the United States, is designated a landmark under Chapter 161 of the Codified Ordinances of Cleveland, Ohio, 1976.

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 1962-04.
By Council Members Conwell, Gordon, Cimperman and Jackson (by departmental request).

An emergency ordinance authorizing the Director of Community Development to enter into contract with University Circle Incorporated, or its designee, to provide financial assistance in the form of a Community Development Block Grant Float Loan to partially finance the acquisition and rehabilitation of the University Circle Place Apartments at 11309 Euclid Avenue.

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

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

Section 1. That the Director of Community Development is authorized to enter into a Community Development Block Grant Float Loan Agreement with University Circle Incorporated, or its designee, to provide financial assistance to partially finance the acquisition and rehabilitation of the University Circle Place Apartments at 11309 Euclid Avenue.

Section 2. That the terms of the loan shall be determined by the Director of Community Development in accordance with Federal regulations, State and local laws, and the director is authorized to amend the terms, from time to time, as the director deems necessary to remain consistent with the laws and regulations.

Section 3. That the aggregate cost of the agreement shall not exceed Five Million Five Hundred Thousand Dollars (\$5,500,000) and shall be paid from Fund No. 14 SF 810, Request No. 125780.

Section 4. That the Director of Community Development shall obtain an irrevocable, unconditional letter of credit to secure repayment of the loan.

Section 5. That the Director of Community Development is authorized to accept collateral as the director deems adequate in order to secure repayment of the loan. Any and all security instrument agreements or other agreements shall be prepared and approved by the Director of Law.

Section 6. That the Director of Community Development is authorized to accept monies in repayment of the loan and to deposit the monies in Fund No. 14.

Section 7. That the Director of Community Development is authorized to charge and accept fees in an amount not to exceed the maximum allowable under federal regulations and expend the fees to cover costs incurred in the preparation of the loan application, closing, and servicing of the loan.

Section 8. That the Director of Law is authorized to prepare the contract and any other documents as may be appropriate to complete the transactions.

Section 9. 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 8, 2004.

Effective November 8, 2004.

Ord. No. 2005-04.
By Council Member Jackson (by departmental request).

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

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 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 office supplies, 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 City government. 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 Finance 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 Finance 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 118702)

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 8, 2004.

Effective November 10, 2004.

Ord. No. 2006-04.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of microfiche and CD-Rom services, for the various divisions of City government.

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 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 microfiche and CD-Rom services, 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 City government. 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 Finance 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 Finance 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 104797)

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 8, 2004.

Effective November 10, 2004.

Ord. No. 2007-04.

By Council Member Jackson (by departmental request).

An emergency ordinance authorizing the purchase by one or more requirement contracts of standard wire, for the various divisions of City government.

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 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 standard wire, 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 City government. 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 Finance 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 Finance 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 104796)

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 8, 2004.

Effective November 10, 2004.

Ord. No. 2008-04.

By Council Member Jackson (by departmental request).

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

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 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 lumber, 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 City government. 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 Finance 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 Finance 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 118701)

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 8, 2004.

Effective November 10, 2004.

Ord. No. 2052-04.**By Council Member Jackson (by departmental request).****An emergency ordinance to make additional appropriations of One Hundred Seventy Thousand Four Hundred Nineteen Dollars (\$170,419) of the Special Revenue Funds and Seven Hundred Ninety Thousand Dollars (\$790,000) of the Enterprise Funds.**

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

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

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

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

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

SPECIAL REVENUE FUNDS

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

ENTERPRISE FUNDS

DEPARTMENT OF PUBLIC UTILITIES

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

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 2053-04.**By Council Member Jackson (by departmental request).****An emergency ordinance to provide the transfer of Four Million Eight Hundred Sixty Eight Thousand Dollars (\$4,868,000) within various divisions of the General Fund; Two Hundred Thousand Dollars (\$200,000) within the Special Revenue Fund; Two Hundred Thirty Six Thousand Dollars (\$236,000) within the Enterprise Fund; and Two Hundred Thousand Dollars (\$200,000) within the Agency Fund.**

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

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

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

Section 1. That the sum of Five Million Five Hundred Four Thousand Dollars (\$5,504,000) be the same and hereby transferred as follows:

	From	To
GENERAL FUND		
JUDICIAL BRANCH		
Judicial Division		
I Personnel and Related Expenses	\$ -	\$ 50,000
Clerks Division		
I Personnel and Related Expenses	\$ 200,000	\$ -
TOTAL JUDICIAL BRANCH	\$ 200,000	\$ 50,000
EXECUTIVE BRANCH		
DEPARTMENT OF PUBLIC SAFETY		
Public Safety Administration		
I Personnel and Related Expenses	\$ 150,000	\$ -
Division of Police		
I Personnel and Related Expenses	\$ 2,125,000	\$ -
II Other Expenses	\$ 630,000	\$ -
Division of Fire		
I Personnel and Related Expenses	\$ -	\$ 1,780,000
II Other Expenses	\$ 75,000	\$ -
Emergency Medical Services		
I Personnel and Related Expenses	\$ -	\$ 325,000
II Other Expense	\$ 16,000	\$ -
TOTAL DEPARTMENT OF PUBLIC SAFETY	\$ 2,996,000	\$ 2,105,000
Community Relations Board		
I Personnel and Related Expenses	\$ -	\$ 20,000
DEPARTMENT OF PUBLIC SERVICE		
Waste Collection and Disposal		
I Personnel and Related Expenses	\$ 325,000	\$ -
II Other Expenses	\$ -	\$ 400,000
Division of Traffic Engineering		
I Personnel and Related Expenses	\$ -	\$ 15,000
TOTAL DEPARTMENT OF PUBLIC SERVICE	\$ 325,000	\$ 415,000
DEPARTMENT OF PARKS, RECREATION & PROPERTIES		
Parks, Recreation and Properties Admin		
I Personnel and Related Expenses	\$ -	\$ 1,000
II Other Expenses	\$ -	\$ 10,000
Research, Planning and Development		
II Other Expenses	\$ -	\$ 25,000
Division of Recreation		
I Personnel and Related Expenses	\$ 460,000	\$ -
II Other Expenses	\$ -	\$ 220,000
Parking Facilities - On Street		
I Personnel and Related Expenses	\$ 50,000	\$ -
II Other Expenses	\$ -	\$ 20,000
Division of Property Management		
I Personnel and Related Expenses	\$ 100,000	\$ -
Park Maintenance and Properties		
I Personnel and Related Expenses	\$ 180,000	\$ -
II Other Expenses	\$ -	\$ 188,000
TOTAL DEPARTMENT OF PARKS, RECREATION & PROPERTIES	\$ 790,000	\$ 464,000

DEPARTMENT OF COMMUNITY DEVELOPMENT		
Director's Office		
I Personnel and Related Expenses	\$ 60,000	\$ -
TOTAL COMMUNITY DEVELOPMENT	\$ 60,000	\$ -
DEPARTMENT OF BUILDING AND HOUSING		
Director's Office		
II Other Expenses	\$ 30,000	\$ -
Division of Code Enforcement		
I Personnel and Related Expenses	\$ -	\$ 125,000
TOTAL DEPARTMENT OF BUILDING AND HOUSING	\$ 30,000	\$ 125,000
Economic Development		
I Personnel and Related Expenses	\$ 162,000	\$ -
Office of Equal Opportunity		
I Personnel and Related Expenses	\$ 120,000	\$ -
II Other Expenses	\$ -	\$ 60,000
City Planning Commission		
II Other Expenses	\$ -	\$ 5,000
DEPARTMENT OF PUBLIC HEALTH		
Health Administration		
I Personnel and Related Expenses	\$ -	\$ 30,000
Division of Corrections		
I Personnel and Related Expenses	\$ -	\$ 55,000
II Other Expenses	\$ -	\$ 120,000
Division of Health		
I Personnel and Related Expenses	\$ -	\$ 45,000
II Other Expenses	\$ -	\$ 25,000
Division of the Environment		
I Personnel and Related Expenses	\$ -	\$ 200,000
TOTAL DEPARTMENT OF PUBLIC HEALTH	\$ -	\$ 475,000
DEPARTMENT OF FINANCE		
Division of Assessments & Licenses		
I Personnel and Related Expenses	\$ 50,000	\$ -
Division of Treasury		
I Personnel and Related Expenses	\$ -	\$ 9,000
Bureau of Internal Audit		
I Personnel and Related Expenses	\$ -	\$ 20,000
II Other Expenses	\$ -	\$ 70,000
Financial Reporting & Control		
II Other Expenses	\$ 35,000	\$ -
TOTAL DEPARTMENT OF FINANCE	\$ 85,000	\$ 99,000
Office of Budget & Management		
II Other Expenses	\$ -	\$ 5,000
Law		
I Personnel and Related Expenses	\$ 100,000	\$ -
II Other Expenses	\$ -	\$ 600,000

Office of Personnel		
I Personnel and Related Expenses	\$ -	\$ 15,000
II Other Expenses	\$ -	\$ 130,000
Non-Departmental - Other Administrative		
II Other Expenses	\$ -	\$ 300,000
Total Nondepartmental	\$ --	\$ 300,000
TOTAL EXECUTIVE BRANCH	\$ 4,668,000	\$ 4,818,000
TOTAL GENERAL FUND	\$ 4,868,000	\$ 4,868,000
Street Construction, Maintenance & Repair		
I Personnel and Related Expenses	\$ 200,000	\$ -
II Other Expenses	\$ -	\$ 200,000
TOTAL SPECIAL REVENUE FUNDS	\$ 200,000	\$ 200,000
ENTERPRISE FUNDS		
DEPARTMENT OF PARKS, RECREATION & PROPERTIES		
Division of Cemeteries		
I Personnel and Related Expenses	\$ 25,000	\$ -
II Other Expenses	\$ -	\$ 25,000
Golf Courses Fund		
I Personnel and Related Expenses	\$ 40,000	\$ -
II Other Expenses	\$ -	\$ 40,000
Convention Center		
I Personnel and Related Expenses	\$ -	\$ 140,000
II Other Expenses	\$ 140,000	\$ -
West Side Market		
I Personnel and Related Expenses	\$ -	\$ 30,000
II Other Expenses	\$ 30,000	\$ -
Property Management - East Side Market		
I Personnel and Related Expenses	\$ -	\$ 1,000
II Other Expenses	\$ 1,000	\$ -
TOTAL DEPARTMENT OF PARKS, RECREATION & PROPERTIES	\$ 236,000	\$ 236,000
TOTAL ENTERPRISE FUNDS	\$ 236,000	\$ 236,000
AGENCY FUND		
Central Collection Agency		
I Personnel and Related Expenses	\$ 200,000	\$ -
II Other Expenses	\$ --	\$ 200,000
TOTAL AGENCY FUNDS	\$ 200,000	\$ 200,000
TOTAL ALL FUNDS	\$ 5,504,000	\$ 5,504,000

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 2125-04.**By Council Member Pierce Scott.**

An emergency ordinance authorizing the Director of Economic Development to enter into an agreement with Famicos Foundation for Holiday in the Neighborhood Program through the use of Urban Development Action Grant Fund.

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

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

Section 1. That the Director of Economic Development is authorized to enter into an agreement with Famicos Foundation for the Holiday in the Neighborhood Program for the public purpose of promoting retail and neighborhood commercial development activity in the City of Cleveland during the holiday season through the use of UDAG Funds.

Section 2. That the cost of said contract shall be in an amount not to exceed \$75,000 and shall be paid from Fund No. 17 SF 17652.

Section 3. That the Director of Law shall prepare and approve said contract and that the contract shall contain such terms and provisions as he deems necessary to protect the City's interest.

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 2129-04.**By Council Member Reed.**

An emergency ordinance to amend Section 1 Ordinance No. 1205-04, passed June 18, 2004 as it pertains to authorizing the Director of Community Development to enter into an agreement with the Thea Bowman Center for providing their Mt. Pleasant Community Orchestra program through the use of Ward 3 Neighborhood Equity Funds.

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

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

Section 1. That Section 1 Ordinance No. 1205-04, passed June 18, 2004 are hereby amended to reads as

follows:

Section 1. That the Director of Community Development is authorized to enter into a grant agreement with the Thea Bowman Center for providing their Mt. Pleasant Community Orchestra program and a for-profit or not-for-profit organization serving as the fiscal agent for the Thea Bowman Center to provide the Mt. Pleasant Community Orchestra program in order to carry out the public purpose of providing educational programming to the residents of the City of Cleveland through the use of Wards 9 and 20 Neighborhood Equity Funds

Section 2. That Section 1 Ordinance No. 1205-04, passed June 18, 2004 are hereby repealed.

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

Passed November 8, 2004.

Effective November 10, 2004.

Ord. No. 2135-04.**By Council Members Conwell, Pierce Scott and Britt.**

An emergency ordinance authorizing and directing the Director of Public Service to issue a permit to stretch one banner on Stokes Boulevard, for the period from November 15, 2004 to December 10, 2004, inclusive, publicizing Holiday Circle-Fest.

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

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

Section 1. That notwithstanding the provision of Section 623.13 of the Codified Ordinances, of Cleveland, Ohio, 1976, the Director of the Department of Public Service is hereby authorized and directed to issue a permit to University Circle Incorporated to install, maintain and remove one banner on Stokes Boulevard, for the period from November 15, 2004 to December 10, 2004, inclusive. Said banner shall be approved by the Director of Public Service, in consultation with the Director of Public Safety, as to type, method of affixing and location so as not to interfere with any sign erected and maintained under the requirements of law or ordinance. The permission of the owner of any pole from which a banner

will be hung must be obtained prior to issuance of the permit. No commercial advertising shall be printed or permitted on said banner and said banner shall be removed promptly upon the expiration of said permit.

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

Passed November 8, 2004.

Effective November 10, 2004.

COUNCIL COMMITTEE MEETINGS

Monday, November 15, 2004

9:30 p.m.

Public Parks, Property & Recreation Committee: Present: Johnson, Chair; Dolan, Jones, Rybka, Sweeney, Polensek, Pro-tem. *Authorized Absence:* White, Vice Chair; Cimperman.

11:00 a.m.

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

Finance Committee: Present: Jackson, Chair; Sweeney, Vice Chair; Brady, Britt, Coats, O'Malley, Reed, Pierce Scott, Westbrook, White. *Authorized Absence:* Gordon.

Tuesday, November 16, 2004

9:00 a.m.

Community and Economic Development Committee: Present: Gordon, Chair; Cimperman, Vice Chair; Cintron, Coats, Jones, Lewis, Pierce Scott, Zone. *Authorized Absence:* Reed.

1:30 p.m.

Legislation Committee: Present: White, Chair; Pierce Scott, Vice Chair; Rybka, Westbrook. *Authorized Absence:* Dolan, Gordon, Johnson.

Wednesday, November 17, 2004

1:30 p.m.

Public Utilities Committee: Present: Coats, Chair; O'Malley, Vice Chair; Brady, Jones, Polensek, Sweeney, Westbrook, Zone. *Authorized Absence:* Cintron.

Index

O—Ordinance; R—Resolution; F—File
Bold figures—Final Publication; D—Defeated; R—Reprint; T—Tabled; V—Vetoed;
Bold type in sections indicates amendments

Adelphia

Adelphia's Proposed Monthly Network Upgrade Surcharge — disapproving (O 2209-04) 2225

Appropriations

Appropriations — \$170,419 of the Special Revenue Funds — \$790,000 of the Enterprise
Funds (O 2052-04) **2248**
Lakeshore Blvd., 16300 — appropriate property — park and recreational purposes —
repeal Res. No. 2254-02 (R 2018-04) 2232
Lorain Ave., 16800 — — appropriate property — redevelopment (O 2014-04)..... 2231

Banners

University Circle, Inc. — Holiday CircleFest (O 2135-04)..... **2252**

Blight

Lorain Ave., 16800 — — appropriate property — redevelopment (O 2014-04)..... 2231

Board of Control — Cleveland Public Power Division

Bucket trucks, test, inspect and repair — per Ord. 250-04 — all bids rejected — Dept. of
Public Utilities (BOC Res. 631-04) 2233

Board of Control — Community Development Department

Biddulph Road, 4817 (Ward 16) — PPN 012-15-017 — to Ronald Ziegler per Ord. 269-04
(BOC Res. 639-04) 2234
East 88th Street (Ward 7) — PPN 119-05-018 — to Ora D. Gildersleeve per Ord. 1284-04
(BOC Res. 640-04) 2234

Board of Control — Engineering and Construction Division

Grayton Road improvement (Puritas Ave. to I-480 bridge) — contract per Ord. 2334-03 to
Vandra Brothers Construction — Dept. of Public Service (BOC Res. 636-04) 2234

Board of Control — Finance Department

PVC conduit, fittings and accessories — contract per Ord. 1257-04 to Professional
Electric Products Company (PEPCO) (BOC Res. 641-04)..... 2235

Board of Control — Land Reutilization Program

Biddulph Road, 4817 (Ward 16) — PPN 012-15-017 — to Ronald Ziegler per Ord. 269-04
(BOC Res. 639-04) 2234
East 88th Street (Ward 7) — PPN 119-05-018 — to Ora D. Gildersleeve per Ord. 1284-04
(BOC Res. 640-04) 2234

Board of Control — Land Reutilization Program (Ward 7)

East 88th Street (Ward 7) — PPN 119-05-018 — to Ora D. Gildersleeve per Ord. 1284-04
(BOC Res. 640-04) 2234

Board of Control — Land Reutilization Program (Ward 16)

Biddulph Road, 4817 (Ward 16) — PPN 012-15-017 — to Ronald Ziegler per Ord. 269-04
(BOC Res. 639-04) 2234

Board of Control — Police Division

Ammunition — contract per C.O. Sec. 135.065 to Vance Outdoor, Inc., d.b.a., Vance's Law
Enforcement — Dept, of Public Safety (BOC Res. 637-04) 2234
Ammunition — per C.O. Sec. 135.065 — bids rejected — Dept, of Public Safety (BOC Res. 638-04) 2234

Board of Control — Public Improvement Contracts

Grayton Road improvement (Puritas Ave. to I-480 bridge) — contract per Ord. 2334-03 to
Vandra Brothers Construction — Division of Engineering and Construction, Dept. of
Public Service (BOC Res. 636-04)..... 2234

Board of Control — Public Safety Department

Ammunition — contract per C.O. Sec. 135.065 to Vance Outdoor, Inc., d.b.a., Vance's Law
Enforcement — Division of Police (BOC Res. 637-04) 2234
Ammunition — per C.O. Sec. 135.065 — bids rejected — Division of Police (BOC Res. 638-04) 2234

Board of Control — Public Service Department

Cab / chassis with flat bed / crane — contract per Ord. 1262-02 to Valley Sterling Truck
Sales, Inc. (BOC Res. 635-04) 2233
Grayton Road improvement (Puritas Ave. to I-480 bridge) — contract per Ord. 2334-03 to
Vandra Brothers Construction — Division of Engineering and Construction
(BOC Res. 636-04) 2234

Board of Control — Public Utilities Department

Bucket trucks, test, inspect and repair — per Ord. 250-04 — all bids rejected — Division
of Cleveland Public Power (BOC Res. 631-04)..... 2233
Laboratory equipment, testing and analytical services, biological and chemical testing
supplies — contract pursuant to C.O. Sec. 129.28 to Fisher Scientific Company L.L.C.
- Division of Water (BOC Res. 632-04) 2233
Laboratory equipment, testing and analytical services, biological and chemical testing
supplies — contract pursuant to C.O. Sec. 129.28 to BissNuss, Inc. — Division
of Water (BOC Res. 633-04)..... 2233
Laboratory equipment, testing and analytical services, biological and chemical testing
supplies — contract pursuant to C.O. Sec. 129.28 to US Filter/Ionpure — Division of
Water (BOC Res. 634-04) 2233
Water mains (West), repair of — approve subcontractor — BOC Res. 221-04 — Division
of Water (BOC Res. 630-04)..... 2233

Board of Control — Requirement Contracts

Ammunition — contract per C.O. Sec. 135.065 to Vance Outdoor, Inc., d.b.a., Vance's Law
Enforcement — Division of Police, Dept, of Public Safety (BOC Res. 637-04) 2234
Cab / chassis with flat bed / crane — contract per Ord. 1262-02 to Valley Sterling Truck
Sales, Inc. — Dept. of Public Service (BOC Res. 635-04) 2233
Laboratory equipment, testing and analytical services, biological and chemical testing
supplies — contract pursuant to C.O. Sec. 129.28 to Fisher Scientific Company L.L.C.
- Division of Water, Dept. of Public Utilities (BOC Res. 632-04) 2233
Laboratory equipment, testing and analytical services, biological and chemical testing
supplies — contract pursuant to C.O. Sec. 129.28 to BissNuss, Inc. — Division
of Water, Dept. of Public Utilities (BOC Res. 633-04) 2233

Laboratory equipment, testing and analytical services, biological and chemical testing supplies — contract pursuant to C.O. Sec. 129.28 to US Filter/Ionpure — Division of Water, Dept. of Public Utilities (BOC Res. 634-04)	2233
PVC conduit, fittings and accessories — contract per Ord. 1257-04 to Professional Electric Products Company (PEPCO) — Dept. of Finance (BOC Res. 641-04)	2235
Water mains (West), repair of — approve subcontractor — BOC Res. 221-04 — Division of Water, Dept. of Public Utilities (BOC Res. 630-04)	2233

Board of Control — Water Division

Laboratory equipment, testing and analytical services, biological and chemical testing supplies — contract pursuant to C.O. Sec. 129.28 to Fisher Scientific Company L.L.C. - Dept. of Public Utilities (BOC Res. 632-04)	2233
Laboratory equipment, testing and analytical services, biological and chemical testing supplies — contract pursuant to C.O. Sec. 129.28 to BissNuss, Inc. — Dept. of Public Utilities (BOC Res. 633-04)	2233
Laboratory equipment, testing and analytical services, biological and chemical testing supplies — contract pursuant to C.O. Sec. 129.28 to US Filter/Ionpure — Dept. of Public Utilities (BOC Res. 634-04)	2233
Water mains (West), repair of — approve subcontractor — BOC Res. 221-04 — Dept. of Public Utilities (BOC Res. 630-04)	2233

Board of Zoning Appeals — Report

Bridge Avenue, 2927, (Ward 14) – The 2927 Bridge Ltd., owner and Argile Jani — appeal to be heard on 11/29/04 (Cal. 04-204)	2237
Broadview Road, 2202, (Ward 15) – Speedway SuperAmerica, owner c/o John Dzwonczyk - appeal heard on 11/15/04 (Cal. 04-143)	2237
Cedar Avenue, 7904, (Ward 6) – Jaber Mahmoud, owner — appeal denied and adopted on 11/15/04 (Cal. 04-244)	2238
Euclid Avenue, 16911, (Ward 10) – Roderick McClendon, owner — appeal postponed to 12/6/04 on 11/15/04 (Cal. 04-225)	2238
Hale Avenue, 14704, (Ward 10) – Byron Thomas, owner — appeal heard on 11/15/04 (Cal. 04-250)	2237
Keshishian, Victor, d.b.a. Leader Builders – appeal dismissed on 11/15/04 (Cal. 04-251)	2238
Lorain Avenue, 15709, (Ward 21) – Tracy Brown, owner and Angela Paluch, tenant — appeal heard on 11/15/04 (Cal. 04-249)	2237
Munn Road, 16200, (Ward 21) – William and Donna Trunko, owners — appeal heard on 11/15/04 (Cal. 04-254)	2237
Sprecher Avenue, 13221, (Ward 20) – Bobby and Thelma Conley, owners — appeal heard on 11/15/04 (Cal. 04-253)	2237
St. Clair Avenue, 17877, (Ward 11) – 17877 Property Ltd., c/o Carl Munn, owner — appeal postponed to 12/6/04 on 11/15/04 (Cal. 04-248)	2238
St. Clair Avenue, 2240, (Ward 13) – 2240 St. Clair, Inc., owner c/o John Hickey, agent - appeal granted and adopted on 11/15/04 (Cal. 04-241)	2238
Woodland Avenue, 3500, (Ward 5) – Neal Desatnik, owner — appeal heard on 11/15/04 (Cal. 04-205)	2237

Board of Zoning Appeals — Schedule

East 105th Street, 917, (Ward 8) – James Lee Richardson, owner — appeal to be heard on 11/29/04 (Cal. 04-259)	2235
East 156th Street, 383, (Ward 11) – John Dimmian, owner — appeal to be heard on 11/29/04 (Cal. 04-262)	2235
East 65th Street, 3680-3716, (Lot #1), (Ward 12) – Pulaski Franciscan Community Development Corporation, owner and Peter DeCrane, agent — appeal to be heard on 11/29/04 (Cal. 04-265)	2235
East 65th Street, 3680-3716, (Lot #10), (Ward 12) – Pulaski Franciscan Community Development Corporation, owner and Peter DeCrane, agent — appeal to be heard on 11/29/04 (Cal. 04-274)	2236

East 65th Street, 3680-3716, (Lot #9), (Ward 12) – Pulaski Franciscan Community Development Corporation, owner and Peter DeCrane, agent — appeal to be heard on 11/29/04 (Cal. 04-273)	2236
Hamilton Avenue, 2059, (Ward 13) – Sticker Realty Ltd., owner and Bruce Diamond, agent - appeal to be heard on 11/29/04 (Cal. 04-261)	2235
Spafford Avenue, 7524, (Ward 12) – Gwendolyn Gartin, owner — appeal to be heard on 11/29/04 (Cal. 04-263)	2235

City of Cleveland Bids

Cab / chassis with fuel tanker body — Department of Public Service — Division of Motor Vehicle Maintenance — per Ord. 1683-03 — bid due December 8, 2004 (advertised 11/10/2004 and 11/17/2004)	2238
Diesel fuel — Department of Public Service — Division of Motor Vehicle Maintenance — per Ord. 764-04 — bid due December 8, 2004 (advertised 11/10/2004 and 11/17/2004)	2238
Estabrook Park and Loew Park site improvements — Department of Parks, Recreation and Properties — Division of Research, Planning and Development — per Ord. 1748-99, 1728-2000 — bid due December 1, 2004 (advertised 11/17/2004 and 11/24/2004)	2238
Euclid Avenue rehabilitation — Department of Public Service — Division of Engineering and Construction — per Ord. 2330-03 — bid due December 3, 2004 (advertised 11/17/2004 and 11/24/2004)	2238
Ford truck parts and labor — Department of Public Service — Division of Motor Vehicle Maintenance — per Ord. 1981-03 — bid due December 8, 2004 (advertised 11/10/2004 and 11/17/2004)	2238
Industrial paper products and cloth wipers — Department of Finance — per Ord. 1658-04 - bid due December 8, 2004 (advertised 11/17/2004 and 11/24/2004)	2239
Laboratory equipment, testing and analytical services; Biological and chemical testing supplies and apparatus — Department of Public Utilities — Division of Water — per C.O. Sec. 129.28 — bid due December 10, 2004 (advertised 11/10/2004 and 11/17/2004)	2238
Laverne Avenue and Superior Avenue sewer relining — Department of Public Utilities - Division of Water Pollution Control — per Ord. 644-03, 837-04 — bid due December 1, 2004 (advertised 11/10/2004 and 11/17/2004)	2238
Line and street lighting materials — FRE conduit and fittings — Department of Public Utilities — Division of Cleveland Public Power — per Ord. 1630-92 — bid due December 16, 2004 (advertised 11/17/2004 and 11/24/2004)	2239
Medical supplies for first responder runs — Department of Public Safety — Division of Fire — per Ord. 1007-04 — bid due December 9, 2004 (advertised 11/17/2004 and 11/24/2004)	2239
Monitor, multi-gas (iTX) — Department of Public Safety — Division of Fire — per Ord. 1012-03 — bid due December 9, 2004 (advertised 11/17/2004 and 11/24/2004)	2239

City Planning Commission

E. 62nd St. (west) — Grdina Ave. (south) — change the zoning — RA-2 Townhouse (O 2210-04)	2227
Euclid Ave. & Ford Dr. (NE corner) — Planned Unit Development (PUD) Overlay District — establish (O 2207-04)	2226
Krathier Building School, The — Cleveland Landmark (O 1772-04)	2245
Kuri, Lillian — reappointment — Mayor's Appointment — City Planning Commission — approved (F.2166-04-A)	2210
Oliver Hazard Perry School — Cleveland Landmark (O 1685-04)	2245
Pinkney, Gloria Jean — reappointment — Mayor's Appointment — City Planning Commission — approved (F 2163-04-A)	2209
The Weizer Building — Cleveland Landmark (O 1520-04)	2241
Willbur Wright Middle School — Cleveland Landmark (O 1776-04)	2246

Cleveland Clinic Foundation

Cleveland Clinic Foundation, The — permit — public right-of-way — Ground Sign (O 2199-04)	2212
--	------

Cleveland Public Power

Revenue by the general fund — collected during the year 2005 — retention and use (O 2197-04).....	2211
--	------

Codified Ordinances

Municipal income tax — comply with the laws of the State of Ohio — amend various sections of Chapter 191 (O 2208-04).....	2216
Remittance of utility bill payments — new Sections 646.01 to 646.09 and 646.99 (O 2198-04).....	2212

Commemoration

Killings, Sr., Rev. Willie (R 2234-04)	2211
--	------

Communications

Cleveland Public Library — recommendations regarding the scope and focus of unbiased study of library cooperation (F 2218-04).....	2210
Cleveland Public Library Treasures — supplement to Cleveland Magazine (F 2217-04)	2210
Rybka, Edward, Council Member Ward 12 — request vote recorded as yea — council meeting November 8, 2004 (F 2216-04)	2210

Community Development

Clean Ohio Assistance Grant — grant — State of Ohio's Clean Ohio Assistance Fund — Steel Slitting property — 7011 Aetna Rd. — remediation and demolition — Zaremba Cleveland Communities, Inc. FBE, Inc. (O 2206-04)	2215
E. 131st St. — Land Reutilization Program — Eleanore R. Barrett (O 1290-04).....	2231
E. 143rd St. & Maplerow Ave. — Land Reutilization Program — Lenzie Dantigance (O 2070-04).....	2232
E. 162nd St. — Land Reutilization Program — Janis E. Adams (O 1674-04).....	2242
E. 176th St., 4740 — Land Reutilization Program — Anna Marie Fletcher (O 1182-04)	2240
E. 79th St. — Land Reutilization Program — Gregory Taylor (O 1677-04)	2242
E. 87th St. — Land Reutilization Program — Lawrence M. Jenkins (O 1679-04).....	2243
Lexington Ave. — Land Reutilization Program — Mohammed J. Zachariah (O 1680-04)	2243
Lorain Ave., 16800 — — appropriate property — redevelopment (O 2014-04).....	2231
Park Lane Villa Apartments project — PLV Associates, L.P. — sale and development of the property (O 2205-04).....	2215
St. Luke's Hospital — 11311 Shaker Blvd. — remediation and demolition — Clean Ohio Assistance Grant — State of Ohio's Clean Ohio Assistance Fund (O 2060-04)	2232
Star Ave. — Land Reutilization Program — Catherine McCollum (O 1681-04)	2244
Thea Bowman Center — Mt. Pleasant Community Orchestra program — Ward 3 NEF — amend Ord. No. 1205-04 (O 2129-04)	2252
University Circle Place Apartments — 11309 Euclid Ave. — acquisition and rehabilitation — Community Development Block Grant FLoat Loan (O 1962-04)	2246
W. 20th St. — Land Reutilization Program — Breyerwood Homes, LLC. (O 1508-04).....	2231
W. 51st St. — Land Reutilization Program — Gary Nettgen (O 1684-04)	2245
W. 7th St. — Land Reutilization Program — Parkhill Associates (O 2063-04)	2232
Whittier Ave. — Land Reutilization Program — Dionne Whitaker (O 1682-04).....	2244

Condolences

Patterson, Lela Dean (R 2223-04).....	2211
Powell, Sr., Marcus Garvey (R 2224-04)	2211
Ward, Annie Lee (R 2222-04).....	2211

Congratulations

Adams, Patrol Officer William (R 2231-04).....	2211
--	------

Archbishop James P. Lyke School (R 2232-04).....	2211
Business Interiors and Environments, Inc. (R 2225-04).....	2211
Cameron, Danny H. (R 2228-04)	2211
Church of Christ on the Boulevard (R 2226-04).....	2211
Craciun, C. Yolanda (R 2230-04).....	2211
Lewis, Bracy (R 2227-04)	2211
Zone, Mary (R 2229-04)	2211

Contracts

Betty Montgomery, Ohio State Auditor — assessment — 2004 financial statements — Divisions of Water and Taxation (O 2051-04)	2232
Clean Ohio Assistance Grant — grant — State of Ohio's Clean Ohio Assistance Fund — Steel Slitting property — 7011 Aetna Rd. — remediation and demolition — Zaremba Cleveland Communities, Inc. FBE, Inc. (O 2206-04)	2215
Continental Airlines, Inc. — Memorandum of Understanding — amendment to Contract No. 38171 (O 1961-04)	2231
University Circle Place Apartments — 11309 Euclid Ave. — acquisition and rehabilitation — Community Development Block Grant FLoat Loan (O 1962-04)	2246
WPS Energy Services, Inc. — retail electric aggregation services and power supply — 2006-2008 program (O 2196-04)	2211

Dominion East Ohio

Dominion East Ohio Gas Company and Columbia Gas of Ohio, Inc. — opposing the proposed rate increase (R 2212-04)	2229
--	------

Economic Development Department

Empowerment Zone Business Opportunity Program — expending Economic Development Initiative Grant Funds — amend Ord. 257-97 (O 2204-04).....	2214
Holiday in the Neighborhood Program — agreement — Famicos Foundation — Urban Development Action Grant Fund (O 2125-04)	2252
IntelliNet Enterprise Management Services Corporation — grant agreement — relocation costs — 1255 Euclid Ave. (O 2017-04).....	2231
Sterling Data Center, LLC dba BlueBridge Networks — Enterprise Zone Agreement — new machinery and equipment — 1225 Euclid Ave. (O 2203-04)	2214

Enterprise Funds

Appropriations — \$170,419 of the Special Revenue Funds — \$790,000 of the Enterprise Funds (O 2052-04)	2248
Transfer — (\$4,968,000) within General Fund — (\$200,000) within Special Revenue Fund — (\$236,000) within Enterprise Fund — (\$200,000) within Agency Fund (O 2053-04)	2248

Enterprise Zone Agreement

Sterling Data Center, LLC dba BlueBridge Networks — new machinery and equipment — 1225 Euclid Ave. (O 2203-04).....	2214
--	------

Fair Housing Review Board

Honsa, Doris — reappointment — Mayor's Appointment — Fair Housing Board — approved (F 2164-04-A).....	2209
See, Charles — reappointment — Mayor's Appointment — Fair Housing Board — approved (F 2165-04-A).....	2210

Famicos Foundation

Holiday in the Neighborhood Program — agreement — Urban Development Action Grant Fund (O 2125-04).....	2252
---	------

Finance Department

Appropriations — \$170,419 of the Special Revenue Funds — \$790,000 of the Enterprise Funds (O 2052-04)	2248
Betty Montgomery, Ohio State Auditor — contracts — assessment — 2004 financial statements — Divisions of Water and Taxation (O 2051-04)	2232
Lumber — purchase — various divisions (O 2008-04)	2247
Microfiche and CD-Rom services — purchase — City government (O 2006-04)	2247
Office supplies — purchase — various divisions (O 2005-04)	2246
Paint and paint supplies — purchase — various divisions (O 2195-04)	2211
Standard wire — purchase — various divisions (O 2007-04)	2247
Transfer — (\$4,968,000) within General Fund — (\$200,000) within Special Revenue Fund — (\$236,000) within Enterprise Fund — (\$200,000) within Agency Fund (O 2053-04)	2248

Funds

Appropriations — \$170,419 of the Special Revenue Funds — \$790,000 of the Enterprise Funds (O 2052-04)	2248
Transfer — (\$4,968,000) within General Fund — (\$200,000) within Special Revenue Fund — (\$236,000) within Enterprise Fund — (\$200,000) within Agency Fund (O 2053-04)	2248

General Fund

Transfer — (\$4,968,000) within General Fund — (\$200,000) within Special Revenue Fund — (\$236,000) within Enterprise Fund — (\$200,000) within Agency Fund (O 2053-04)	2248
---	------

Grants

Canal Basin Park Program — U. S. Department of Commerce, National Oceanic and Atmospheric Administration (O 1850-04)	2231
Clean Ohio Assistance Grant — State of Ohio's Clean Ohio Assistance Fund — Steel Slitting property — 7011 Aetna Rd. — remediation and demolition — Zaremba Cleveland Communities, Inc. FBE, Inc. (O 2206-04)	2215
Cuyahoga Regional Response Team Program — State of Ohio, Homeland Security (O 1269-04)	2231-2232
Inner City Tree Planting Program, 2004 — Ohio Department of Natural Resources (O 2059-04)	2232
St. Luke's Hospital — 11311 Shaker Blvd. — remediation and demolition — Clean Ohio Assistance Grant — State of Ohio's Clean Ohio Assistance Fund (O 2060-04)	2232

Housing

Insurance companies — housing discrimination charges — appellee to produce certain documents and evidence (R 2214-04)	2229
--	------

Income Tax

Municipal income tax — comply with the laws of the State of Ohio — amend various sections of Chapter 191 (O 2208-04)	2216
---	------

Insurance

Insurance companies — housing discrimination charges — appellee to produce certain documents and evidence (R 2214-04)	2229
--	------

Land Reutilization Program

E. 131st St. — Eleanore R. Barrett (O 1290-04)	2231
E. 143rd St. & Maplerow Ave. — Lenzie Dantigance (O 2070-04)	2232
E. 162nd St. — Janis E. Adams (O 1674-04)	2242
E. 176th St., 4740 — Anna Marie Fletcher (O 1182-04)	2240
E. 79th St. — Gregory Taylor (O 1677-04)	2242
E. 87th St. — Lawrence M. Jenkins (O 1679-04)	2243

Lexington Ave. — Mohammed J. Zachariah (O 1680-04).....	2243
Star Ave. — Catherine McCollum (O 1681-04).....	2244
W. 20th St. — Breyerwood Homes, LLC. (O 1508-04).....	2231
W. 51st St. — Gary Nettgen (O 1684-04)	2245
W. 7th St. — Parkhill Associates (O 2063-04)	2232
Whittier Ave. — Dionne Whitaker (O 1682-04)	2244

Landmark Commission

Krathier Building School, The — Cleveland Landmark (O 1772-04).....	2245
Oliver Hazard Perry School — Cleveland Landmark (O 1685-04)	2245
The Weizer Building — Cleveland Landmark (O 1520-04).....	2241
Willbur Wright Middle School — Cleveland Landmark (O 1776-04)	2246

Libraries

Cleveland Public Library — recommendations regarding the scope and focus of unbiased study of library cooperation (F 2218-04).....	2210
Cleveland Public Library Treasures — supplement to Cleveland Magazine (F 2217-04)	2210

Liquor Permits

Chester Ave., 5417 — transfer (Ward 7) (F 2219-04).....	2210
E. 144th St., 3744 — objection (Ward 3) (R 2132-04).....	2239
Kinsman Rd., 14101 1/2 — objection (Ward 3) (R 2133-04).....	2240
Lakeside Ave., 3232 — objection (Ward 13) (R 2131-04)	2239
Lawn Ave., 8000 — transfer (Ward 17) (F 2220-04).....	2210
Lorain Ave., 11120 & 24 — Lorain Ave., 11118 — objection (Ward 19) (R 2213-04).....	2229
Miles Ave., 9911 — objection — withdraw (Ward 2) (R 2134-04)	2240

Mayor's Appointment Committee

Honsa, Doris — reappointment — Fair Housing Board — approved (F 2164-04-A).....	2209
Kuri, Lillian — reappointment — City Planning Commission — approved (F 2166-04-A).....	2210
Pinkney, Gloria Jean — reappointment — City Planning Commission — approved F.2163-04-A (F 2163-04)	2209
See, Charles - reappointment — Fair Housing Board — approved (F 2165-04-A).....	2210

Memoranda of Understanding

Continental Airlines, Inc. — amendment to Contract No. 38171 (O 1961-04)	2231
--	------

Neighborhood Equity Funds

Thea Bowman Center — Mt. Pleasant Community Orchestra program — Ward 3 — amend Ord. No. 1205-04 (O 2129-04).....	2252
---	------

Northeast Shores Development Corporation

Waterloo Rd. - bicycle racks — permit — public right-of-way (O 1480-04)	2241
---	------

Ohio Department of Natural Resources

Inner City Tree Planting Program, 2004 — grant (O 2059-04).....	2232
---	------

Ohio Department of Transportation (ODOT)

Bessemer Avenue Extension Phase II project — Local Project Administration agreement (O 1666-04).....	2241
---	------

Parks

Ansel Rd. near Korman Ave. — appropriate property — develop a park (R 1966-04)	2232
Lakeshore Blvd., 16300 — appropriate property — park and recreational purposes — repeal Res. No. 2254-02 (R 2018-04)	2232

Parks, Recreation and Properties Department

Ansel Rd. near Korman Ave. — appropriate property — develop a park (R 1966-04)	2232
Canal Basin Park Program — grant — U. S. Department of Commerce, National Oceanic and Atmospheric Administration (O 1850-04)	2231
Collinwood area — all weather track and football-field complex — supplement Ord. No. 2243-03 (O 1670-04)	2231
Emery Park — 13004 Liberty Ave. — sell City-owned property — St. Paul African Methodist Episcopal Church (O 2201-04)	2213
Great Lakes Brewing Co. Inc. — property-adoption agreement — greenhouse — Fairview Park — W. 38th St. & Franklin Ave. (O 1490-04)	2231
Inner City Tree Planting Program, 2004 — grant — Ohio Department of Natural Resources (O 2059-04).....	2232
Lakeshore Blvd., 16300 — appropriate property — park and recreational purposes — repeal Res. No. 2254-02 (R 2018-04)	2232
Lillian C. Alten living trust — cash gift — maintenance and operation of the Rockefeller Park Greenhouse (O 2202-04).....	2213
Maplewood Concession Building — Contract No. 62587 (F 2221-04).....	2210
Puritas Baseball League — agreement — maintenance of Maplewood Park — operation of the concession stand (O 1491-04)	2232-T

Permits

Cleveland Clinic Foundation, The — public right-of-way — Ground Sign (O 2199-04)	2212
Northeast Shores Development Corp. — public right-of-way — bicycle racks — Waterloo Rd. (O 1480-04).....	2241

Port Control Department

Continental Airlines, Inc. — Memorandum of Understanding — amendment to Contract No. 38171 (O 1961-04)	2231
---	------

Purchases and Supplies Division

Emery Park — 13004 Liberty Ave. — sell City-owned property — St. Paul African Methodist Episcopal Church (O 2201-04)	2213
Park Lane Villa Apartments project — PLV Associates, L.P. — sale and development of the property (O 2205-04).....	2215

Recognition

Volunteers of America (R 2233-04)	2211
---	------

Resolutions - Miscellaneous

Dominion East Ohio Gas Company and Columbia Gas of Ohio, Inc. — opposing the proposed rate increase (R 2212-04)	2229
Insurance companies — housing discrimination charges — appellee to produce certain documents and evidence (R 2214-04).....	2229
Stockyard Redevelopment Organization — Stock Development Company — Council's support — affordable housing (R 2215-04)	2230
Sudanese villagers — condemning atrocities committed by the Janjaweed — urging U. S. Government to support the African Union (R 2211-04).....	2228

Right-of-Way

Cleveland Clinic Foundation, The — permit — public right-of-way — Ground Sign (O 2199-04).....	2212
Northeast Shores Development Corp. — permit — public right-of-way — bicycle racks — Waterloo Rd. (O 1480-04)	2241

Rockefeller Greenhouse

Lillian C. Alten living trust — cash gift — maintenance and operation (O 2202-04).....	2213
--	------

Safety Department

Cuyahoga Regional Response Team Program — grant — State of Ohio, Homeland Security (O 1269-04)	2231-2232
---	-----------

Service Department

Bessemer Avenue Extension Phase II project — Local Project Administration agreement — Ohio Department of Transportation (O 1666-04)	2241
Cleveland Clinic Foundation, The — permit — public right-of-way — Ground Sign (O 2199-04).....	2212
Northeast Shores Development Corp. — permit — public right-of-way — bicycle racks — Waterloo Rd. (O 1480-04)	2241
University Circle, Inc. — banner — Holiday CircleFest (O 2135-04).....	2252

Special Revenue Funds

Appropriations — \$170,419 of the Special Revenue Funds — \$790,000 of the Enterprise Funds (O 2052-04)	2248
Transfer — (\$4,968,000) within General Fund — (\$200,000) within Special Revenue Fund — (\$236,000) within Enterprise Fund — (\$200,000) within Agency Fund (O 2053-04)	2248

Statement of Work Acceptance

Maplewood Concession Building — Contract No. 62587 — Department of Parks, Recreation and Properties (F 2221-04).....	2210
---	------

Tabled Legislation

Puritas Baseball League — agreement — maintenance of Maplewood Park — operation of the concession stand (O 1491-04)	2232-T
--	--------

Tax Abatement

Sterling Data Center, LLC dba BlueBridge Networks — Enterprise Zone Agreement — new machinery and equipment — 1225 Euclid Ave. (O 2203-04)	2214
---	------

Taxation Division

Betty Montgomery, Ohio State Auditor — contracts — assessment — 2004 financial statements — Divisions of Water and Taxation (O 2051-04)	2232
--	------

Taxes

Municipal income tax — comply with the laws of the State of Ohio — amend various sections of Chapter 191 (O 2208-04).....	2216
--	------

United States Department of Commerce

Canal Basin Park Program — grant — U. S. Department of Commerce, National Oceanic and Atmospheric Administration (O 1850-04)	2231
---	------

United Way Services

Collinwood area — all weather track and football-field complex — supplement Ord. No. 2243-03 (O 1670-04)	2231
---	------

University Circle

Euclid Ave. & Ford Dr. (NE corner) — Planned Unit Development (PUD) Overlay District — establish (O 2207-04)	2226
University Circle Place Apartments — 11309 Euclid Ave. — acquisition and rehabilitation — Community Development Block Grant FLoat Loan (O 1962-04)	2246
University Circle, Inc. — banner — Holiday CircleFest (O 2135-04).....	2252

Utilities Department

Adelphia's Proposed Monthly Network Upgrade Surcharge — disapproving (O 2209-04)	2225
Remittance of utility bill payments — new Sections 646.01 to 646.09 and 646.99 (O 2198-04).....	2212
Revenue by the general fund — collected during the year 2005 — Cleveland Public Power — retention and use (O 2197-04)	2211
WPS Energy Services, Inc. — contract — retail electric aggregation services and power supply — 2006-2008 program (O 2196-04)	2211

Ward 01

E. 143rd St. & Maplerow Ave. — Land Reutilization Program — Lenzie Dantigance (O 2070-04).....	2232
E. 162nd St. — Land Reutilization Program — Janis E. Adams (O 1674-04).....	2242
E. 176th St., 4740 — Land Reutilization Program — Anna Marie Fletcher (O 1182-04)	2240
Ward, Annie Lee — condolence (R 2222-04).....	2211

Ward 02

E. 131st St. — Land Reutilization Program — Eleanore R. Barrett (O 1290-04).....	2231
Miles Ave., 9911 — objection — withdraw — liquor permit (R 2134-04)	2240

Ward 03

E. 144th St., 3744 — objection — liquor permit (R 2132-04)	2239
Kinsman Rd., 14101 1/2 — objection — liquor permit (R 2133-04)	2240
Thea Bowman Center — Mt. Pleasant Community Orchestra program — NEF — amend Ord. No. 1205-04 (O 2129-04)	2252

Ward 04

Killings, Sr., Rev. Willie — commemoration (R 2234-04)	2211
--	------

Ward 05

Adams, Patrol Officer William — congratulation (R 2231-04).....	2211
Archbishop James P. Lyke School — congratulation (R 2232-04)	2211
Bessemer Avenue Extension Phase II project — Local Project Administration agreement — Ohio Department of Transportation (O 1666-04)	2241

Ward 06

Cleveland Clinic Foundation, The — permit — public right-of-way — Ground Sign (O 2199-04).....	2212
E. 79th St. — Land Reutilization Program — Gregory Taylor (O 1677-04)	2242
Park Lane Villa Apartments project — PLV Associates, L.P. — sale and development of the property (O 2205-04).....	2215
The Weizer Building — Cleveland Landmark (O 1520-04).....	2241
University Circle, Inc. — banner — Holiday CircleFest (O 2135-04).....	2252

Ward 07

Chester Ave., 5417 — transfer — liquor permit (F 2219-04)	2210
E. 87th St. — Land Reutilization Program — Lawrence M. Jenkins (O 1679-04).....	2243
Lexington Ave. — Land Reutilization Program — Mohammed J. Zachariah (O 1680-04)	2243
Star Ave. — Land Reutilization Program — Catherine McCollum (O 1681-04)	2244
Whittier Ave. — Land Reutilization Program — Dionne Whitaker (O 1682-04).....	2244

Ward 08

Ansel Rd. near Korman Ave. — appropriate property — develop a park (R 1966-04)	2232
Church of Christ on the Boulevard — congratulation (R 2226-04)	2211
Holiday in the Neighborhood Program — agreement — Famicos Foundation — Urban Development Action Grant Fund (O 2125-04)	2252
Lillian C. Alten living trust — cash gift — maintenance and operation of the Rockefeller Park Greenhouse (O 2202-04)	2213
Patterson, Lela Dean — condolence (R 2223-04)	2211
Powell, Sr., Marcus Garvey — condolence (R 2224-04)	2211
University Circle, Inc. — banner — Holiday CircleFest (O 2135-04).....	2252

Ward 09

Euclid Ave. & Ford Dr. (NE corner) — Planned Unit Development (PUD) Overlay District — establish (O 2207-04)	2226
University Circle, Inc. — banner — Holiday CircleFest (O 2135-04).....	2252

Ward 10

Collinwood area — all weather track and football-field complex — supplement Ord. No. 2243-03 (O 1670-04)	2231
Volunteers of America — recognition (R 2233-04)	2211

Ward 11

Lakeshore Blvd., 16300 — appropriate property — park and recreational purposes — repeal Res. No. 2254-02 (R 2018-04)	2232
Northeast Shores Development Corp. — permit — public right-of-way — bicycle racks — Waterloo Rd. (O 1480-04)	2241
Oliver Hazard Perry School — Cleveland Landmark (O 1685-04)	2245

Ward 12

Clean Ohio Assistance Grant — grant — State of Ohio's Clean Ohio Assistance Fund — Steel Slitting property — 7011 Aetna Rd. — remediation and demolition — Zarembo Cleveland Communities, Inc. FBE, Inc. (O 2206-04)	2215
Rybka, Edward, Council Member Ward 12 — request vote recorded as yea — council meeting November 8, 2004 (F 2216-04)	2210

Ward 13

Business Interiors and Environments, Inc. — congratulation (R 2225-04)	2211
E. 62nd St. (west) — Grdina Ave. (south) — change the zoning — RA-2 Townhouse (O 2210-04).....	2227
Great Lakes Brewing Co. Inc. — property-adoption agreement — greenhouse — Fairview Park — W. 38th St. & Franklin Ave. (O 1490-04)	2231
Lakeside Ave., 3232 — objection — liquor permit (Ward 13) (R 2131-04)	2239
Sterling Data Center, LLC dba BlueBridge Networks — Enterprise Zone Agreement — new machinery and equipment — 1225 Euclid Ave. (O 2203-04)	2214
W. 7th St. — Land Reutilization Program — Parkhill Associates (O 2063-04)	2232

Ward 14

W. 20th St. — Land Reutilization Program — Breyerwood Homes, LLC. (O 1508-04).....	2231
W. 51st St. — Land Reutilization Program — Gary Nettgen (O 1684-04)	2245

Ward 15

Krathier Building School, The — Cleveland Landmark (O 1772-04).....	2245
---	-------------

Ward 17

Cameron, Danny H. — congratulation (R 2228-04)	2211
Craciun, C. Yolanda — congratulation (R 2230-04).....	2211
Lawn Ave., 8000 — transfer — liquor permit (F 2220-04)	2210
Lewis, Bracy — congratulation (R 2227-04)	2211
Stockyard Redevelopment Organization — Stock Development Company — Council's support — affordable housing (R 2215-04)	2230
Zone, Mary — congratulation (R 2229-04)	2211

Ward 19

Emery Park — 13004 Liberty Ave. — sell City-owned property — St. Paul African Methodist Episcopal Church (O 2201-04)	2213
Lorain Ave., 11120 & 24 — Lorain Ave., 11118 — objection — liquor permit (Ward 19) (R 2213-04).....	2229
Willbur Wright Middle School — Cleveland Landmark (O 1776-04)	2246

Ward 20

Puritas Baseball League — agreement — maintenance of Maplewood Park — operation of the concession stand (O 1491-04)	2232-T
--	---------------

Ward 21

Lorain Ave., 16800 — — appropriate property — redevelopment (O 2014-04).....	2231
--	------

Water Division

Betty Montgomery, Ohio State Auditor — contracts — assessment — 2004 financial statements — Divisions of Water and Taxation (O 2051-04)	2232
--	------

Zoning

E. 62nd St. (west) — Grdina Ave. (south) — change the zoning — RA-2 Townhouse (O 2210-04).....	2227
---	------