

# The City Record

Official Publication of the Council of the City of Cleveland



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March the Twenty-Ninth, Two Thousand and Six

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**Frank G. Jackson**  
Mayor

**Martin J. Sweeney**  
President of Council

**Emily Lipovan**  
City Clerk, Clerk of Council

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

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# DIRECTORY OF CITY OFFICIALS

## CITY COUNCIL – LEGISLATIVE

President of Council – Martin J. Sweeney

Ward	Name	Residence	
1	Nina Turner.....	16204 Sunny Glen Avenue	44128
2	Robert J. White .....	9703 Cardwell Avenue	44105
3	Zachary Reed .....	3734 East 149th Street	44120
4	Kenneth L. Johnson.....	2948 Hampton Road	44120
5	Phyllis E. Cleveland.....	2369 East 36th Street	44105
6	Patricia J. Britt.....	12402 Britton Drive	44120
7	Fannie M. Lewis.....	7416 Star Avenue	44103
8	Sabra Pierce Scott.....	1136 East 98th Street	44108
9	Kevin Conwell .....	10647 Ashbury Avenue	44106
10	Roosevelt Coats .....	1775 Cliffview Road	44112
11	Michael D. Polensek.....	17855 Brian Avenue	44119
12	Anthony Brancatelli.....	6924 Ottawa Road	44105
13	Joe Cimperman.....	3053 West 12th Street	44113
14	Joseph Santiago.....	3169 West 14th Street	44109
15	Brian J. Cummins .....	3104 Mapledale Avenue	44109
16	Kevin J. Kelley .....	6608 Woodhaven Avenue	44144
17	Matthew Zone .....	1228 West 69th Street	44102
18	Jay Westbrook .....	1278 West 103rd Street	44102
19	Dona Brady .....	1272 West Boulevard	44102
20	Martin J. Sweeney.....	3632 West 133rd Street	44111
21	Michael A. Dolan.....	16519 West Park Road	44111

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

### MAYOR – Frank G. Jackson

Ken Silliman, Secretary to the Mayor, Chief of Staff  
 Darnell Brown, Executive Assistant to the Mayor, Chief Operating Officer  
 Valarie J. McCall, Executive Assistant to the Mayor, Chief of Government Affairs  
 Maureen Harper, Executive Assistant to the Mayor, Chief of Communications  
 Michael A. House, Executive Assistant to the Mayor, Press Secretary  
 Debra Linn Talley, Director, Office of Equal Opportunity

DEPT. OF LAW – Robert J. Triozzi, Director, Richard F. Horvath, Chief Counsel, Rm. 106  
 Karen E. Martines, Law Librarian, Room 100

DEPT. OF FINANCE – Sharon Dumas, Interim Director, Room 104;  
 Frank Badalamenti, Manager, Internal Audit  
 DIVISIONS: Accounts – Richard W. Sensenbrenner, Commissioner, Room 19  
 Assessments and Licenses – Dedrick Stephens, Commissioner, Room 122  
 City Treasury – Algeron Walker, Treasurer, Room 115  
 Financial Reporting and Control – James Gentile, Controller, Room 18  
 Information Technology and Services – Douglas Divish, Commissioner, 205 W. St. Clair Avenue  
 Purchases and Supplies – James E. Hardy, Commissioner, Room 128  
 Printing and Reproduction – Michael Hewitt, Commissioner, 1735 Lakeside Avenue  
 Taxation – Nassim Lynch, Tax Administrator, 205 W. St. Clair Avenue

DEPT. OF PUBLIC UTILITIES – Julius Ciaccia, Interim 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 Mok, Interim Director  
 Cleveland Hopkins International Airport, 5300 Riverside Drive  
 Burke Lakefront Airport – Khalid Bahhur, Commissioner  
 Cleveland Hopkins International Airport – Fred Szabo, Commissioner

DEPT. OF PUBLIC SERVICE – Jomarie Wasik, Interim 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 – Matt Carroll, Interim Director, Mural Building, 1925 St. Clair Ave.  
 DIVISIONS: Air Quality – Richard L. Nemeth, Commissioner  
 Correction – Robert Taskey, Commissioner, Cleveland House of Corrections, 4041 Northfield Rd.  
 Environment – Willie Bess, Commissioner, Mural Building, 1925 St. Clair Ave.  
 Health – Anjou Parekh, Commissioner, Mural Building, 1925 St. Clair Ave.

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

DEPT. OF PARKS, RECREATION & PROPERTIES – Michael Cox, Interim 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 – \_\_\_\_\_, Commissioner  
 Public Auditorium, East 6th Street and Lakeside Avenue  
 Park Maintenance and Properties – Richard L. Silva, Commissioner  
 Public Auditorium – East 6th Street and Lakeside Avenue  
 Property Management – Tom Nagle, Commissioner, East 49th Street & Harvard  
 Recreation – Kim Johnson, Interim Commissioner, Room 8  
 Research, Planning & Development – Mark Fallon, Commissioner, 1501 N. Marginal Road  
 Burke Lakefront Airport

DEPT. OF COMMUNITY DEVELOPMENT – Daryl Rush, Interim Director, 3rd Floor, City Hall  
 DIVISIONS: Administrative Services – Terrence Ross, Commissioner  
 Neighborhood Services – Louise V. Jackson, Commissioner  
 Neighborhood Development – Joseph A. Sidoti, Commissioner

DEPT. OF BUILDING AND HOUSING – Edward W. Rybka, Interim Director, Room 500  
 DIVISIONS: Code Enforcement – Tyrone L. Johnson, Commissioner  
 Construction Permitting – Timothy R. Wolosz, Commissioner

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

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

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

DEPT. OF CONSUMER AFFAIRS – Angel Guzman, Director

COMMUNITY RELATIONS BOARD – Room 11, Theasha A. Danieli, Interim Director;  
 Mayor Frank G. Jackson, Chairman Ex-Officio; Rev. Charles Lucas, Jr., Vice-Chairman;  
 Councilman Kevin Conwell, Councilman Brian J. Cummins, Councilman Joe Santiago,  
 Councilman Matthew Zone, City Council Representatives; Charles L. Patton, Jr., Paula  
 Castleberry, Emmett Saunders, John Banno, Kathryn M. Hall, Evangeline Hardaway, Janet  
 Jankura, Gia Hoa Ryan, Rev. Jesse Harris, Magda Gomez, Fred J. Livingstone, Margot  
 James Copeland.

CIVIL SERVICE COMMISSION – Room 119, Reynaldo Galindo, President; Rev. Earl  
 Preston, Vice President; Lucille Ambroz, Secretary; Members: Diane M. Downing,  
 Michael L. Nelson.

SINKING FUND COMMISSION – Frank G. Jackson, President; Council President Martin  
 J. Sweeney; Betsy Hruby, Asst. Sec’y; \_\_\_\_\_, Director.

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

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

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

BOARD OF SIDEWALK APPEALS – Service Director \_\_\_\_\_, Law Director  
 Robert J. Triozzi; Councilman \_\_\_\_\_.

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

CITY PLANNING COMMISSION – Room 501 – Robert N. Brown, Director; Anthony J.  
 Coyne, Chairman; David Bowen, Lillian Kuri, Lawrence A. Lumpkin, Gloria Jean  
 Pinkney, Rev. Sam Edward Small.

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

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

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

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

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

MORAL CLAIMS COMMISSION – Law Director Robert J. Triozzi; Chairman; Finance  
 Director \_\_\_\_\_; Council President Martin J. Sweeney; Councilman Dona  
 Brady; Councilman \_\_\_\_\_.

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

CLEVELAND LANDMARKS COMMISSION – Room 519 – India Pierce, Chair; Laura M.  
 Noble, Vice Chair; Robert Brown, Thomas Coffey, Jennifer Coleman, Lee, Michael  
 Rastatter, Jr., John Torres, Ari Maron, N. Kurt Wiebusch, Council Member Joe Cimperman,  
 Robert Jackimowicz; 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 Kathleen Ann Keough	13D
Judge Anita Laster Mays	14C
Judge Lauren C. Moore	14A
Judge Charles Patton, Jr.	12B
Judge Raymond L. Pianka (Housing Court Judge)	13B
Judge Michael Ryan	12A
Judge Angela R. Stokes	15C
Judge Joan Synenberg	13C
Judge Pauline H. Tarver	12C
Judge Joseph J. Zone	14D

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. 93

WEDNESDAY, MARCH 29, 2006

No. 4816

## CITY COUNCIL

MONDAY, MARCH 27, 2006

### The City Record

Published weekly by the City Clerk,  
Clerk of Council under authority  
of the Charter of the  
City of Cleveland

The City Record is available  
online at

[www.clevelandcitycouncil.org](http://www.clevelandcitycouncil.org)

Address all communications to

**EMILY LIPOVAN**

City Clerk, Clerk of Council  
216 City Hall

### PERMANENT SCHEDULE STANDING COMMITTEES OF THE COUNCIL

2006-2009

#### MONDAY—Alternating

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

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

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

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

#### MONDAY

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

#### TUESDAY

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

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

#### WEDNESDAY—Alternating

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

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

#### WEDNESDAY—Alternating

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

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

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

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

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

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

### OFFICIAL PROCEEDINGS CITY COUNCIL

Cleveland, Ohio  
Monday, March 27, 2006

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

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

Also present were Mayor Frank G. Jackson, Ken Silliman, Chief of Staff; Darnell Brown, Chief Operating Officer; Valarie J. McCall, Chief of Government Affairs; Maureen Harper, Chief of Communications; Michael A. House, Press Secretary; Debra Linn Talley, Director of Equal Opportunity; Directors Triozzi, Flask, Griffin, Interim Directors Dumas, Ciaccia, Wasik, Carroll, Cox, Rush, Rybka, Directors Hutchinson, Fumich, Guzman and Brown.

Pursuant to Ordinance No. 2926-76, prayer was offered by Father Ralph Wiatrowski, Chancellor of Catholic Diocese of Cleveland, located at 1027

Superior Avenue, Ward 13. Pledge of Allegiance.

#### MOTION

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

#### FROM DEPARTMENT OF LIQUOR CONTROL

##### File No. 584-06.

Re: New Application — 1508625 — City Side Beverage, LLC, d.b.a. City Side Beverage, 5415 Lorain Avenue. (Ward 17). Received.

##### File No. 585-06.

Re: Transfer of Ownership Application — 7443895 — RML Enterprise, Inc., d.b.a. Bistro On 185, 991 E. 185th Street, first floor and basement. (Ward 11). Received.

##### File No. 586-06.

Re: Transfer of Location Application — 98210360001 — Yasini, Inc., d.b.a. Russells Foods, 11701 St. Clair Avenue. (Ward 9). Received.

##### File No. 587-06.

Re: Transfer of Ownership and Location Application — 6952566 — PK Moore Enterprises LLC, d.b.a. A Better Place, 815 Superior Avenue. (Ward 13). Received.

#### CONDOLENCE RESOLUTIONS

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

**Res. No. 588-06** — Kazimiera (Borkowski) Piotrowski.

**Res. No. 589-06** — Marie Virginia Goins.

**Res. No. 590-06** — Ollie Francis Carter.

**Res. No. 591-06** — Mattie Louise Ramsey.

#### CONGRATULATION RESOLUTIONS

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

**Res. No. 592-06**—Gregory G. Huth.  
**Res. No. 593-06**—Detective Robert M. Beck.

**Res. No. 594-06** — Mayor Frank G. Jackson.

**Res. No. 595-06** — Martin J. Sweeney.

**Res. No. 596-06** — Eugene Louis Goebel.

**Res. No. 597-06** — Master Gregory Mayo.

**Res. No. 598-06** — Hector Luis Cuevas.

**FIRST READING EMERGENCY  
ORDINANCES REFERRED**

**Ord. No. 564-06.**

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

**An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials to implement Cleveland Public Power's decorative post and safety lighting program, for the Division of Cleveland Public Power, Department of Public Utilities.**

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

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

**Section 1.** That the Director of Public Utilities is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for a one or two year period of the necessary items of labor and materials to implement Cleveland Public Power's decorative post and safety lighting program, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Division of Cleveland Public Power, Department of Public Utilities. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Public Utilities is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Public Utilities by comparing the bids received for both terms.

**Section 2.** That the costs of the contract or contracts shall be charged against the proper appropriation accounts and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 157796)

**Section 3.** That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Public Utilities may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

**Section 4.** That this ordinance is declared to be an emergency 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. 565-06.**

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

**An emergency ordinance authorizing the Directors of City Planning and Port Control to lease certain property to Lake Shore Electric Railway, for a term of eighteen months, with one option to renew for an additional six-month period, for the purpose of storage and a temporary museum for a historic trolley collection and associated equipment.**

Whereas, the City of Cleveland owns certain property known as the Dock 32 Warehouse which is suitable for lease by another party; and

Whereas, Lake Shore Electric Railway has proposed to lease the property from the City; 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 Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Directors of City Planning and Port Control are authorized to lease to Lake Shore Electric Railway ("Lessee"), certain property which is suitable for lease and operation by another party for the public purpose of storage and a temporary museum for a historic trolley collection and associated equipment for the term of the lease: approximately 50,000 square feet located at the east end of the Dock 32 Warehouse including four office spaces upstairs and the office space downstairs.

**Section 2.** That the term of the lease authorized by this ordinance shall not exceed eighteen months, with one option to renew exercisable by the City, for an additional six-month period.

**Section 3.** That the property described above shall be leased at a rental of \$1.00 for the entire length of the term with one additional \$1.00 for any approved extension, (and other valuable considerations), which is determined to be fair market value.

**Section 4.** That the lease may authorize the Lessee to make improvements to the leased premises subject to the approval of appropriate City agencies and officials.

**Section 5.** That the lease shall be prepared by the Director of Law and shall contain any terms and conditions as are required to protect the interests of the City.

**Section 6.** That the Directors of City Planning and Port Control, the Director of Law, and other appro-

priate City officials are authorized to execute any other documents and certificates, and take any other actions which may be necessary or appropriate to effect the lease authorized by this ordinance.

**Section 7.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

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

**Ord. No. 566-06.**

**By Council Members Reed, Zone, Westbrook, Dolan, Brady, Cimperman and Sweeney (by departmental request).**

**An emergency ordinance approving the reports of the assessment equalization boards on objections concerning estimated assessments to relay and repair sidewalks, driveway aprons, and curbs (including adjustments of castings and landscaping, if necessary) encroaching upon the public right-of-way to relay and repair sidewalks, driveway aprons and curbs (including adjustments of castings and landscaping, if necessary) encroaching upon the public right-of-way on East 154th Street from Kinsman Road to Bartlett Avenue, West 54th Street from Lorain Avenue to Bridge Avenue, West 84th Street from Clark Avenue to Denison Avenue, and Tuttle Avenue from West Park Avenue to Munn Road; determining to proceed with the improvements; and adopting the equalized assessments.**

Whereas, four assessment equalization boards appointed by Resolution No. 320-06, adopted February 27, 2006, to hear and determine all objections concerning the estimated assessments for improvement of East 154th Street from Kinsman Road to Bartlett Avenue, West 54th Street from Lorain Avenue to Bridge Avenue, West 84th Street from Clark Avenue to Denison Avenue, and Tuttle Avenue from West Park Avenue to Munn Road by relaying and repairing sidewalks, driveway aprons, and curbs (including adjustments of castings and landscaping, if necessary) encroaching upon the public right-of-way or otherwise improving the right-of-way in accordance with Resolution No. 1290-05, adopted July 13, 2005, has filed its reports with this Council as to its determination of such objections; and

Whereas, this Council deems said reports proper in all respects; 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 reports of the assessment equalization boards, appointed by Resolution No. 320-06, adopted February 27, 2006, and con-

tained in File No. 514-06, is approved.

**Section 2.** That the assessments as equalized by the boards and recommended by it in its reports are approved, and the assessments are directed to be filed in the Office of the Clerk of this Council.

**Section 3.** That it is determined to proceed to improve East 154th Street from Kinsman Road to Bartlett Avenue, West 54th Street from Lorain Avenue to Bridge Avenue, West 84th Street from Clark Avenue to Denison Avenue, and Tuttle Avenue from West Park Avenue to Munn Road by relaying and repairing sidewalks, driveway aprons, and curbs (including adjustments of castings and landscaping, if necessary) encroaching upon the public right-of-way or otherwise improving the right-of-way in accordance with Resolution No. 1290-05, adopted July 13, 2005 (the "Resolution of Necessity").

**Section 4.** That the Improvements shall be performed under the provisions of the Resolution of Necessity, and with the plans, specifications, and profiles approved and filed in the office of the Clerk of Council and in accordance with the estimates as equalized.

**Section 5.** That the estimated assessments for the Improvements, as equalized by the Assessment Equalization Board, filed in the office of the Clerk of City Council are adopted.

**Section 6.** That it is further determined that the portion of the cost of the Improvements to be assessed against benefited property shall be assessed in the amount, manner and number of installments as provided for in the Resolution of Necessity.

**Section 7.** That no claims for damages resulting from the Improvements have been filed.

**Section 8.** That the cost of the Improvements shall be paid, prior to the collection of assessments, from Fund Nos. 20 SF 364, 20 SF 373, 20 SF 380, 20 SF 383, 20 SF 394, 20 SF 500, 20 SF 506, 10 SF 034, and 10 SF 166. This Council determines that the City expects to levy assessments in 2006 for the Improvements, and that the City further expects and intends to use proceeds of the assessments to reimburse Fund No. 10 SF 034 the moneys expended under this Ordinance.

**Section 9.** That the Clerk of this Council is directed to deliver a certified copy of this ordinance to the County Auditor within fifteen (15) days after the passage of this ordinance as required by Section 319.61 of the Revised Code.

**Section 10.** 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. 567-06.**

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

**An emergency ordinance to amend the title and Section 3 of Ordinance No. 837-05, passed June 6, 2005, relating to making the public improvement of constructing general improvements to the Willard Park garage; to supplement the ordinance by adding new Section 3; and to renumber existing Sections 3 and 4 to new Sections 4 and 5.**

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

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

**Section 1.** That the title and Section 3 of Ordinance No. 837-05, passed June 6, 2005, are amended to read as follows:

An emergency ordinance determining the method of making the public improvement of constructing general improvements to the Willard Park garage; authorizing the Director of Parks, Recreation and Properties to enter into one or more public improvement contracts for the making of the improvement; and authorizing the Director to employ one or more professional consultants to implement the improvement.

**Section 3.** That the cost of the contracts authorized by this ordinance shall not exceed \$200,000 and shall be paid from Fund Nos. 65 SF 003, 65 SF 005, and 65 SF 006, Request No. 142496.

**Section 2.** That the existing title and Section 3 of Ordinance No. 837-05, passed June 6, 2005 are repealed.

**Section 3.** That Ordinance No. 837-05, passed June 6, 2005 is supplemented by adding new Section 3 to read as follows:

**Section 3.** That the Director of Parks, Recreation and Properties is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to implement the improvement authorized by this ordinance.

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

**Section 4.** That Sections 3 and 4 of Ordinance 837-05, passed June 6, 2005, are renumbered to new "Section 4" and "Section 5".

**Section 5.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all

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

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

**Ord. No. 568-06.**

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

**An emergency ordinance to amend the title and Section 14 of Ordinance No. 1524-03, passed August 13, 2003, relating to the reconstruction of East 93rd Street between Union Avenue and Miles Road; to supplement the ordinance by adding new Sections 14 and 15; and to renumber existing Sections 14 and 15 to new Sections 16 and 17.**

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

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

**Section 1.** That the title and Section 14 of Ordinance No. 1524-03, passed August 13, 2003, are amended to read as follows:

An emergency ordinance authorizing the Mayor to apply to the District One Public Works Integrating Committee for state funding for various infrastructure capital improvement projects and state funding to obtain credit enhancements and loan assistance in support of the City's 2003 general obligation bonds issue for road and bridge improvements; authorizing the Mayor to accept one or more grants from the Ohio Public Works Commission for the projects; authorizing the Director of Public Service to employ on or more professional consultants to design the improvement; determining the method of making of public improvement; authorizing the director to enter into one or more public improvement contracts for the making of the improvement; and authorizing the Commissioner of Purchases and Supplies to acquire for right-of-way purposes such real property which is necessary to make the improvement.

**Section 14.** That the costs of the public improvement, property, acquisition, and professional services contracts shall be paid from Fund No. 52 SF 001, 54 SF 001, 58 SF 001, from the fund or funds which are credited the proceeds of the sale of 2003 general obligation bonds issued for the purpose that includes the Improvement, and from grant proceeds accepted under this ordinance.

**Section 2.** That the existing title and Section 14 of Ordinance No. 1524-03, passed August 13, 2003 are repealed.

**Section 3.** That Ordinance No. 1524-03, passed August 13, 2003 is supplemented by adding new Sections 14 and 15 to read as follows:

**Section 14.** That notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to

the contrary, the Commissioner of Purchases and Supplies is authorized to acquire for right-of-way purposes such real property as is necessary to make the Improvement. The consideration to be paid for such property shall not exceed fair market value.

**Section 15.** That the Director of Public Service is authorized to execute on behalf of the City all documents necessary to acquire such property and to employ and pay all fees for title companies, surveys, escrows, appraiser, and all other costs necessary for the acquisition of such property.

**Section 4.** That Sections 14 and 15 of Ordinance 1524-03, passed August 13, 2003, are renumbered to new "Sections 16 and 17".

**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. 569-06.**

**By Council Members Cummins, Kelley, Brady and Sweeney (by departmental request).**

**An emergency ordinance authorizing the Director of Public Service to apply for and accept an Ohio Department of Transportation State Infrastructure Bank Loan to finance the City's share of the replacement of the Fulton Road Bridge; and to cause payment of the City's share of the bridge replacement.**

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

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

**Section 1.** That the Director of Public Service is authorized to apply for and accept an Ohio Department of Transportation State Infrastructure Bank Loan (the "Loan") in the approximate amount of \$2,100,000 to finance the City's share of the replacement of the Fulton Road Bridge (the "Improvement").

**Section 2.** That the Director of Public Service is authorized to enter into a loan agreement with the Ohio Department of Transportation for an Ohio Department of Transportation State Infrastructure Bank Loan according to terms contained in File No. 569-06-A, and shall contain additional terms that are acceptable to the Director of Law to protect the public interest. The Director of Public Service is further authorized to file all papers and execute all documents necessary to receive the funds under the Loan; and to appropriate the Loan funds for the purposes set forth in the file.

**Section 3.** That on execution of the loan agreement, the Director of Public Service is authorized to repay the Loan to the Ohio Department of Transportation under terms and con-

ditions contained in the loan agreement.

**Section 4.** That this Council authorizes payment to the State of Ohio of the City's share of the replacement of the Fulton Road Bridge, from the fund or funds to which are credited the Loan proceeds received as authorized by 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 Public Service, Finance, Law; Committees on Public Service, Finance.

**Ord. No. 570-06.**

**By Council Members Conwell and Sweeney (by departmental request).**

**An emergency ordinance authorizing the Director of Public Safety to enter into one or more contracts without competitive bidding with Sagem Morpho, Inc. for the purchase of maintenance for AFIS XL and LiveScan System software and hardware, for the Department of Public Safety, for a period of one year, with two one-year options to renew.**

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

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

**Section 1.** That this Council has determined that the within commodities are non-competitive and cannot be secured from any source other than Sagem Morpho, Inc. Therefore the Director of Public Safety is authorized to make one or more written contracts with Sagem Morpho, Inc. on the basis of its proposal dated February 2006 for maintenance for AFIS XL and LiveScan System software and hardware, for the Department of Public Safety, to renew for two additional one-year terms, and cancelable on thirty days written notice by the director.

**Section 2.** That the cost of the contract or contracts authorized shall be paid from Fund No. 11 SF 006, Request No. 160221.

**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 Safety, Finance, Law; Committees on Public Safety, Finance.

**Ord. No. 571-06.**

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

**An emergency ordinance to amend the title and Sections 6 and 7 of Ordinance No. 2194-05, passed January 23, 2006, relating to a grant from the United States Department of**

**Health and Human Services to rehabilitate and renovate four City-owned health centers; to supplement the ordinance by adding new Section 8; and to renumber existing Sections 8, 9, 10 and 11 to new Sections 9, 10, 11 and 12.**

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

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

**Section 1.** That the title and Sections 6 and 7 of Ordinance No. 2194-05, passed January 23, 2006, are amended to read as follows:

An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the United States Department of Health and Human Services to rehabilitate and renovate four City-owned health centers; authorizing the purchase by one or more requirement contracts of materials, equipment, and supplies needed to implement the grant; determining the method of making the public improvement of rehabilitating and renovating four City-owned health centers; authorizing the Director to enter into one or more public improvement contracts for the making of the improvement; authorizing the Director to enter into one or more contracts with QS Technologies, Inc. for the acquisition of one or more licenses for an electronic medical charting system, including but not limited to installation, design, training, testing, technical support, and software maintenance for a period of one year; **and authorizing the Director of Public Health to employ one or more professional consultants to implement the improvements.**

**Section 6.** That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of rehabilitating and renovating up to four City-owned recreation centers as described in the file, for the Department of Public Health, by one or more contracts duly let to the lowest responsible bidder or bidders after competitive bidding on a **gross** basis for the improvement.

**Section 7.** That the Director of Public Health is authorized to enter into one or more contracts for the making of the public improvement with the lowest responsible bidder or bidders after competitive bidding on a **gross** 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 **gross** basis. **On request of the Director, the contractor shall furnish a correct schedule of unit prices, including profit and overhead, for all items constituting units of the improvement.**

**Section 2.** That the existing title and Sections 6 and 7 of Ordinance No. 2194-05, passed January 23, 2006 are repealed.

**Section 3.** That Ordinance No. 2194-05, passed January 23, 2006 is supplemented by adding new Section 8 to read as follows:

Section 8. That the Director of Public Health is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to implement the improvement.

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

**Section 4.** That Sections 8, 9, 10 and 11 of Ordinance 2194-05, passed January 23, 2006, are renumbered to new "Sections 9, 10, 11 and 12".

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

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

**Ord. No. 572-06.**

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

**An emergency ordinance authorizing the Director of Economic Development to enter into contract with Playhouse Square Foundation to provide economic development assistance to partially finance the Idea-Center Building located at 1375 Euclid Avenue, and other associated costs necessary to redevelop the property.**

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 contract with Playhouse Square Foundation to provide economic development assistance to partially finance the Idea-Center Building and other associated costs necessary to redevelop the property located at 1375 Euclid Avenue, Cleveland, Ohio 44115.

**Section 2.** That the terms of the loan shall be according to the terms set forth in the Summary contained in File No. 572-06-A made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, and are approved in all respects and shall

not be changed without additional legislative authority.

**Section 3.** That the costs of the contract shall not exceed One Million Five Hundred Thousand Dollars (\$1,500,000.00), and shall be paid from Fund No. 17 SF 008, which funds are appropriated for this purpose, Request No. 103691.

**Section 4.** That the Director of Economic 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 shall be prepared and approved by the Director of Law.

**Section 5.** That the Director of Economic Development is authorized to accept monies in repayment of the loan and to deposit the monies in Fund No. 17 SF 006.

**Section 6.** That the Director of Economic 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 shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

**Section 7.** That the contract and other appropriate documents needed to complete the transaction authorized by this legislation shall be prepared by the Director of Law.

**Section 8.** The contract authorized in this legislation will require the recipient of financial assistance to work with The Workforce Investment Board for Workforce Area No. 3 to identify and solicit qualified candidates for job opportunities related to the City's contracts, and place special emphasis on the hard to employ, including but not limited to the disabled and persons who have been convicted of or have pled guilty to a criminal offense, unless the criminal conviction or related circumstances relate to the duties for the particular job sought.

**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.

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

**Ord. No. 578-06.**

**By Mayor Jackson.**

**An emergency ordinance authorizing the Mayor to enter an agreement with the City of Independence for the purpose of sharing the income tax revenue to be paid by players and relocated administrators of the Cleveland Cavaliers as a result of the relocation of the team's practice facilities to a new complex to be located in Independence, Ohio.**

Whereas, the Cleveland Cavaliers have announced plans to relocate the team's practice facilities to a

new complex to be located in the City of Independence; and

Whereas, the Mayors of Cleveland and Independence have announced their intention to work cooperatively when business enterprises relocate from one city to the other city; and

Whereas, the Mayors intend to share the future municipal tax revenue collected from the income of Cavaliers players and relocated administrators that is currently taxed by the City of Cleveland, including but not limited to salaries, wages, payroll, bonuses and incentive payments ("salaries, wages and bonuses"); and

Whereas, in furtherance of this spirit of cooperation, the Mayors have proposed that the two cities equally share the municipal income tax revenue to be paid on the salaries, wages and bonuses of the players and relocated administrators of the Cleveland Cavaliers upon the operation of a practice facility for the Cleveland Cavaliers in Independence; 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 Mayor is authorized to enter into an agreement with the City of Independence for the purpose of equally sharing the income tax revenue to be paid on the salaries, wages and bonuses of the players and relocated administrators of the Cleveland Cavaliers upon the operation of a practice facility for the Cleveland Cavaliers in Independence.

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

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

**Ord. No. 579-06.**

**By Council Member Sweeney.**

**An emergency ordinance authorizing the Director of Economic Development to enter into a development agreement with the Cleveland-Cuyahoga County Port Authority and Flats East Development LLC., for construction and financing of residential units and related commercial improvements.**

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 any section of the Codified Ordinances of Cleveland, Ohio 1976, to the contrary, the Director of Economic Development is authorized to enter into and execute a development agreement for and on behalf of the City of Cleveland with the Cleveland-Cuyahoga

County Port Authority and Flats East Development LLC, for the private redevelopment and related improvements to implement the Flats East Development project.

**Section 2.** That the terms of the final development agreement shall be substantially similar to the copy placed in File No. 579-06-A.

**Section 3.** That the Directors of Economic Development and Law, and such appropriate City officials are authorized to execute the document and take such other actions as may be necessary or appropriate in connection with carrying out the terms of the project agreement.

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

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

**Ord. No. 583-06.**

**By Council Member Sweeney.**

**An emergency ordinance to amend Section 1 of Ordinance No. 2831-86, passed February 9, 1987, as amended by various ordinances, relating to establishing a Community Reinvestment Area in the downtown area.**

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 6 of Ordinance No. 2831-86, passed February 9, 1987, as amended by Ordinance Nos. 1171-94, passed July 20, 1994, 959-99, passed June 7, 1999, 2095-99, passed December 13, 1999, and 842-02, passed June 10, 2002, and Ordinance 551-03, passed May 19, 2003, are amended to read as follows:

Section 6. That the Community Reinvestment Area described in this ordinance shall expire on June 15, 2007, unless an extension is authorized by an amendment by Council; provided, however, that if for any reason the designation of the area is revoked by the City or the terms of the abatement provided under this ordinance are modified or allowed to expire, the entitlements granted under this ordinance for any "multi-family residential project" for which a development agreement has been entered into with the City, with concurrence of Council, prior to December 31, 2006, shall continue at the current percentage of exemption and term of years.

**Section 2.** That the existing Section 6 of Ordinance No. 2831-86, passed February 9, 1987, as amended by Ordinance Nos. 1171-94, passed July 20, 1994, 959-99, passed June 7, 1999, 2095-99, Ordinance No. 842-02, passed June 10, 2002, as amended by Ordinance 551-03, passed May 19, 2003, are repealed.

**Section 3.** That this ordinance is declared to be an emergency measure and, provided it receives the

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

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

**FIRST READING EMERGENCY ORDINANCES READ IN FULL AND PASSED**

**Ord. No. 573-06.**

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

**An emergency ordinance authorizing the Director of Economic Development to amend Contract 63759, a grant agreement with Collinwood and Nottingham Village Development Corporation to provide economic development assistance to partially finance the acquisition of property associated with the expansion of Cleveland Range, Inc. and other costs associated with the acquisition of real property.**

Whereas, Ordinance No. 1370-04, passed August 11, 2004, authorized the Director of Economic Development to enter into a grant agreement with Collinwood and Nottingham Village Development Corporation to provide economic development assistance to the Cleveland Range, Inc. expansion project in the amount of \$400,000; and

Whereas, under the ordinance, the City and Collinwood and Nottingham Village Development Corporation entered into Contract No. 63759; and

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

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

**Section 1.** That the Director of Economic Development is authorized to amend Contract No. 63759, a grant agreement with Collinwood and Nottingham Village Development Corporation to provide economic development assistance to partially finance the acquisition of property and related costs associated with the expansion of Cleveland Range, Inc., to increase the grant amount by \$100,000, for a total of \$500,000.

**Section 2.** That the costs of the increased portion of the grant shall not exceed an amount of \$100,000 and shall be paid from Fund No. 10 SF 510, Request No. 103626.

**Section 3.** That the Director of Law is authorized to prepare the amendment.

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

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

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

**Ord. No. 574-06.**

**By Council Member White.**

**An emergency ordinance authorizing and directing the Director of Public Service to issue a permit to Bethany Christian Church to stretch banners at Avon Avenue & Martin Luther King Drive, for the period from March 24, 2006 to April 23, 2006, inclusive, celebrating the church's 50th Anniversary.**

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 Bethany Christian Church to install, maintain and remove banners at Avon Avenue & Martin Luther King Drive for the period from March 24, 2006 to April 23, 2006, inclusive. Said banner shall be approved by the Director of Public Service, in consultation with the Director of Public Safety, as to type, method of affixing and location so as not to interfere with any sign erected and maintained under the requirements of law or ordinance. The permission of the owner of any pole from which a banner will be hung must be obtained prior to issuance of the permit. No commercial advertising shall be printed or permitted on said banner and said banner shall be removed promptly upon the expiration of said permit.

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

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

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

**Ord. No. 575-06.**

**By Council Member Sweeney.**

**An emergency ordinance to enact Section 173.081 of the Codified Ordinances of Cleveland, Ohio, 1976, relating to the President of Council's Executive Assistant.**

Whereas, the Executive Assistant to the Council President is responsible for additional duties; and

Whereas, the Council President receives additional compensation for his service; 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 Codified Ordinances of Cleveland, Ohio, 1976, are hereby supplemented by enacting new Section 173.081 to read as follows:

**Section 173.081 President of Council's Ward Executive Assistant**

Notwithstanding any ordinance to the contrary, the President of Council's Ward Executive Assistant shall receive compensation of five thousand dollars (\$5,000.00) per year in addition to the compensation established by ordinance for Council-member Ward Executive Assistants and in addition to any funds the Council President's Ward Executive Assistant may receive at the option of the Council Member pursuant to the Business Expense Reimbursement Policies and Procedures.

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

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

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

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

**Res. No. 576-06.**

**By Mayor Jackson and Council Members Sweeney, Brady, Brancatelli, Britt, Cimperman, Cleveland, Coats, Conwell, Cummins, Dolan, Johnson, Kelley, Lewis, Pierce Scott, Polensek, Reed, Santiago, Turner, Westbrook, White and Zone.**

**An emergency resolution opposing all tax and expenditure limitation proposals to the Ohio Constitution that would arbitrarily constrain state and local governments' ability to effectively realize and allocate the tax resources needed to meet the people's needs through a representative democracy and supporting efforts to defeat these proposed changes to the Ohio Constitution.**

Whereas, the Citizens for Tax Reform and others are endorsing proposals to amend the Ohio Constitution to institute tax and expenditure limitations at the state and local levels of government that could only be overridden by a popular vote; an example of these proposals is the so-called "Taxpayers Bill of Rights"; and

Whereas, Colorado has instituted a similar Constitutional proposal and faced such severe problems in meeting the basic needs of their citizenry that voters suspended key aspects of the law in November, 2005; and

Whereas, such proposals tie the hands of state and local leaders in times of crisis and other unpredictable circumstances, circumventing state and local governments' thoughtful consideration of policy decisions; and

Whereas, such proposals would reduce funding for education, health care, public safety, libraries, eco-

nomie development, and other vital services to citizens; and

Whereas, such proposals would prevent state and local officials from making the tough decisions they were elected to make, passing the responsibility for learning all aspects of often complex issues to citizens who have other jobs and responsibilities; and

Whereas, such proposals allow taxpayers to sue allow political subdivisions in to compel compliance with the expenditure limitations and require that successful plaintiffs be awarded costs and attorney fees; and

Whereas, such proposals would grant veto power to non-voters, in a perversion of the democratic process, by creating a super-majority requirement that few political subdivisions could meet; and

Whereas, amending the constitution is a virtually irrevocable action and should only be undertaken when legislative remedies have proven enduringly inadequate; and

Whereas, such constitutional tinkering brings great harm to local communities through continued reductions in state funding, derodes decision-making at the local level and degrades government's ability to provide the basic services residents and businesses expect and deserve; and

Whereas, such proposals would force the state and local governments to spend valuable time and money asking for permission from the same people who elected them before any action can be taken on important issues, and would also force taxpayers to pay twice for government — once for elections of their state and local officials and again for elections to make the decisions those officials were elected to make; and

Whereas, such proposals contradict the fundamental principles upon which our constitution and system of representative government are based and damages the ability to craft good public policy; and

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

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

**Section 1.** That this Council hereby opposes all tax and expenditure limitation proposals to the Ohio Constitution that would arbitrarily constrain state and local governments' ability to effectively realize and allocate the tax resources needed to meet the people's needs through a representative democracy and supports efforts to defeat these proposed changes to the Ohio Constitution.

**Section 2.** That the Clerk is hereby directed to transmit copies of this resolution to Governor Bob Taft, Secretary of State Ken Blackwell, all members of the Ohio General Assembly, the President of the Ohio Municipal League, the Cuyahoga County Mayors and Managers Association, the Northeast Ohio Mayors and Managers Association, and the members of the National League of Cities.

**Section 3.** That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of

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

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

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

**Res. No. 577-06.**

**By Council Member Dolan.**

**An emergency resolution opposing House Bill 347, which would disregard a political subdivision's constitutional right to Home Rule by overriding a municipality's assault weapons ban, reasonable gun show restrictions, ban of firearms from playgrounds and any other regulations it may have related to firearms, whether in conflict with state law or not.**

Whereas, in its latest effort to extinguish municipal Home Rule in the state of Ohio, as set forth in Article III, Section XVIII of the Ohio Constitution, the Ohio House passed House Bill 347, which amends Ohio's conceal-carry law; and

Whereas, H.B. 347 says that the state of Ohio recognizes the right of every Ohio citizen to have, purchase, sell, transfer, or transport any firearm; and

Whereas, this provision in H.B. 347 attempts to override municipal assault weapons ban regulations, reasonable gun show restrictions, bans of firearms on playgrounds and any other regulation Home Rule municipalities may have related to firearms; and

Whereas, under H.B. 347, local municipalities with firearms regulations will have to pay attorneys' fees if its laws are challenged and found contrary to the proposed state law; and

Whereas, in a further effort to end municipal Home Rule authority, H.B. 347 declares that a local municipality cannot prohibit the sale of firearms in any area of Ohio zoned for commercial, retail or industrial use; and

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

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

**Section 1.** That this Council hereby opposes House Bill 347, which would disregard a political subdivision's constitutional right to Home Rule by overriding a local municipality's assault weapons ban, reasonable gun show restrictions, ban of firearms from playgrounds and any other regulations it may have related to firearms, whether in conflict with state law or not

**Section 2.** That the Clerk is hereby directed to transmit copies of this resolution to Governor Bob Taft, all members of the Ohio state legislature, and the President of the Ohio Municipal League.

**Section 3.** That this resolution is hereby declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of

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

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

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

**Res. No. 580-06.**

**By Council Member Cleveland.**  
**An emergency resolution objecting to the transfer of ownership of a C1 Liquor Permit to 2165 East 55th Street.**

Whereas, Council has been notified by the Department of Liquor Control of an application for the transfer of ownership of a C1 Liquor Permit Faiz Oil, Inc., DBA Faiz Sunoco, 2165 East 55th Street, Cleveland, Ohio 44103, Permanent Number 2650989 to General Petrol, Inc., DBA Sunoco, 2165 East 55th Street, Cleveland, Ohio 44103, Permanent Number 3105389; and

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

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

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

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

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

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

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

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

**Section 1.** That Council does hereby record its objection to the transfer of ownership of a C1 Liquor Permit Faiz Oil, Inc., DBA Faiz Sunoco, 2165 East 55th Street, Cleveland, Ohio 44103, Permanent Number 2650989 to General Petrol, Inc., DBA Sunoco, 2165 East 55th Street, Cleveland, Ohio 44103, Permanent Number 3105389; and requests the Director of

Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

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

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

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

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

**Res. No. 581-06.**

**By Council Member Kelley.**  
**An emergency resolution withdrawing objection to the renewal of a C1 Liquor Permit at 4919 Memphis Avenue, and repealing Resolution No. 1337-05, objecting to said renewal.**

Whereas, this Council objected to a C1 Liquor Permit to 4919 Memphis Avenue by Resolution No. 1337-05 adopted by the Council on July 13, 2005; 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 Badah Enterprises, DBA Marathon Gas Station, 4919 Memphis Avenue, Cleveland, Ohio 44109, Permanent Number 0370192 be and the same is hereby withdrawn and Resolution No. 1337-05, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate renewal thereof.

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

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

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

**Res. No. 582-06.**

**By Council Member Polensek.**  
**An emergency resolution objecting to a New D5J Liquor Permit at 15430 Waterloo Road.**

Whereas, Council has been notified by the Department of Liquor Control of an application for a New D5J Liquor Permit at Jerome David Kelly, 15430 Waterloo Road, Cleveland, Ohio 44110, Permanent Number 4566111; and

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

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

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

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

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

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

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

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

**Section 1.** That Council does hereby record its objection to a New D5J Liquor Permit at Jerome David Kelly, 15430 Waterloo Road, Cleveland, Ohio 44110, Permanent Number 4566111; and requests the Director of Liquor Control to set a hearing for said application in accordance with provisions of Section 4303.26 of the Revised Code of Ohio.

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

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

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

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

**SECOND READING EMERGENCY ORDINANCES PASSED**

**Ord. No. 2203-05.**

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

An emergency ordinance authorizing the Director of Public Service to transfer property described as the old asphalt plant, located at West 3rd Street to the control, possession, and use of the Department of Economic Development, for environmental remediation and development.

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

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

**Ord. No. 113-06.**

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

An emergency ordinance authorizing the Director of Aging to apply for and accept a grant from the Western Reserve Area Agency on Aging for the Family Caregiver Support Program; and authorizing the Director of Community Development to enter into contracts necessary to implement the program.

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

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

**Ord. No. 160-06.**

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

An emergency ordinance authorizing the Director of Community Development to apply for and accept grants from the United States Department of Housing and Urban Development for the CDBG Year 32 under the Title I of the Housing and Community Development Act of 1974, for the 2006 Federal HOME Grant Program, Emergency Shelter Program, and the Housing Opportunities for Persons with AIDS Program.

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

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

**Ord. No. 194-06.**

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

An emergency ordinance authorizing the purchase by one or more requirement contracts of gasoline-

transport and tankwagon, for the Division of Motor Vehicle Maintenance, Department of Public Service for a period of one year, with one option to renew for one additional year.

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

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

**Ord. No. 289-06.**

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

An emergency ordinance establishing salary and wage schedules for various classifications, effective as of April 1, 2006, and repealing Ordinance No. 384-03, passed March 10, 2003, as amended.

Approved by Directors of Personnel and Human Resources, Finance, Law; Passage recommended by Committees on Employment, Affirmative Action and Training, Finance; when amended as follows:

1. Strike Section 22 in its entirety and insert the following:

**"Section 22. That salaries and compensation in the following classifications shall be fixed by the appointing authority in accordance with the schedule appearing after each classification:**

<b>Minimum</b>	<b>Maximum</b>
<b>1. Emergency Medical Dispatcher</b>	
<b>\$24,765.24</b>	<b>\$38,931.02</b>
<b>2. Emergency Medical Technician</b>	
<b>\$26,336.35</b>	<b>\$42,468.25</b>
<b>3. Paramedic I</b>	
<b>\$27,741.02</b>	<b>\$44,072.31</b>
<b>4. Paramedic II</b>	
<b>\$29,239.09</b>	<b>\$44,473.33</b>
<b>5. Paramedic III</b>	
<b>\$33,570.30</b>	<b>\$45,904.36</b>
<b>6. Emergency Medical Dispatcher Trainee</b>	
<b>\$10.50</b>	<b>\$10.82"</b>

2. Strike Section 52 in its entirety and insert the following:

**"Section 52. Division of Police; Patrol Officers**

**The annual salaries of persons appointed to the ranks of patrol officer shall be fixed by the appointing authority within the limits established in the following schedules:**

<b>Minimum</b>	<b>Maximum</b>
<b>1. Patrol Officer I</b>	
<b>\$48,832.15</b>	<b>\$50,812.11</b>
<b>2. Patrol Officer II</b>	
<b>\$41,980.86</b>	<b>\$45,999.89</b>
<b>3. Patrol Officer III</b>	
<b>\$41,447.84</b>	<b>\$44,389.92</b>
<b>4. Patrol Officer IV</b>	
<b>\$40,381.79</b>	<b>\$43,256.97</b>
<b>5. Trainee</b>	
<b>\$10.50</b>	<b>\$10.82"</b>

Amendments agreed to. The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. 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. 298-06.**

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

An emergency ordinance authorizing the purchase by one or more requirement contracts of the purchase and maintenance of cardiac monitoring units, for the various divisions of the Department of Port Control.

Approved by Directors of Port Control, Finance, Law; Passage recommended by Committees on Aviation and Transportation, Finance.

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

**Ord. No. 299-06.**

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

An emergency ordinance authorizing the purchase by one or more requirement contracts of unarmed security guard services, for the various divisions of the Department of Port Control.

Approved by Directors of Port Control, Finance, Law; Passage recommended by Committees on Aviation and Transportation, Finance.

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

**Ord. No. 301-06.**

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

An emergency ordinance authorizing the purchase by one or more requirement contracts for bulk waste disposal services, for the Division of Waste Collection and Disposal, Department of Public Service.

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

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

**Ord. No. 302-06.**

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

An emergency ordinance authorizing the purchase by one or more requirement contracts for contingency services for the disposal of municipal solid waste, for the Division of Waste Collection and Disposal, Department of Public Service.

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

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

**Ord. No. 304-06.**

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

An emergency ordinance authorizing the purchase by one or more requirement contracts of crack sealing material, for the Division of Streets, Department of Public Service.

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

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

**Ord. No. 305-06.**

By Council Members Brady and Sweeney (by departmental request). An emergency ordinance authorizing the purchase by one or more requirement contracts of guard rail elements, posts, end wings, and necessary hardware, for the Division of Streets, Department of Public Service.

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

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

**Ord. No. 306-06.**

By Council Members Brady and Sweeney (by departmental request). An emergency ordinance authorizing the purchase by one or more requirement contracts of liquid deicer, for the Division of Streets, Department of Public Service.

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

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

**Ord. No. 307-06.**

By Council Members Brady and Sweeney (by departmental request). An emergency ordinance authorizing the purchase by one or more requirement contracts of manhole risers, for the Division of Streets, Department of Public Service.

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

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

**Ord. No. 308-06.**

By Council Members Brady and Sweeney (by departmental request). An emergency ordinance authorizing the purchase by one or more requirement contracts of plow blades and curb bumpers, for the Division of Streets, Department of Public Service.

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

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

**Ord. No. 309-06.**

By Council Members Brady and Sweeney (by departmental request). An emergency ordinance authorizing the purchase by one or more requirement contracts of rock salt, for the Division of Streets, Department of Public Service.

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

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

**Ord. No. 310-06.**

By Council Members Brady and Sweeney (by departmental request). An emergency ordinance authorizing the purchase by one or more requirement contracts for the transfer and disposal of solid waste, for the Division of Waste Collection and Disposal, Department of Public Service.

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

1. In the title, at the end, strike the period and insert “, for the period of two years with two one-year options to renew.”

2. In Section 1, line 3, strike “one year or two years” and insert “two years with two one-year options to renew”.

3. In Section 1, strike lines 14, 15, 16, 17, and 18 in their entirety and insert, “for the requirements for the entire term.”

Amendments agreed to.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. 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. 315-06.**

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

An emergency ordinance authorizing the Director of Community Development to apply for and accept a grant from the State of Ohio Department of Development for the 2006 Home Weatherization Assistance Program; and to enter into contracts necessary to implement the program.

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

1. In Section 1, line 2, strike “\$3,118,250”, and insert in lieu thereof “\$3,166,000”.

Amendment agreed to.

The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. 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. 316-06.**

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

An emergency ordinance authorizing the Director of Personnel and Human Resources to employ one or more professional consultants to administer the City's COBRA program and HIPAA compliance for a one year period.

Approved by Directors of Personnel and Human Resources, Finance, Law; Passage recommended by Committees on Employment, Affirmative Action and Training, Finance.

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

**Ord. No. 317-06.**

By Council Members Lewis and Sweeney (by departmental request). An emergency ordinance authorizing the Director of Personnel and Human Resources to employ one or more consultants or one or more firms of consultants to provide professional services for pre-employment background and criminal checks for the Department of Personnel and Human Resources, for a fifteen-month period, with one option to renew for an additional one year period.

Approved by Directors of Personnel and Human Resources, Finance, Law; Passage recommended by Committees on Employment, Affirmative Action and Training, Finance.

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

**Ord. No. 367-06.**

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

An emergency ordinance authorizing the Director of Public Utilities to enter into one or more agreements with Norfolk Southern Railway necessary for the City to install and maintain its sewer located within the railway's property between West 41st Street and West 86th Street; and to pay the railway a fee.

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

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

**Ord. No. 375-06.**

By Council Members Lewis and Sweeney (by departmental request). An emergency ordinance approving the collective bargaining agreement with the International Longshoremen's Association, Local No. 1317.

Approved by Directors of Personnel and Human Resources, Finance, Law; Passage recommended by Committees on Employment, Affirmative Action and Training, Finance.

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

**Ord. No. 462-06.**

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

An emergency ordinance authorizing the Director of Personnel and Human Resources to enter into one or more contracts for medical and group dental insurance coverage, vision and life insurance coverage, the medical reimbursement accounts, dependent care accounts, and premium pass-through benefits for City of Cleveland employees.

Approved by Directors of Personnel and Human Resources, Finance, Law; Passage recommended by Com-

mittees on Employment, Affirmative Action and Training, Finance. The rules were suspended. Yeas 20. Nays 0. Read second time. Read third time in full. Passed. Yeas 20. Nays 0.

**Ord. No. 496-06.**

By Council Members Kelley and Sweeney (by departmental request). An emergency ordinance authorizing the Director of Port Control to employ one or more professional consultants to provide customer service satisfaction surveys, data collection and reporting.

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

1. In the title, strike lines 3, 4 and 5 in their entirety and insert: "enter into one or more contracts with Airports Council International for professional services necessary to provide customer service satisfaction surveys, data collection, reporting and benchmarking."

2. Strike Sections 1, 2, and 3 in their entirety and insert:

"Section 1. That the Director of Port Control is authorized to enter into one or more contracts with Airports Council International for professional services necessary to provide customer service satisfaction surveys, data collection, reporting, and benchmarking, in the total sum of \$99,525.00, for the Department of Port Control. The contract or contracts, shall be paid from Fund Nos. 60 SF 001, 60 SF 104, 60 SF 105, 60 SF 106, passenger facility charges, and the fund or funds to which are credited the proceeds from the sale of any airport revenue bonds, federal grants, state grants, and local grants, issued for this purpose, Request No. 150592."

3. Renumber existing Section 4 to new "Section 2".

Amendments agreed to.

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

**THIRD READING EMERGENCY ORDINANCE PASSED**

**Ord. No. 168-06.**

By Council Member Sweeney (by departmental request).

An emergency ordinance to make appropriations for the current expenses of the City of Cleveland for the year 2006.

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

**THIRD READING ORDINANCE PASSED**

**Ord. No. 2200-05.**

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

An ordinance to amend Sections 1 and 2 of Ordinance No. 592-05, passed April 18, 2005, relating to the zoning of parcels on the west side of West 117th Street between Western Ave-

nue and Interstate 90 (Map Change No. 2149, Sheet 2).

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

**MOTION**

By Council Member Cimperman, seconded by Council Member Polensek and unanimously carried that the absence of Council Member Robert White, be and is hereby authorized.

**MOTION**

The Council Meeting adjourned at 8:10 p.m. to meet Monday, April 3, 2006 at 7:00 p.m. in the Council Chambers.



City Clerk, Clerk of Council

**THE CALENDAR**

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

NONE

**BOARD OF CONTROL**

March 22, 2006

The regular meeting of the Board of Control convened in the Mayor's office on Wednesday, March 22, 2006, at 10:30 a.m. with Mayor Jackson presiding.

Present: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.

Absent: None.

Others: Jim Hardy, Commissioner, Purchases and Supplies.

Debra Linn Talley, Commissioner, Office of Equal Opportunity.

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

**Resolution No. 97-06.**

By Interim Director Mok. Whereas, under the authority of Ordinance No. 163-96, passed by Cleveland City Council on May 20, 1996, the City of Cleveland entered into a Lease By Way of Concession ("Lease") with Host International, Inc. ("Host"), City Contract No. 33958, for Host's use of certain space in the Airport Terminal Building at Cleveland Hopkins International Airport; and

Whereas, under the terms of Article XVII of the Lease Host desires to sublease part of its leased premises at Cleveland Hopkins International Airport to STTC, Inc. ("STTC"); and

Whereas, subleasing of the premises to STTC shall not constitute a

release or waiver of any of Host's obligations under City Contract No. 33958; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the terms of the Lease, this Board approves the request of Host to enter into a sublease with STTC for STTC's exclusive use of approximately 800 square feet of space in the rotunda of Concourse C, commencing April 1, 2006 and ending on the earlier of (i) the termination of operation by STTC; (ii) the earlier termination of the Lease or (iii) at midnight on January 15, 2009, provided that the terms of such sublease shall not be in conflict with the terms of City Contract No. 33958.

Be it further resolved that the Director of Port Control is authorized to complete and execute any documents necessary and appropriate to implement the consent authorized, which documents shall contain such additional terms and conditions as the Director shall deem necessary to protect the City's interests.

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.

Nays: None.

Absent: None.

**Resolution No. 98-06.**

By Interim Director Wasik.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of 32 Ford-Mercury, Inc. for an estimated quantity of compact, 4-door cars and mid-size, FFV, 4-door cars (Items 1 and 3), for the various divisions of City government, for the period of one year beginning with the date of execution of a contract, received on December 22, 2005, under the authority of Ordinance No. 829-05, passed by the Council of the City of Cleveland on May 9, 2005, which on the basis of the estimated quantity would amount to \$608,336.00 (Net-30), is affirmed and approved as the lowest and best bid, and the Director of Public Service is requested to enter into a requirement contract for the goods and/or services, which shall provide for the immediate purchase as the initial amount of the contract of the following:

Requisition No. 154384 which shall be certified against the contract in the sum of \$581,630.00.

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 Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.

Nays: None.

Absent: None.

**Resolution No. 99-06.**

By Interim Director Wasik.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of Valley Ford Truck Sales, Inc. for an estimated quantity of cab/chassis with tow bodies, for the various divisions of City government, for the period of one year beginning with the date of execution of a contract, received on January 11, 2006, under the authority of Ordinance No. 829-05, passed by the Council of the City of Cleveland on May 9, 2005, which on the basis of the estimated quantity would amount to \$73,393.00 (0%-Net-30), is affirmed and approved as the lowest and best bid, and the Director of Public Service is requested to enter into a requirement contract for the goods and/or services, which shall provide for the immediate purchase as the initial amount of the contract of the following:

**Requisition No. 161620**

which shall be certified against the contract in the sum of \$73,393.00.

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.

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

Fallsway Equipment Company  
\$37,930.00 per unit — 51.68%

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.  
Nays: None.  
Absent: None.

**Resolution No. 100-06.**

By Interim Director Wasik.

Resolved, by the Board of Control of the City of Cleveland, that all bids received on January 12, 2006, for cab/chassis with USV bodies, medium (item 1), for the various divisions of City government, under the authority of Ordinance No. 1481-04, passed by the Council of the City of Cleveland on October 11, 2004, are rejected.

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.  
Nays: None.  
Absent: None.

**Resolution No. 101-06.**

By Interim Director Wasik.

Be it resolved, by the Board of Control of the City of Cleveland that the bid of Wise International Trucks for an estimated quantity of cab/chassis with USV bodies, large

(item 2), for the various divisions of City government, for the period of one year beginning with the date of execution of a contract, received on January 12, 2006, under the authority of Ordinance No. 1481-04, passed by the Council of the City of Cleveland on October 11, 2004, which on the basis of the estimated quantity would amount to \$882,096.00 (Net-30), is affirmed and approved as the lowest and best bid, and the Director of Public Service is requested to enter into a requirement contract for the goods and/or services, which shall provide for the immediate purchase as the initial amount of the contract of the following:

**Requisition No. 161640**

which shall be certified against the contract in the sum of \$882,096.00.

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.

Be it further resolved by the Board of Control of the City of Cleveland that the employment of the following subcontractors by Wise International Trucks for the above-mentioned purchase is hereby approved:

CB Acquisitions, LLC, d.b.a.  
The Carnegie Body Company  
\$59,754 per unit — 54.19%

Independent Brokers  
MBE — \$700.00 per unit — 0.63%

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.

Nays: None.  
Absent: None.

**Resolution No. 102-06.**

By Interim Director Wasik.

Be it resolved, by the Board of Control of the City of Cleveland, that all bids received on December 22, 2005, for an estimated quantity of compact, hybrid, 4-door cars (item 2), for the various divisions of City government, under the authority of Ordinance No. 829-05, passed by the Council of the City of Cleveland on May 9, 2005, are rejected.

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.  
Nays: None.  
Absent: None.

**Resolution No. 103-06.**

By Interim Director Wasik.

Resolved by the Board of Control of the City of Cleveland that the bid of American International Corp., 888 East 70th Street, Cleveland, Ohio 44103, for the public improvement of repairing and constructing sidewalks including curb ramps, curbs, and driveway aprons, for the Divi-

sion of Engineering and Construction, Department of Public Service, received on March 2, 2006 under the authority of Ordinance No. 2071-05, passed February 13, 2006, upon a unit basis for the improvements to be performed as ordered during the period ending December 31, 2006 at the unit prices set forth in the bid, which on the basis of the estimated work to be done would amount to \$1,931,307.00, is affirmed and approved as the lowest responsible bid, and the Director of Public Service is requested to enter into a requirement contract for the improvement, which contract shall provide for the initial performance of the following work:

**Requisition No. 166612**

which shall be certified against the contract in the sum of \$96,565.35.

The requirement contract shall further provide that the contractor will perform so much of the balance of the work as may be ordered under subsequent requisitions separately certified against the requirement contract, whether the same shall be less than the total estimate of work to be performed under the contract or shall exceed the same by not more than ten percent.

Be it further resolved that the employment of the following subcontractors is approved:

Dan Ray Construction Co.  
4500 Lee Road  
Cleveland, Ohio 44128  
(MBE) — \$292,500.00 — (15.15%)

Elite Contracting  
4500 Lee Road, #127  
Cleveland, Ohio 44128  
(FBE) — \$97,500.00 — (5.05%)

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.  
Nays: None.  
Absent: None.

**Resolution No. 104-06.**

By Director Flask.

Resolved by the Board of Control of the City of Cleveland that all bids received on January 13, 2006, for Automatic Vehicle Location Upgrade, all items, for the division of Emergency Medical Services, Department of Public Safety, under the authority of Ordinance No. 1086-04, passed by Cleveland City Council on August 11, 2004 are hereby rejected.

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.  
Nays: None.  
Absent: None.

**Resolution No. 105-06.**

By Interim Director Cox.

Whereas, under the authority of Ordinance No. 2198-05, passed February 13, 2006, by the Council of the City of Cleveland, the Commissioner of Purchases and Supplies is authorized, by and at the direction of the

Board of Control, to convey certain City-owned property no longer needed for public use, the property being described in the ordinance and located at West 13th Place and Abbey Avenue, further known as Permanent Parcel Number 004-09-060, to Katherine L. Gluntz; and

Whereas, Ordinance No. 2198-05 provided that the consideration to be paid for said parcel shall be at a price not less than the fair market value as determined by the Board of Control; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland under Ordinance No. 2198-05, passed February 13, 2006, the Commissioner of Purchases and Supplies is directed to convey certain City-owned property no longer needed for public use, the property being described in the ordinance and located at West 13th Place and Abbey Avenue, further known as Permanent Parcel Number 004-09-060, to Katherine L. Gluntz. The consideration to be paid for said property is hereby fixed at One Hundred (\$100.00) Dollars and other valuable consideration which amount is determined to be not less than the fair market value.

Be it further resolved that the Mayor of the City of Cleveland is hereby requested to execute and deliver the official deed of the City of Cleveland conveying said parcel which documents shall contain such additional terms and conditions as the Director of Law shall deem necessary to protect and benefit the public interest.

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.  
Nays: None.  
Absent: None.

**Resolution No. 106-06.**

By Interim Director Cox.

Be it resolved by the Board of Control of the City of Cleveland that Board of Control Resolution No. 680-01, adopted September 26, 2001, under the authority of Sections 133.23 and 133.33 of the Codified Ordinances of Cleveland, Ohio, 1976 authorizing the Commissioner of Parking Facilities to collect such charges and fees for all City Off-Street parking facilities as may be established by the Board of Control, is amended by adding a group discount rate of \$450 for a block of 150 spaces at a Gateway Garage.

Be it further resolved that all other provisions of Resolution No. 680-01 not expressly amended above shall remain unchanged and in full force and effect.

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.  
Nays: None.  
Absent: None.

**Resolution No. 107-06.**

By Interim 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. 119-21-048, located at Cedar Avenue under the Land Reutilization Program; and

Whereas, Ordinance No. 1831-05, passed October 10, 2005, authorized the sale of the parcel for a consideration established by the Board of Control at not less than the Fair Market Value; and

Whereas, Vienna Distributing Company has proposed to the City to purchase and develop the parcel; now, therefore,

Be it resolved by the Board of Control of the City of Cleveland that under the authorization of Ordinance No. 1831-05 passed October 10, 2005, passed by the Cleveland City Council, the Mayor is authorized to execute an official deed for and on behalf of the City of Cleveland with Vienna Distributing Company for the sale and development of Permanent Parcel No. 119-21-048, as described in the Ordinance in accordance with the Land Reutilization Program in such manner as best carries out the intent of the program.

Be it further resolved that the consideration for the parcel shall be \$6,000.00, which amount is determined to be not less than the fair market value of the parcel for uses in accordance with the Land Reutilization Program.

Yeas: Mayor Jackson, Director Triozzi, Interim Directors Dumas, Ciaccia, Mok, Wasik, Carroll, Director Flask, Interim Directors Cox, Rush, Director Hutchinson, Interim Director Huth, Directors Fumich, Guzman and Interim Director Rybka.

Nays: None.  
Absent: None.

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, APRIL 10, 2006**

**9:30 A.M.**

**Calendar No. 06-46:** 6402 Lansing Avenue (Ward 12)

Louis Sainato, owner, and Patricia Cole, tenant appeal to expand an existing day care business to include the second floor of an existing one and two story building, situated on a 40' x 140' corner parcel in a Local Retail Business District on the southeast corner of Lansing Avenue and East 64th Street at 6402 Lansing Avenue, where the Board of Zoning Appeals granted a variance to allow a day care business on the first floor of the building in Calendar No. 03-35, and the expansion of a nonconforming use requires the Board of Zoning Appeals approval, as stated in Section 359.01(a) of the Codified Ordinances.

**Calendar No. 06-47:** 3321 West 90th Street (Ward 18)

Robert and Rose Neider, owners, appeal to erect a 10'-6" x 19'-10" wolmanized wooden wheelchair ramp at the front of an existing one family dwelling, situated on a 35' x 95' parcel in an A1 One-Family District on the east side of West 90th Street at 3321 West 90th Street; subject to the limitations of Section 357.13(b)(4), the proposed ramp is 8' from the street line, extending into the 10' that is required from the street line; and Section 329.04(c)(1) limits the authority of the Board of Zoning Appeals to authorize as a variance the location of any building or structure that is nearer the street than the distance required by the setback building line, as stated in the Codified Ordinances.

**Calendar No. 06-48:** 3111 Clinton Avenue (Ward 13)

Barry Clemens, owner, appeals to add 352 square feet to the fourth floor of a legal nonconforming townhouse located in a Residence Industry District on the south side of Clinton Avenue at 3111 Clinton Avenue; and in Calendar No. 02-252, the Board of Zoning Appeals granted a density variance for the existing premises, allowing 2,792 square feet of floor area as opposed to 1,408 square feet and subject to the provisions of Section 359.01, the additional 352 square feet of floor area expands the existing legal nonconforming use and requires the Board of Zoning Appeals approval.

**Calendar No. 06-49:** 3004 Monroe Avenue (Ward 14)

Jeremy Ennis, owner, appeals to erect an 11'-10" x 22' two-story frame addition on an existing foundation at the rear of an existing two-story, one family dwelling, situated on a 32' x 80' parcel in a Two-Family District on the north side of Monroe Avenue at 3004 Monroe Avenue; contrary to Section 355.04(b), the maximum gross floor area may not exceed 50% of the lot size and with the proposed two-story addition, there is a total gross floor area of 1,542 s/f where 1,280 s/f is

allowed, and the Board of Zoning Appeals approval is required for the enlargement of the existing nonconforming structure, as stated in Section 359.01 of the Codified Ordinances.

Secretary

**REPORT OF THE BOARD OF ZONING APPEALS**

**MONDAY, MARCH 27, 2006**

At the meeting of the Board of Zoning Appeals on Monday, March 27, 2006, the following appeals were heard by the Board:

The following appeals were **Approved:**

**Calendar No. 06-36:** 6308 Fleet Avenue

Kazimierz Chruscik appealed to convert the first floor of an existing building to a grocery store with accessory food processing and a 30 seat restaurant in a Local Retail Business District; subject to conditions.

**Calendar No. 06-37:** 2207 West 11th Street

Jeff Eisenberg appealed to add a cover over an existing patio in a Local Retail Business District.

**Calendar No. 06-19:** 403-05 East 152nd Street

Eastern Monica LLC, owner, and Charles Brown, agent, appealed to erect a 5' x 38'-6" wooden wheelchair ramp at the front of an existing two-story, four dwelling units residence in a Two-Family District.

The following appeal was **Denied:**  
None.

The following appeals were **Withdrawn:**

**Calendar No. 06-20:** 1795 Crawford Road

Benita Martinez appealed to establish a Type A Day Care in an existing two-story building in a Multi-Family District.

**Calendar No. 06-39:** 3535 West 128th Street

Colleen Rock appealed to install 82 linear feet of 6' tall privacy fence and 36 linear feet of 4' tall privacy fence along the eastern perimeter of a corner parcel in a One-Family District.

The following appeal was **Dismissed:**  
None.

The following appeal was **Postponed:**

**Calendar No. 06-38:** 5712 Harvard Avenue postponed to April 17, 2006.

In Executive Session on March 27, 2006, the following appeals heard by the Board on March 20, 2006 were adopted and approved.

The following appeals were **Approved:**

**Calendar No. 06-30:** 1815 St. Clair Avenue

MotorCars, Inc. appealed to change the use and remodel an existing building to a car repair facility in a Semi-Industry District.

**Calendar No. 06-33:** 2826 Franklin Boulevard

Scott Francis appealed to change from an eight guest room inn to a single family residence an existing four-story structure in a Local Retail Business District.

The following appeal was **Denied:**  
None.

The following appeal heard by the Board on March 13, 2006 was adopted and approved:

The following appeal was **Approved:**

**Calendar No. 06-29:** 1436 West 52nd Street

Linda Adkins appealed to erect a one-story frame porch enclosure to the front of an existing one family dwelling in a Two-Family District.

Secretary

**REPORT OF THE BOARD OF BUILDING STANDARDS AND BUILDING APPEALS**

Re: Report of the Meeting of  
March 22, 2006

As required by the provisions of Section 3103.20(2) of the Codified Ordinances of the City of Cleveland, Ohio 1976, the following brief of action of the subject meeting is given for publication in The City Record:

\* \* \*

**Docket A-14-06.**

RE: Appeal of Akram Elkhatab, Owner of the Property located on the premises known as 1014 East 105th Street from a 30 DAY VACATE ORDER, of the Director of the Department of Building and Housing, dated February 2, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to require the Appellant to immediately present plans to abate the obvious safety hazard violations on the property, and to grant the Appellant two (2) weeks in which to present plans to the Building Department to complete abatement of all violations on the property; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saab and seconded by Mr. Bradley.

Yeas: Messrs. Denk, Saunders, Saab, Bradley. Nays: None. Absent: Mr. Gallagher.

**Docket A-17-06.**

RE: Appeal of Flats Development, Owner of the Property located on the premises known as 1151 Main Avenue from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated March 7, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the required variances, noting that the Appellant will comply with the requirements of the Division of Fire and the Department of Building and House in that a Fire Watch will be maintained, fire alarms will be supplied, that there will be no cooking, free access will be provided to the site, and submission of drawings with a letter or seal by a registered professional of Ohio stating that the drawings comply with the Ohio Codified Ordinances of the City of Cleveland; noting that under those conditions, the tent will be permitted to be used in the manner prescribed; the property is REMANDED at this time to the Department of Building and Housing for supervision and any required further action. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Saab.

Yeas: Messrs. Denk, Saunders, Saab, Bradley. Nays: None. Absent: Mr. Gallagher.

\* \* \*

**Docket A-19-06.**

RE: Appeal of Ellis & Rosetta Dozier, Owner of the Two Story Wood Frame/Siding/Masonry Veneer Property located on the premises known as 12301 Brookfield Avenue from a NOTICE OF VIOLATION, of the Director of the Department of Building and Housing, dated February 27, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

BE IT RESOLVED, a motion is in order at this time to grant the variance and permit the furnace to remain as it is installed, with the provision that the installing contractor, Hogg Heating & Cooling Inc. warranty for labor and parts of the installation until September 29, 2007. Motion so in order. Motioned by Mr. Saunders and seconded by Mr. Bradley.

Yeas: Messrs. Denk, Saunders, Saab, Bradley. Nays: None. Absent: Mr. Gallagher.

\* \* \*

**Docket A-20-06.**

RE: Appeal of Krause Project Partners, Owner of the Property located on the premises known as 2042-44 East 4th Street from an ADJUDICATION ORDER of the Director of the Department of Building and Housing, dated March 15, 2006, requiring compliance with the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC).

No action this date, the docket will be rescheduled for April 5, 2006.



**APPROVAL OF RESOLUTIONS:**

Separate motions were entered by Mr. Saunders and seconded by Mr. Bradley for Approval and Adoption of the Resolutions as presented by the Secretary for the following Dockets respectively, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

- A-75-06—Vickie Camardo.
- A-110-05—The Cleveland Museum of Art.
- A-5-06—Roy Middlebrooks.
- A-9-06—John N. Appling.
- A-13-06 — St. George Orthodox Church.
- A-15-06—The Cleveland Museum of Art.

Yeas: Messrs. Denk, Saunders, Bradley. Nays: None. Not Voting: Mr. Saab. Absent: Mr. Gallagher.

\* \* \*

**APPROVAL OF MINUTES:**

Separate motions were entered by Mr. Saunders and seconded by Mr. Bradley for Approval and Adoption of the Minutes as presented by the Secretary, subject to the Codified Ordinances of the City of Cleveland and the Ohio Building Code (OBC):

March 8, 2006

Yeas: Messrs. Denk, Saunders, Bradley. Nays: None. Not Voting: Mr. Saab. Absent: Mr. Gallagher.

\* \* \*

**INFORMAL HEARING:**

**THE CUYAHOGA COMPANIES, INC.**

RE: To identify who in the City of Cleveland has the authority to approve/disapprove the use of photo-luminescent exit signage for properties owned by the City of Cleveland as well as other properties within Cleveland.

\* \* \*

Secretary

**PUBLIC NOTICE**

NONE

**NOTICE OF PUBLIC HEARING**

NONE

**CITY OF CLEVELAND BIDS**

**For All Departments**

**Sealed bids will be received at the office of the Commissioner of Purchases and Supplies, Room 128, City Hall, in accordance with the appended schedule, and will be opened and read in Room 128, City Hall, immediately thereafter.**

**Each bid must be made in accordance with the specifications and must be submitted on the blanks supplied for the purpose, all of which may be obtained at the office of the said Commissioner of Purchases and Supplies, but no bid will be considered unless delivered to the office of the said commissioner previous to 12:00 noon (Eastern Standard Time) on the date specified in the schedule.**

**187.10 Negotiated contracts; Notice required in Advertisement for Bids.**

Where invitations for bids are advertised, the following notice shall be included in the advertisement: "Pursuant to the MBE/FBE Code, each prime bidder, each minority business enterprise ("MBE") and each female business enterprise ("FBE") must be certified before doing business with the City. Therefore, any prime contractor wishing to receive credit for using an MBE or FBE should ensure that applications for certification as to MBE or FBE status compliance with the Code, affirmative action in employment and, if applicable, joint venture status, are submitted to the Office of Equal Opportunity ("OEO") prior to the date of bid opening or submission of proposals or as specified by the Director. Failure to comply with the business enterprise code or with representations made on these forms may result in cancellation of the contract or other civil or criminal penalties."

**WEDNESDAY, APRIL 12, 2006**

**Estimated Quantity of One (1) Pick-Up, 4x4, with Valve Turner, for Various Divisions, Department of Public Service, as authorized by Ordinance No. 829-05, passed by the Council of the City of Cleveland, May 9, 2005.**

**THERE WILL BE A NON-MANDATORY PRE-BID MEETING THURSDAY, APRIL 6, 2006 AT 3:00 P.M., DIVISION OF MOTOR VEHICLE MAINTENANCE, 4150 EAST 49TH STREET, BUILDING #1, CLEVELAND, OHIO 44105.**

**Protozoa and Biological Analysis, for the Division of Water, Department of Public Utilities, as authorized by Ordinance No. 485-96, passed by the Council of the City of Cleveland, May 6, 1996.**

**THERE WILL BE A NON-MANDATORY PRE-BID MEETING, TUESDAY, APRIL 4, 2006 AT 2:00 P.M., PUBLIC UTILITIES BUILDING, 1201 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

March 22, 2006 and March 29, 2006

**THURSDAY, APRIL 13, 2006**

**Labor and Materials to Repair the Sanitary Sewer Servicing the Justice Center, for the Division of Property Management, Department of Parks, Recreation and Properties, as authorized by Ordinance No. 472-05, passed by the Council of the City of Cleveland, April 11, 2005.**

**THERE WILL BE A NON-MANDATORY PRE-BID MEETING THURSDAY, APRIL 6, 2006 AT 11:00 A.M., JUSTICE CENTER —**

**POLICE HEADQUARTERS (MEET IN FRONT OF ENTRANCE WAY), 1300 ONTARIO, CLEVELAND, OHIO 44114.**

**To Repair and/or Replace Water, Sewer, and Gas Lines Damaged by Pole Replacement,**

for the Division of Cleveland Public Power, Department of Public Utilities, as authorized by Ordinance No. 2289-04, passed by the Council of the City of Cleveland, January 24, 2005.

**THERE WILL BE A MANDATORY PRE-BID MEETING, THURSDAY, APRIL 6, 2006 AT 10:00 A.M., CLEVELAND PUBLIC POWER, 1300 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

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

**Paint and Paint Supplies, for the Various Divisions of City Government, Department of Finance, as authorized by Ordinance No. 239-06, passed by the Council of the City of Cleveland, February 27, 2006.**

**THERE WILL BE A NON-MANDATORY PRE-BID MEETING, THURSDAY, APRIL 6, 2006 AT 9:30 A.M., CITY HALL, DIVISION OF PURCHASES AND SUPPLIES, ROOM 128, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

**Fasteners, for the Various Divisions of City Government, Department of Finance, as authorized by Ordinance No. 234-06, passed by the Council of the City of Cleveland, February 27, 2006.**

**THERE WILL BE A NON-MANDATORY PRE-BID MEETING, THURSDAY, APRIL 6, 2006 AT 10:30 A.M., CITY HALL, DIVISION OF PURCHASES AND SUPPLIES, ROOM 128, 601 LAKESIDE AVENUE, CLEVELAND, OHIO 44114.**

March 29, 2006 and April 5, 2006

**WEDNESDAY, APRIL 19, 2006**

**Large Water Meters, for the Division of Water, Department of Public Utilities, as authorized by Section 129.25, of the Codified Ordinances of Cleveland, Ohio, 1976.**

**THERE WILL BE A NON-MANDATORY PRE-BID MEETING, THURSDAY, APRIL 6, 2006 AT 9:30 A.M., DIVISION OF WATER — DISTRIBUTION AND MAINTENANCE, 4600 HARVARD AVENUE, METER CONFERENCE ROOM, NEWBURGH HEIGHTS, OHIO 44105.**

**Small Water Meters, for the Division of Water, Department of Public Utilities, as authorized by Section 129.25, of the Codified Ordinances of Cleveland, Ohio, 1976.**

**THERE WILL BE A NON-MANDATORY PRE-BID MEETING, THURSDAY, APRIL 6, 2006 AT 9:30 A.M., DIVISION OF WATER — DISTRIBUTION AND MAINTENANCE, 4600 HARVARD AVENUE, METER CONFERENCE ROOM, NEWBURGH HEIGHTS, OHIO 44105.**

March 29, 2006 and April 5, 2006

**ADOPTED RESOLUTIONS  
AND ORDINANCES**

**Res. No. 509-06.**

**By Council Member Brancatelli.**

**An emergency resolution objecting to the transfer of ownership of a D1, D2, D3 and D3A Liquor Permit at 5509 Fleet 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 and D3A Liquor Permit from Good Time Tavern, Inc., DBA Good Time Tavern, 5509 Fleet Avenue, 1st floor and basement, Cleveland, Ohio 44105, Permanent Number 3290405 to Fleet Pub, LLC, DBA The Village Pub, 5509 Fleet Avenue, 1st floor and basement, Cleveland, Ohio 44105, Permanent Number 2772871; 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 and D3A Liquor Permit from Good Time Tavern, Inc., DBA Good Time Tavern, 5509 Fleet Avenue, 1st floor and basement, Cleveland, Ohio 44105, Permanent Number 3290405 to Fleet Pub, LLC, DBA The Village Pub, 5509 Fleet Avenue, 1st floor and basement, Cleveland, Ohio 44105, Permanent Number 2772871; 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 March 20, 2006.

Effective March 24, 2006.

**Res. No. 510-06.**

**By Council Member Cimperman.**

**An emergency resolution withdrawing objection to the transfer of Liquor License of a D5 and D6 Liquor Permit at 1303 West 6th Street, and repealing Resolution No. 2167-05, objecting to said transfer.**

Whereas, this Council objected to a D5 and D6 Liquor Permit to 1303 West 6th Street by Resolution No. 2167-05 adopted by the Council on November 21, 2005; and

Whereas, this Council wishes to withdraw its objection to the above transfer of liquor license and consents to said transfer; and

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

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

**Section 1.** That objection to a D5 and D6 Liquor Permit to Rutulian, LLC, 1303 West 6th Street, Cleveland, Ohio 44104, Permanent Number 7634550 be and the same is hereby withdrawn and Resolution No. 2167-05, containing such objection, be and the same is hereby repealed and that this Council consents to the immediate transfer thereof.

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

Adopted March 20, 2006.

Effective March 24, 2006.

**Res. No. 511-06.**

**By Council Member Coats.**

**An emergency resolution objecting to the transfer of Liquor License of a C2 and C2X Liquor Permit to 14625-27 Woodworth Road.**

Whereas, Council has been notified by the Department of Liquor Control of an application for a transfer of Liquor License of a C2 and C2X Liquor Permit from Tops Markets, LLC, DBA Tops, 7300 St. Clair Avenue, Cleveland, Ohio 44103, Permanent Number 89958630035 to

Inc., DBA Woodworth Market, 14625-27 Woodworth Road, Cleveland, Ohio, 44112, Permanent Number 65916750015; and

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

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

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

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

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

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

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

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

**Section 1.** That Council does hereby record its objection to a transfer of Liquor License of a C2 and C2X Liquor Permit from Tops Markets, LLC, DBA Tops, 7300 St. Clair Avenue, Cleveland, Ohio 44103, Permanent Number 89958630035 to Ossie, Inc., DBA Woodworth Market, 14625-27 Woodworth Road, Cleveland, Ohio 44112, Permanent Number 65916750015, 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 March 20, 2006.

Effective March 24, 2006.

**Res. No. 512-06.  
By Council Member Kelley.  
An emergency resolution with-  
drawing objection to the renewal of  
a D2, D2X, D3 and D3A Liquor Per-  
mit at 6301 Denison Avenue, and  
repealing Resolution No. 1339-05, ob-  
jecting to said renewal.**

Whereas, this Council objected to a D2, D2X, D3 and D3A Liquor Permit to 6301 Denison Avenue by Res-olution No. 1339-05 adopted by the Council on July 13, 2005; and

Whereas, this Council wishes to withdraw its objection to the above renewal and consents to said renew-  
al; and

Whereas, this resolution consti-  
tutes an emergency measure provid-  
ing for the usual daily operation of  
a municipal department; now, there-  
fore,

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

**Section 1.** That objection to a D2,  
D2X, D3 and D3A Liquor Permit to  
Cross Entertainment, Inc., DBA  
Great Lakes Tavern, 6301 Denison  
Avenue, Cleveland, Ohio 44102, Per-  
manent Number 18279480005 be and  
the same is hereby withdrawn and  
Resolution No. 1339-05, containing  
such objection, be and the same is  
hereby repealed and that this Coun-  
cil consents to the immediate renew-  
al 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 March 20, 2006.  
Effective March 24, 2006.

**Ord. No. 1631-05.  
By Council Members White and  
Jackson (by departmental request).  
An emergency ordinance to amend  
various sections of Part VI of the  
Codified Ordinances of Cleveland,  
Ohio, 1976, as amended or enacted  
by various ordinances, relating to  
general offenses.**

Whereas, this ordinance consti-  
tutes an emergency measure provid-  
ing for the usual daily operation of  
a municipal department; now, there-  
fore,

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

**Section 1.** That the following sec-  
tions of the Codified Ordinances of  
Cleveland, Ohio, 1976:

Sections 605.02 and 605.03, as  
enacted by Ordinance No. 1015-91,  
passed July 24, 1991,

Section 605.05, as amended by  
Ordinance No. 834-03, passed June 10,  
2003,

Sections 605.06 and 605.07, as  
enacted by Ordinance No. 54-74,  
passed March 25, 1974,

Section 605.071, as amended by  
Ordinance No. 1783-97, passed June  
12, 2000,

Section 605.08, as amended by  
Ordinance No. 1015-74, passed July  
29, 1974,

Section 609.03, as amended by ordi-  
nance No. 2823-89, passed March 19,  
1990,

Section 609.04, as amended by  
Ordinance No. 1414-86, passed  
November 3, 1986,

Section 609.07, as enacted by Ordi-  
nance No. 90-96, passed March 18,  
1996,

Section 609.08, as amended by  
Ordinance No. 834-03, passed June 10,  
2003,

Sections 609.09 and 609.10, as  
enacted by Ordinance No. 1414-86,  
passed November 3, 1986,

Sections 615.01, 615.02, 615.03, and  
615.04, as enacted by Ordinance No.  
90-96, passed March 18, 1996,

Sections 615.06, 615.07, and 615.08,  
as enacted by Ordinance No. 54-74,  
passed March 25, 1974,

Sections 615.091, 615.10, and 615.11,  
as enacted by Ordinance No. 90-96,  
passed March 18, 1996,

Section 615.12, as enacted by Ordi-  
nance No. 54-74, passed March 25,  
1974,

Sections 627A.01 and 627A.99, as  
amended by Ordinance No. 1130-92,  
passed May 11, 1992, and

Section 629.07, as amended by  
Ordinance No. 1475-78, passed Octo-  
ber 9, 1978,

are amended to read as follows:

**Section 605.02 Failure to Disperse**

(a) Where five or more persons  
are participating in a course of dis-  
orderly conduct in violation of Sec-  
tion 605.03, and there are other per-  
sons in the vicinity whose presence  
creates the likelihood of physical  
harm to persons or property or of  
serious public inconvenience, annoy-  
ance or alarm, a law enforcement  
officer or other public official may  
order the participants and such  
other persons to disperse. No person  
shall knowingly fail to obey such  
order.

(b) Nothing in this section re-  
quires persons to disperse who are  
peaceably assembled for a lawful  
purpose.

(c) Whoever violates this section  
is guilty of failure to disperse, a  
misdemeanor of the first degree.  
(RC Section 2917.04)

**Section 605.03 Disorderly Conduct;  
Intoxication**

(a) No person shall recklessly  
cause inconvenience, annoyance or  
alarm to another, by doing any of  
the following:

(1) Engaging in fighting, in  
threatening harm to persons or prop-  
erty, or in violent or turbulent  
behavior;

(2) Making unreasonable noise or  
offensively coarse utterance, gesture  
or display, or communicating unwar-  
ranted and grossly abusive lan-  
guage to any person, which by its  
very utterance or usage inflicts  
injury or tends to incite an immedi-  
ate breach of the peace;

(3) Insulting, taunting, or chal-  
lenging another under circum-  
stances in which such conduct is  
likely to provoke a violent response;

(4) Hindering or preventing the  
movement of persons on a public  
street, road, highway or right of  
way, or to, from, within or upon pub-  
lic or private property, so as to  
interfere with the rights of others,  
and by any act which serves no law-  
ful and reasonable purpose of the  
offender;

(5) Creating a condition which is  
physically offensive to persons or  
which presents a risk of physical

harm to persons or property, by any  
act which serves no lawful and rea-  
sonable purpose of the offender.

(b) No person, while voluntarily  
intoxicated shall do either of the fol-  
lowing:

(1) In a public place or in the  
presence of two or more persons,  
engage in conduct likely to be offen-  
sive or to cause inconvenience,  
annoyance or alarm to persons of  
ordinary sensibilities, which conduct  
the offender, if he were not intoxi-  
cated, should know is likely to have  
such effect on others;

(2) Engage in conduct or create a  
condition which presents a risk of  
physical harm to himself or another,  
or to the property of another.

(c) Violation of any statute or  
ordinance of which an element is  
operating a motor vehicle, locomo-  
tive, watercraft, aircraft, or other  
vehicle while under the influence of  
alcohol or any drug of abuse, is not  
a violation of division (b) hereof.

(d) When to an ordinary observer  
a person appears to be intoxicated,  
it is probable cause to believe such  
person is voluntarily intoxicated for  
purposes of division (b) of this sec-  
tion.

(e) Whoever violates this section  
is guilty of disorderly conduct, a  
minor misdemeanor. If the offender  
persists in disorderly conduct after  
reasonable warning or request to  
desist, disorderly conduct is a mis-  
demeanor of the first degree. (RC  
Section 2917.11)

**Section 605.05 Misconduct at an  
Emergency**

(a) No person shall knowingly:

(1) Hamper the lawful operations  
of any law enforcement officer, fire-  
fighter, rescuer, medical person,  
emergency medical services person,  
or other authorized person, engaged  
in the person's duties at the scene  
of a fire, accident, disaster, riot or  
emergency of any kind;

(2) Hamper the lawful activities  
of any emergency facility person  
who is engaged in the person's  
duties in an emergency facility.

(3) Fail to obey the lawful order  
of any law enforcement officer  
engaged in the law enforcement  
officer's duties at the scene of or in  
connection with a fire, accident, dis-  
aster, riot or emergency of any kind.

(b) Nothing in this section shall  
be construed to limit access or deny  
information to any news media rep-  
resentative in the lawful exercise of  
his duties.

(c) Whoever violates this section  
is guilty of misconduct at an emer-  
gency. Except as otherwise provid-  
ed in this Section, misconduct at an  
emergency is a misdemeanor of the  
fourth degree. If violation of this  
section creates a risk of physical  
harm to persons or property, mis-  
conduct at an emergency is a mis-  
demeanor of the first degree.

(d) As used in this section:

(1) "Emergency medical services  
person" is the singular of "emer-  
gency medical services personnel"  
as defined in Section 2133.21 of the  
Revised Code.

(2) "Emergency facility person" is  
the singular of "emergency facility  
personnel" as defined in Section  
2909.04 of the Revised Code.

(3) "Emergency facility" has the  
same meaning as in Section 2909.04  
of the Revised Code. (RC 2917.13)

**Section 605.06 Inducing Panic**

(a) No person shall cause the evacuation of any public place, or otherwise cause serious public inconvenience or alarm, by doing any of the following:

(1) Initiating or circulating a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that such report or warning is false;

(2) Threatening to commit any offense of violence;

(3) Committing any offense, with reckless disregard of the likelihood that its commission will cause serious public inconvenience or alarm.

(b) This section does not apply if:

(1) physical harm is caused to any person; or

(2) the offense results in economic harm of five hundred dollars or more; or

(3) the public place involved is a school; or

(4) the violation pertains to a purported, threatened, or actual use of a weapon of mass destruction.

(c) Division (a) of this section does not apply to any person conducting an authorized fire or emergency drill.

(d) Whoever violates this section is guilty of inducing panic, a misdemeanor of the first degree. (RC 2917.31).

**Section 605.07 Making False Alarms**

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

(1) Initiate or circulate a report or warning of an alleged or impending fire, explosion, crime or other catastrophe, knowing that the report or warning is false and likely to cause public inconvenience or alarm;

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any organization, public or private, for dealing with emergencies involving a risk of physical harm to persons or property;

(3) Report to any law enforcement agency an alleged offense or other incident within its concern, knowing that such offense did not occur.

(b) This section does not apply:

(1) to any person conducting an authorized fire or emergency drill; or

(2) if the violation results in economic harm of five hundred dollars (\$500.00) or more; or

(3) if a violation of this section pertains to a purported, threatened or actual use of a weapon of mass destruction.

(c) This section does not apply to any person conducting an authorized fire or emergency drill.

(d) Whoever violates this section is guilty of making false alarms, a misdemeanor of the first degree. (RC 2917.32).

**Section 605.071 Improper Use of 9-1-1 Telephone System**

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

(1) Initiate a call to 9-1-1 regarding an alleged or impending fire, explosion, crime, or other emergency, knowing that such report is false, and likely to cause inconvenience or alarm;

(2) Knowingly cause a false alarm of fire or other emergency to be transmitted to or within any safety service in the City of Cleveland,

for dealing with emergencies involving a risk of physical harm to persons or property;

(3) Report to 9-1-1 that an alleged offense or other incident within the respective areas of concern for the safety divisions occurred, knowing that such offense did not occur;

(4) Knowingly use the 9-1-1 system, knowing that no major critical or life threatening emergency exists and knowing that such report is likely to result in unnecessary consumption of safety services; or

(b) This section does not apply:

(1) to any person conducting an authorized fire or emergency drill; or

(2) if the violation results in economic harm of five hundred dollars (\$500.00) or more; or

(3) if a violation of this section pertains to a purported, threatened or actual use of a weapon of mass destruction.

(c) Whoever violates this section is guilty of improper use of 9-1-1 telephone system, a misdemeanor of the first degree.

**Section 605.08 Criminal Activity on School Property**

(a) No person shall threaten, menace or use improper, indecent or obscene language toward a teacher, instructor, professor, person in charge of a class of students or employee of any school, college or university while in the performance of his duties.

(b) No person shall disrupt, disturb or interfere with the teaching of any class of students, or any other activity conducted in a school, college or university building, or upon the campus or grounds thereof.

(c) No person shall assault, strike, threaten, menace, follow, pursue or use profane, indecent or obscene language toward a student or other person in a school, college or university building, or upon the campus or grounds thereof, or upon the way to or from any school, college or university sponsored activity.

(d) This section does not apply if the violation is an assault and the victim of the offense is a school teacher or administrator or a school bus operator, and the offense occurs in a school, on school premises, in a school building, on a school bus, or while the victims outside of school premises or a school bus and is engaged in duties or official responsibilities associated with the victim's employment or position as a school teacher or administrator or a school bus operator, including, but not limited to, driving, accompanying, or chaperoning students at or on class or filed trips, athletic events, or other school extracurricular activities or functions outside of school premises.

(e) Whoever violates this section is guilty of criminal activity on school property, a misdemeanor of the first degree.

**Section 609.03 Nonsupport of Dependents**

(a) No person shall abandon, or fail to provide adequate support to:

(1) His or her spouse, as required by law;

(2) His or her legitimate or illegitimate child who is under age eighteen, or mentally or physically

handicapped child who is under age twenty-one;

(3) His or her aged or infirm parent or adoptive parent, who from lack of ability and means is unable to provide adequately for his or her own support;

(4) Any person whom, by law or by court order or decree, the offender is legally obligated to support.

(b) No person shall aid, abet, induce, cause, encourage or contribute to a child or a ward of the juvenile court becoming a dependent child, as defined in Section 2151.04 of the Revised Code, or a neglected child, as defined in Section 2151.03 of the Revised Code.

(c) It is an affirmative defense to a charge under division (a) of this section of failure to provide adequate support that the accused was unable to provide adequate support, but did provide such support as was within his ability and means.

(d) It is an affirmative defense to a charge under division (a)(3) of this section that the parent abandoned the accused or failed to support the accused as required by law, while the accused was under age eighteen, or was mentally or physically handicapped and under age twenty-one.

(e) It is not a defense to a charge under division (a)(4) of this section that the person whom a court has ordered the accused to support is being adequately supported by someone other than the accused. (RC 2919.21(F))

(f) Whoever violates division (a) of this section is guilty of nonsupport of dependents, a misdemeanor of the first degree unless the offender previously has been convicted of or pleaded guilty to a violation of division (a)(2) of this section or there has been a court finding that the offender has failed to provide support under division (a)(2) or (a)(4) of this section for a total accumulated period of twenty-six weeks out of 104 consecutive weeks, whether or not the twenty-six weeks were consecutive. If the offender is guilty of nonsupport of dependents by reason of failing to provide support to his or her child as required by a child support order issued on or after April 15, 1985, pursuant to Sections 2151.23, 3105.21, 3109.05, 3111.13, 3113.04, 3113.31 or 3115.22 of the Revised Code, the court, in addition to any other sentence imposed, shall assess all court costs arising out of the charge against the person and require the person to pay any reasonable attorney's fees of any adverse party other than the State, as determined by the court, that arose in relation to the charge. Whoever violates division (b) of this section is guilty of contributing to the nonsupport of dependents, a misdemeanor of the first degree. Each day of violation of division (b) of this section is a separate offense. (RC 2919.21)

**Section 609.04 Endangering Children**

(a) No person, who is the parent, guardian, custodian, person having custody or control, or person in loco parentis of a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age, shall create a substantial risk to the health

or safety of the child, by violating a duty of care, protection or support. It is not a violation of a duty of care, protection or support under this division when the parent, guardian, custodian or person having custody or control of a child treats the physical or mental illness or defect of the child by spiritual means through prayer alone, in accordance with the tenets of a recognized religious body.

(b) No person shall abuse a child under eighteen years of age or a mentally or physically handicapped child under twenty-one years of age.

(c) No person shall operate a vehicle, streetcar, or trackless trolley within this state in violation of division (a) of Section 433.01 of the Codified Ordinances or division (A) of Section 4511.19 of the Revised Code when one or more children under eighteen years of age are in the vehicle, streetcar, or trackless trolley. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of division (a) of Section 433.01 of the Codified Ordinances or division (A) of Section 4511.19 of the Revised Code that constitutes the basis of the charge of the violation of this division. For purposes of Sections 4511.191 to 4511.197 of the Revised Code and all related provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol in the whole blood, blood serum or plasma, breath, or urine.

(d) Whoever violates this section is guilty of endangering children, a misdemeanor of the first degree, if the violation of this section does not result in serious physical harm to the child involved, or if the offender has not previously been convicted of an offense under this section, Section 2919.22 of the Revised Code or of any offense involving neglect, abandonment, contributing to the delinquency of or physical abuse of a child. (RC 2919.22)

**Section 609.07 Domestic Violence**

(a) No person shall knowingly cause or attempt to cause physical harm to a family or household member.

(b) No person shall recklessly cause serious physical harm to a family or household member.

(c) No person, by threat of force, shall knowingly cause a family or household member to believe that the offender will cause imminent physical harm to the family or household member.

(d) As used in this section:

(1) "Family or household member" means any of the following:

A. Any of the following who is residing or has resided with the offender:

1. A spouse, a person living as a spouse or a former spouse of the offender;

2. A parent or a child of the offender, or another person related by consanguinity or affinity to the offender;

3. A parent, or a child of a spouse, person living as a spouse, or former

spouse of the offender; or another person related by consanguinity or affinity to a spouse, person living as a spouse or former spouse of the offender.

B. The natural parent of any child of whom the offender is the other natural parent or is the putative other natural parent.

(2) "Person living as a spouse" means a person who is living or has lived with the offender in a common law marital relationship, who otherwise is cohabiting with the offender, or who otherwise has cohabited with the offender within five years prior to the date of the alleged commission of the act in question.

(e) Whoever violates this section is guilty of domestic violence. A violation of division (a) or (b) of this section is a misdemeanor of the first degree, if the offender has not previously been convicted of domestic violence or a violation of Sections 2903.11, 2903.12, 2903.13, 2903.14, 2909.06, 2909.07, 2903.211, 2911.12, or 2911.211, 2919.22, of the Revised Code, or Section 621.03 of the General Offenses Code involving a person who was a family or household member at the time of such violation. A violation of division (c) of this section is a misdemeanor of the fourth degree. (RC 2919.25) If the offender has a prior conviction of domestic violence under this section or a code section enumerated in this division (e), then on a first offense, a violation of division (c) of this section is a misdemeanor of the second degree. A violation of division (c) of this section is a misdemeanor of the first degree if the offender has two prior convictions of domestic violence under this section or a code section enumerated in this division (e).

(f) The same relief available under the Revised Code for filing a complaint for violation of Section 2919.25 of the Revised Code shall be available for filing a complaint for violation of this section.

**Section 609.08 Temporary Protection Order**

(a) No person shall recklessly violate the terms of any of the following:

(1) A protection order issued or consent agreement approved pursuant to Section 2919.26 or 3113.31 of the Revised Code;

(2) A protection order issued pursuant to Section 2903.213 or 2903.214 of the Revised Code;

(3) A protection order issued by a court of another state;

(b) Except as otherwise provided in divisions (B)(3) and (B)(4) of Section 2919.27 of the Revised Code, if the offense involves a violation of this section, violating a protection order is a misdemeanor of the first degree.

(c) It is an affirmative defense to a charge under division (a)(3) of this section that the protection order issued by a court of another state does not comply with the requirements specified in 18 U.S.C. 2265(b) for a protection order that must be accorded full faith and credit by a court of this state or that is not entitled to full faith and credit under 18 U.S.C. 2265(c).

(d) As used in this section, "protection order issued by a court of another state" means an injunction

or another order issued by a criminal court of another state for the purpose of preventing violent or threatening acts or harassment against, contact or communication with, or physical proximity to another person, including a temporary order, and means an injunction or order of that nature issued by a civil court of another state, including a temporary order and a final order issued in an independent action or as a pendente lite order in a proceeding for other relief, if the court issued it in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection. "Protection order issued by a court of another state" does not include an order for support or for custody of a child issued pursuant to the divorce and child custody laws of another state, except to the extent that the order for support or for custody of a child is entitled to full faith and credit under the laws of the United States. (RC 2919.27)

**Section 609.09 Criminal Child Enticement**

(a) No person, by any means and without privilege to do so, shall knowingly solicit, coax, entice or lure any child under fourteen years of age to accompany the person in any manner, including entering into any vehicle, as defined in Section 4501.01 of the Revised Code, or onto any vessel, as defined in Section 1547.01 of the Revised Code, whether or not the offender knows the age of the child, if both of the following apply:

(1) The actor does not have the express or implied permission of the parent, guardian or other legal custodian of the child in undertaking the activity;

(2) The actor is not a law enforcement officer, medic, firefighter or other person who regularly provides emergency services, and is not an employee or agent of, or a volunteer acting under the direction of any Board of Education, or the actor is any of such persons, but, at the time the actor undertakes the activity, the actor is not acting within the scope of his lawful duties in that capacity.

(b) It is an affirmative defense to a charge under division (a) of this section that the actor undertook the activity in response to a bona fide emergency situation or that the actor undertook the activity in a reasonable belief that it was necessary to preserve the health, safety or welfare of the child.

(c) Whoever violates this section is guilty of criminal child enticement, a misdemeanor of the first degree. This section does not apply if the offender previously has been convicted of this section or Sections 2909.05, 2907.02, 2907.03, 2907.12, 2905.01, or 2907.05 of the Revised Code when the victim of that prior offense was under seventeen years of age at the time of the offense. (RC 2905.05)

**Section 609.10 Contributing to Unruliness or Delinquency of a Child**

(a) No person, including a parent, guardian, or other custodian of a child, shall do either of the following:

(1) Aid, abet, induce, cause, encourage or contribute to a child or

a ward of the juvenile court becoming an unruly child as defined in Section 2151.022 of the Revised Code or a delinquent child as defined in Section 2151.02 of the Revised Code.

(2) Act in a way tending to cause a child or a ward of the juvenile court to become an unruly child as defined in Section 2151.022 of the Revised Code, or a delinquent child as defined in Section 2151.02 of the Revised Code.

(3) If the person is the parent, guardian, or custodian of a child who has the duties under Chapters 2152 and 2950 of the Revised Code to register, register a new residence address, and periodically verify a residence address, and, if applicable, to send a notice of intent to reside, and if the child is not emancipated, as defined in Section 2919.121 of the Revised Code, fail to ensure that the child complies with those duties under Chapters 2152 and 2950 of the Revised Code.

(b) Whoever violates this section is guilty of contributing to the unruliness or delinquency of a child, a misdemeanor of the first degree. Each day of violation of this section is a separate offense. (RC 2919.24)

#### **Section 615.01 Definitions**

As used in this chapter:

(a) "Public official" means any elected or appointed officer, or employee, or agent of the State or any political subdivision thereof, whether in a temporary or permanent capacity, and including without limitation legislators, judges and law enforcement officers.

(b) "Public servant" means any of the following:

(1) Any public official;

(2) Any person performing ad hoc a governmental function, including without limitation a juror, member of a temporary commission, master, arbitrator, advisor or consultant;

(3) A candidate for public office, whether or not he is elected or appointed to the office for which he is a candidate. A person is a candidate for purposes of this division if he has been nominated according to law for election or appointment to public office, or if he has filed a petition or petitions as required by law to have his name placed on the ballot in a primary, general or special election, or if he campaigns as a write-in candidate in any primary, general or special election.

(c) "Party official" means any person who holds an elective or appointive post in a political party in the United States or this State, by virtue of which he directs, conducts or participates in directing or conducting party affairs at any level of responsibility.

(d) "Official proceeding" means any proceeding before a legislative, judicial, administrative or other governmental agency or official authorized to take evidence under oath, and includes any proceeding before a referee, hearing examiner, commissioner, notary or other person taking testimony or a deposition in connection with an official proceeding.

(e) "Detention" means arrest; confinement in any vehicle subsequent to an arrest; confinement in any facility for custody of persons charged with or convicted of crime or alleged or found to be a delin-

quent child or unruly child; hospitalization, institutionalization, or confinement in any facility that is ordered pursuant to or under the authority of Sections 2945.37, 2945.371, 2945.38, 2945.39, or 2945.40 of the Revised Code; confinement in any vehicle for transportation to or from any such facility; detention for extradition or deportation; except as provided in this division, supervision by any employee of any such facility that is incidental to hospitalization, institutionalization, or confinement in the facility but that occurs outside the facility; or supervision by an employee of the department of rehabilitation and correction of a person on any type of release from a state correctional institution other than release on parole or shock probation; or confinement in any vehicle, airplane, or place while being returned from outside this state into this state by a private person or entity pursuant to a contract entered into by division (E) of Section 311.29 of the Revised Code or division (B) of Section 5149.03 of the Revised Code. For a person confined in a county jail who participates in a county jail industry program pursuant to Section 5147.30 of the Revised Code, "detention" includes time spent at an assigned work site and going to and from the work site.

(f) "Detention facility" means any place used for the confinement of a person charged with or convicted of a crime or alleged or found to be a delinquent child or unruly child.

(g) "Provider agreement" and "medical assistance program" have the same meanings as in Section 2913.40 of the Revised Code.

(h) "Valuable thing or valuable benefit" includes, but is not limited to, a contribution. This inclusion does not indicate or imply that a contribution was not included in those terms before the effective date of this division.

(i) "Campaign committee," "contribution," "political action committee," "legislative campaign fund," and "political party" and "political contributing entity" have the same meaning as in Section 3517.01 of the Revised Code. (RC 2921.01)

#### **Section 615.02 Falsification**

(a) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

(1) The statement is made in any official proceeding.

(2) The statement is made with purpose to incriminate another.

(3) The statement is made with purpose to mislead a public official in performing the public official's function.

(4) The statement is made with purpose to secure the payment of unemployment compensation; Ohio works first; prevention, retention, and contingency benefits and services; disability financial assistance; retirement benefits; economic development assistance, as defined in Section 9.66 of the Revised Code; or other benefits administered by a governmental agency or paid out of a public treasury.

(5) The statement is made with purpose to secure the issuance of a governmental agency of a license,

permit, authorization, certificate, registration, release, or provider agreement.

(6) The statement is sworn or affirmed before a notary public or another person empowered to administer oaths.

(7) The statement is in writing on or in connection with a report or return that is required or authorized by law.

(8) The statement is in writing, and is made with purpose to induce another to extend credit to or to employ the offender, or to confer any degree, diploma, certificate of attainment, award of excellence or honor on the offender, or to extend to or bestow upon the offender any other valuable benefit or distinction, when the person to whom such statement is directed relies upon it to his detriment.

(9) The statement is made with purpose to commit or facilitate the commission of a theft offense if the value of the property or services stolen is less than five hundred dollars.

(10) The statement is knowingly made to a probate court in connection with any action, proceeding, or other matter within its jurisdiction, either orally or in a written document, including, but not limited to, an application, petition, complaint, or other pleading, or an inventory, account, or report.

(11) The statement is made on an account, form, record, stamp, label or other writing that is required by law.

(12) The statement is made in a document or instrument of writing that purports to be a judgment, lien, or claim of indebtedness and is filed or recorded with the secretary of state, a county recorder, or the clerk of court of record.

(13) The statement is made with purpose to obtain an Ohio's best Rx program enrollment card under Section 5110.09 of the Revised Code or a payment from the Ohio department of job and family services under Section 5110.17 of the Revised Code.

(14) The statement is required under Section 5743.72 of the Revised Code in connection with the person's purchase of cigarettes or tobacco products in a delivery sale.

(b) It is no defense to a charge under division (a)(6) of this section that the oath or affirmation was administered or taken in an irregular manner.

(c) Where contradictory statements relating to the same fact are made by the offender within the period of the statute of limitations for falsification, it is not necessary for the prosecution to prove which statement was false, but only that one or the other was false.

(d) (1) Whoever violates any provision of divisions (a)(1) to (8) or (a)(10) to (14) of this section is guilty of falsification, a misdemeanor of the first degree.

(2) Whoever violates division (a)(9) of this section is guilty of falsification in a theft offense a misdemeanor of the first degree.

(e) A person who violates this section is subject to a civil action as described in division (G) of Section 2921.13 of the Revised Code. (RC 2921.13)

**Section 615.03 Compounding a Crime**

(a) No person shall knowingly demand, accept or agree to accept anything of value in consideration of abandoning or agreeing to abandon a pending criminal prosecution.

(b) It is an affirmative defense to a charge under this section when both of the following apply:

(1) The pending prosecution involved is for a violation of Sections 625.05, 625.11 or 625.12(b)(2) or Sections 2913.02, 2913.11, 2913.21(B)(2), or Section 2913.47 of the Revised Code of which the actor under this section was the victim;

(2) The thing of value demanded, accepted or agreed to be accepted, in consideration of abandoning or agreeing to abandon the prosecution, did not exceed an amount which the actor reasonably believed due him as restitution for the loss caused him by the offense.

(c) When a prosecuting witness abandons or agrees to abandon a prosecution under division (b) of this section, such abandonment or agreement in no way binds the State to abandoning the prosecution.

(d) Whoever violates this section is guilty of compounding a crime, a misdemeanor of the first degree. (RC 2921.21)

**Section 615.04 Failure to Report a Crime, Injury or Knowledge of Death**

(a) No person, knowing that a felony has been or is being committed, shall knowingly fail to report such information to law enforcement authorities.

(b) Except for conditions that are within the scope of division (e) of this section, no physician, limited practitioner, nurse or person giving aid to a sick or injured person, shall negligently fail to report to law enforcement authorities any gunshot or stab wound treated or observed by him, or any serious physical harm to persons that he knows or has reasonable cause to believe resulted from an offense of violence.

(c) No person who discovers the body or acquires the first knowledge of the death of any person shall fail to report the death immediately to any physician whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, ambulance service, emergency squad or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred or knowledge concerning the death is obtained.

(d) No person shall fail to provide upon request of the person to whom he has made a report required by division (c) of this section, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within his knowledge that may have a bearing on the investigation of the death.

(e) (1) As used in this division (e), "burn injury" means any of the following:

- A. Second or third degree burns;
- B. Any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air;

C. Any burn injury or wound that may result in death;

D. Any physical harm to persons caused by or as the result of fireworks, novelties and trick noise-makers, and wire sparklers, as each is defined in Section 374.01 of the Revised Code.

(2) No physician, nurse or limited practitioner who, outside a hospital, sanitarium or other medical facility, attends or treats a person who has sustained a burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(3) No manager, superintendent or other person in charge of a hospital, sanitarium or other medical facility in which a person is attended or treated for any burn injury inflicted by an explosion or other incendiary device, or that shows evidence of having been inflicted in a violent, malicious, or criminal manner, shall fail to report the burn injury immediately to the local arson bureau, if there is such a bureau in the jurisdiction in which the person is attended or treated, or otherwise to local law enforcement authorities.

(4) No person who is required to report any burn injury under division (e)(2) or (3) of this section shall fail to file, within three working days after attending or treating the victim, a written report of the burn injury with the Office of the State Fire Marshal. The report shall be made on a form developed by the State Fire Marshal.

(5) Anyone participating in the making of reports under division (e) of this section or anyone participating in a judicial proceeding resulting from the reports shall be immune from any civil or criminal liability that otherwise might be incurred or imposed as a result of such actions. Notwithstanding Section 4731.22 of the Revised code, the physician-patient relationship is not a ground for excluding evidence regarding a person's burn injury or the cause of the burn injury in any judicial proceeding resulting from a report submitted pursuant to division (e) of this section.

(f) (1) Any doctor of medicine or osteopathic medicine, hospital intern or resident, registered or licensed practical nurse, psychologist, social worker, independent social worker, social work assistant, professional clinical counselor, professional counselor, or professional counselor's assistant who knows or has reasonable cause to believe that a patient or client has been the victim of domestic violence, as defined in Section 3113.31 of the Revised Code, shall note that knowledge or belief and the basis for it in the patient's or client's records.

(2) Notwithstanding Section 4731.22 of the Revised Code, the doctor-patient privilege shall not be a ground for excluding any information regarding the report containing the knowledge or belief noted pursuant to division (f)(1) of this section,

and the information may be admitted as evidence in accordance with the Rules of Evidence.

(g) Division (a) or (d) of this section does not require disclosure of information, when any of the following applies:

(1) The information is privileged by reason of the relationship between attorney and client, doctor and patient, licensed psychologist or licensed school psychologist and client, clergyman or rabbi or minister or priest and any person communicating information confidentially to him for a religious counseling purpose in his professional character, husband and wife, or a communications assistant and those who are a party to a telecommunications relay service call.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to revealing a news source, privileged under Section 2739.04 or 2739.12 of the Revised Code.

(4) Disclosure of the information would amount to disclosure by an ordained clergyman of an organized religious body of a confidential communication made to him in his capacity as such by a person seeking his aid or counsel.

(5) Disclosure would amount to revealing information acquired by the actor in the course of his duties in connection with a bona fide program of treatment or services for drug dependent persons or persons in danger of drug dependence, which program is maintained or conducted by a hospital, clinic, person, agency or organization certified pursuant to Section 3793.06 of the Revised Code.

(6) Disclosure would amount to revealing information acquired by the actor in the course of his duties in connection with a bona fide program for providing counseling services to victims of crimes that are violations of Sections 2907.02, 2907.05 or 2907.12 of the Revised Code. As used in this division, "counseling services" include services provided in an informal setting by a person who by education or experience, is competent to provide such services.

(h) No disclosure of information pursuant to this section gives rise to any liability or recrimination for a breach of privilege or confidence.

(i) Whoever violates division (a) or (b) of this section is guilty of failure to report a crime. Violation of division (a) of this section is a misdemeanor of the fourth degree. Violation of division (b) of this section is a misdemeanor of the second degree.

(j) Whoever violates division (c) or (d) of this section is guilty of failure to report knowledge of a death, a misdemeanor of the fourth degree.

(k) (1) Whoever negligently violates division (e) of this section is guilty of a minor misdemeanor.

(2) Whoever knowingly violates division (e) of this section is guilty of a misdemeanor of the second degree. (RC 2921.22)

**Section 615.06 Obstructing Official Business**

(a) No person, without privilege to do so and with purpose to pre-

vent, obstruct or delay the performance by a public official of any authorized act within his official capacity, shall do any act which hampers or impedes a public official in the performance of his lawful duties.

(b) Whoever violates this section is guilty of obstructing official business, a misdemeanor of the second degree. (RC 2921.31)

(c) This section does not apply if a violation creates a risk of physical harm to any person.

**Section 615.07 Obstructing Justice**

(a) No person, with purpose to hinder the discovery, apprehension, prosecution, conviction or punishment of another for a misdemeanor offense, or to assist another to benefit from the commission of a misdemeanor offense, shall do any of the following:

(1) Harbor or conceal such other person;

(2) Provide such other person with money, transportation, a weapon, a disguise or other means of avoiding discovery or apprehension;

(3) Warn such other person of impending discovery or apprehension;

(4) Destroy or conceal physical evidence of the crime, or induce any person to withhold testimony or information or to elude legal process summoning him to testify or supply evidence;

(5) Communicate false information to any person;

(6) Prevent or obstruct any person by means of force intimidating, or deception, from performing any act to aid in the discovery, apprehension, or prosecution of the other person.

(b) Whoever violates this section is guilty of obstructing justice, a misdemeanor of the first degree. (RC 2921.32)

**Section 615.08 Resisting Arrest**

(a) No person, recklessly or by force, shall resist or interfere with a lawful arrest of himself or another.

(b) No person, recklessly or by force, shall resist or interfere with a lawful arrest of the person or another person and, during the course of or as a result of the interference, cause physical harm to a law enforcement officer.

(c) This section does not apply if the offender during the course of or as a result of the resistance or interference, recklessly causes physical harm to a law enforcement officer by means of a deadly weapon or during the course of the resistance or interference, brandishes a deadly weapon.

(d) Whoever violates this section is guilty of resisting arrest. A violation of division (a) of this section is a misdemeanor of the second degree. A violation of division (b) of this section is a misdemeanor of the first degree. (RC 2921.33)

**Section 615.091 Impersonation of Peace Officer or Private Policeman**

(a) As used in this section:

(1) "Peace officer" means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation or township constable

who is employed by a political subdivision of this State, a member of a police force employed by a metropolitan housing authority under RC 3735.31, a member of a police force employed by a regional transit authority under Section 306.35 of the Revised Code, a State university law enforcement officer appointed under Section 3345.04 of the Revised Code, an Ohio veterans' home policeman appointed under Section 5907.02 of the Revised Code, a special police officer employed by a port authority under Section 4528.04 or 4582.28 of the Revised Code, or a State highway patrol trooper and whose primary duties are to preserve the peace, to protect life and property and to enforce the laws, ordinances or rules of the State or any of its political subdivisions.

(2) "Private policeman" means any security guard, special policeman, private detective or other person who is privately employed in a police capacity.

(3) "Impersonate" means to act the part of, assume the identity of, wear the uniform or any part of the uniform of or display the identification of a particular person or a member of a class of persons with purpose to make another person believe that the actor is that particular person or is a member of that class of persons.

(b) No person shall impersonate a peace officer or a private policeman.

(c) No person, by impersonating a peace officer or a private policeman, shall arrest or detain any person, search any person or search the property of any person.

(d) No person, with purpose to commit or facilitate the commission of an offense, shall impersonate a peace officer, a private policeman or an officer, agent or employee of the State or the Municipality.

(e) It is an affirmative defense to a charge under division (b) of this section that the impersonation of the peace officer was for a lawful purpose.

(f) Whoever violates division (b) of this section is guilty of a misdemeanor of the fourth degree. Whoever violates divisions (c) or (d) of this section is guilty of a misdemeanor of the first degree, provided that the purpose of a violation of division (d) of this section is not to commit or facilitate the commission of a felony. (RC 2921.51)

**Section 615.10 Having an Unlawful Interest in a Public Contract**

(a) No public official shall knowingly do any of the following:

(1) During his term of office or within one year thereafter, occupy any position of profit in the prosecution of a public contract authorized by him or by a legislative body, commission, or board of which he was a member at the time of authorization, unless the contract was let by competitive bidding to the lowest and best bidder;

(2) Have an interest in the profits or benefits of a public contract entered into by or for the use of the political subdivision or governmental agency or instrumentality with which he is connected;

(3) Have an interest in the profits or benefits of a public contract which is not let by competitive bidding when required by law, and

which involves more than one hundred fifty dollars (\$150.00).

(b) In the absence of bribery or a purpose to defraud, a public official, member of his family, or any of his business associates shall not be considered as having an interest in a public contract or the investment of public funds, if all of the following apply:

(1) The interest of such person is limited to owning or controlling shares of the corporation, or being a creditor of the corporation or other organization, which is the contractor on the public contract involved, or which is the issuer of the security in which public funds are invested;

(2) The shares owned or controlled by such person do not exceed five percent of the outstanding shares of the corporation, and the amount due such person as creditor does not exceed five percent of the total indebtedness of the corporation or other organization;

(3) Such person, prior to the time the public contract is entered into, files with the political subdivision or governmental agency or instrumentality involved, an affidavit giving his exact status in connection with the corporation or other organization.

(c) This section does not apply to a public contract in which a public official, member of his family, or one of his business associates has an interest, when all of the following apply:

(1) The subject of the public contract is necessary supplies or services for the political subdivision or governmental agency or instrumentality involved;

(2) The supplies or services are unobtainable elsewhere for the same or lower cost, or are being furnished to the political subdivision or governmental agency or instrumentality as part of a continuing course of dealing established prior to the public official's becoming associated with the political subdivision or governmental agency or instrumentality involved;

(3) The treatment accorded the political subdivision or governmental agency or instrumentality is either preferential to or the same as that accorded other customers or clients in similar transactions;

(4) The entire transaction is conducted at arm's length, with full knowledge by the political subdivision or governmental agency or instrumentality involved, of the interest of the public official, member of his family, or business associate, and the public official takes no part in the deliberations or decision of the political subdivision or governmental agency or instrumentality with respect to the public contract.

(d) Division (a)(4) of this section does not prohibit participation by a public employee in any housing program funded by public moneys if the public employee otherwise qualifies for the program and does not use the authority or influence of his office or employment to secure benefits from the program and if the moneys are to be used on the primary residence of the public employee. Such participation does not con-



stitute an unlawful interest in a public contract in violation of this section.

(e) This section does not apply where a public official authorizes, or employs the authority or influence of his office to:

1. secure authorization of any public contract in which he or she, a member of his or her family or any of his or her business associates has an interest; or

2. secure the investment of public funds in any share, bond, mortgage, or other security with respect to which he, a member of his or her family, or any of his or her business associates either has an interest, is an underwriter, or receives any brokerage, origination, or servicing fees.

(f) Whoever violates this section is guilty of having an unlawful interest in a public contract. Violation of this section is a misdemeanor of the first degree.

(g) It is not a violation of this section for a prosecuting attorney to appoint assistants and employees in accordance with Section 309.06 and RC 2921.421 of this section, for a chief legal officer of a municipal corporation or an official designated as prosecutor in a municipal corporation to appoint assistants and employees in accordance with Sections 733.621 and 2921.421 of the Revised Code, or for a township law director appointed under Section 504.15 of the Revised Code to appoint assistants and employees in accordance with Sections 504.151 and 2921.421 of the Revised Code.

(h) As used in this section:

(1) "Public contract" means any of the following:

A. The purchase or acquisition, or a contract for the purchase or acquisition of property or services by or for the use of the State, any of its political subdivisions, or any agency or instrumentality of either, including the employment of an individual by the State, any of its political subdivisions, or any agency or instrumentality of either.

B. A contract for the design, construction, alteration, repair or maintenance of any public property.

(2) "Chief legal officer" has the same meaning as in Section 733.621 of the Revised Code. (RC 2921.42)

#### **Section 615.11 Soliciting or Receiving Improper Compensation**

(a) No public servant shall knowingly solicit or accept and no person shall knowingly promise or give to a public servant either of the following:

(1) Any compensation, other than is allowed by divisions (G), (H), and (I) of Section 102.03 of the Revised Code or other provisions of law, to perform his official duties, to perform any other act or service in the public servant's public capacity, for the general performance of the duties of the public servant's public office or public employment, or as a supplement to the public servant's public compensation;

(2) Additional or greater fees or costs than are allowed by law to perform his official duties.

(b) No public servant for his own personal or business use and no person for his own personal or business use or for the personal or business use of a public servant or party offi-

cial, shall solicit or accept anything of value in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;

(2) Preferring, or maintaining the status of any public employee with respect to his compensation, duties, placement, location, promotion or other material aspects of his employment.

(c) No person for the benefit of a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity shall coerce any contribution in consideration of either of the following:

(1) Appointing or securing, maintaining or renewing the appointment of any person to any public office, employment or agency;

(2) Preferring, or maintaining the status of, any public employee with respect to his compensation, duties, placement, location, promotion or other material aspects of his employment.

(d) Whoever violates this section is guilty of soliciting improper compensation, a misdemeanor of the first degree.

(e) A public servant who is convicted of a violation of this section is disqualified from holding any public office, employment or position of trust in this City for a period of seven years from the date of conviction.

(f) Divisions (a), (b) and (c) of this section do not prohibit a person from making voluntary contributions to a political party, campaign committee, legislative campaign fund, political action committee, or political contributing entity from accepting voluntary contributions. (RC 2921.43)

#### **Section 615.12 Dereliction of Duty**

(a) No law enforcement officer shall negligently do any of the following:

(1) Fail to serve a lawful warrant without delay;

(2) Fail to prevent or halt the commission of an offense or to apprehend an offender, when it is in his power to do so alone or with available assistance.

(b) No law enforcement, ministerial or judicial officer shall negligently fail to perform a lawful duty in a criminal case or proceeding.

(c) No officer, having charge of a detention facility, shall negligently do any of the following:

(1) Allow the detention facility to become littered or unsanitary;

(2) Fail to provide persons confined in the detention facility with adequate food, clothing, bedding, shelter and medical attention;

(3) Fail to control an unruly prisoner, or to prevent intimidation of or physical harm to a prisoner by another;

(4) Allow a prisoner to escape;

(5) Fail to observe any lawful and reasonable regulation for the management of the detention facility.

(d) No public official of the State shall recklessly create a deficiency, incur a liability or expend a greater

sum than is appropriated by the General Assembly for the use in any one year of the department, agency or institution of the State with which the public official is connected.

(e) No public servant shall recklessly fail to perform a duty expressly imposed by law with respect to his office, or recklessly do any act expressly forbidden by law with respect to his office.

(f) Whoever violates this section is guilty of dereliction of duty, a misdemeanor of the second degree. (RC 2921.44)

(g) As used in this section, "public servant" includes an officer or employee of a contractor as defined in Section 9.08 of the Revised Code.

#### **Section 627A.01 Definitions**

For purposes of this chapter:

(a) "Firearms" means any deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant. "Firearm" includes an unloaded firearm, and any firearm that is inoperable but that can readily be rendered operable.

(b) "Ammunition" means any ammunition cartridge, shell or other device containing explosive or incendiary material and designed and intended for use in any firearm.

(c) "Child" means any person under the age of eighteen (18) years, and includes any person between the ages of eighteen (18) and twenty-one (21) years who is of sufficient mental incompetence as to have had a legal guardian appointed by the Probate Court. (RC 2923.11)

#### **Section 627A.99 Penalties**

(a) Whoever violates the provisions of Section 627A.02 shall be guilty of a misdemeanor of the first degree.

(b) Whoever violates the provisions of Section 627A.03 shall be guilty of a misdemeanor of the third degree.

#### **Section 629.07 Nonsmoking Areas in Places of Public Assembly**

(a) As used in this section, "place of public assembly" means:

(1) Enclosed theaters, except the lobby; opera houses; auditoriums; classrooms; elevators; rooms in which persons are confined as a matter of health care, including but not limited to a hospital room and a room in a residential care facility serving as the residence of a person living in the residential care facility;

(2) All buildings and other enclosed structures owned by the State, its agencies or political subdivisions, including but not limited to hospitals and State institutions for the mentally retarded and the mentally ill; university and college buildings, except rooms within those buildings used primarily as the residence of students or other persons affiliated with the university or college; office buildings; libraries; museums; and vehicles used in public transportation. That portion of a building or other enclosed structure that is owned by the State, a State agency or a political subdivision and that is used primarily as a food service establishment is not a place of public assembly;

(3) Each portion of a building or enclosed structure that is not included in subsection (a)(1) or (2) hereof is a place of public assembly if it has a seating capacity of fifty or more persons and is available to the public. Restaurants, food service establishments, dining rooms, cafes, cafeterias or other rooms used primarily for the service of food, as well as bowling alleys and places licensed by the Department of Liquor Control to sell intoxicating beverages for consumption on the premises, are not places of public assembly.

(b) For the purpose of separating persons who smoke from persons who do not smoke for the comfort and health of persons not smoking, in every place of public assembly there shall be an area where smoking is not permitted, which shall be designated a no smoking area. Provided that, no more than one-half of the rooms in any health care facility in which persons are confined as a matter of health care may be designated as smoking areas in their entirety. The designation shall be made before the place of public assembly is made available to the public. In places included in division (a)(1) of this section the local fire authority having jurisdiction shall designate the no smoking area. In places included in division (a)(2) of this section that are owned by the Municipality, Council shall designate an officer who shall designate the area. In places included in division (a)(3) of this section, the person having control of the operations of the place of public assembly shall designate the no smoking area. In places included in division (a)(2) of this section which are also included in division (a)(1) of this section, the officer who has authority to designate the area in places in division (a)(2) of this section designate the no smoking area. A no smoking area may include the entire place of public assembly. Designations shall be made by the placement of signs clearly visible and that state "NO SMOKING". No person shall remove signs from areas designated as no smoking areas.

(c) No person shall smoke in any area designated as a no smoking area in accordance with division (b) of this section of Section 3791.031 of the Revised Code.

(d) Whoever violates this section is guilty of a minor misdemeanor. (RC 3791.031)

**Section 2.** That the following existing sections of the Codified Ordinances of Cleveland, Ohio, 1976: Sections 605.02 and 605.03, as enacted by Ordinance No. 1015-91, passed July 24, 1991,

Section 605.05, as amended by Ordinance No. 834-03, passed June 10, 2003,

Sections 605.06 and 605.07, as enacted by Ordinance No. 54-74, passed March 25, 1974,

Section 605.071, as amended by Ordinance No. 1783-97, passed June 12, 2000,

Section 605.08, as amended by Ordinance No. 1015-74, passed July 29, 1974,

Section 609.03, as amended by ordinance No. 2823-89, passed March 19, 1990,

Section 609.04, as amended by Ordinance No. 1414-86, passed November 3, 1986,

Section 609.07, as enacted by Ordinance No. 90-96, passed March 18, 1996,

Section 609.08, as amended by Ordinance No. 834-03, passed June 10, 2003,

Sections 609.09 and 609.10, as enacted by Ordinance No. 1414-86, passed November 3, 1986,

Sections 615.01, 615.02, 615.03, and 615.04, as enacted by Ordinance No. 90-96, passed March 18, 1996,

Sections 615.06, 615.07, and 615.08, as enacted by Ordinance No. 54-74, passed March 25, 1974,

Sections 615.091, 615.10, and 615.11, as enacted by Ordinance No. 90-96, passed March 18, 1996,

Section 615.12, as enacted by Ordinance No. 54-74, passed March 25, 1974,

Sections 627A.01 and 627A.99, as amended by Ordinance No. 1130-92, passed May 11, 1992, and

Section 629.07, as amended by Ordinance No. 1475-78, passed October 9, 1978, are repealed.

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

Passed March 20, 2006.

Effective March 24, 2006.

**Ord. No. 2163-05.**

**By Council Member Brady.**

**An emergency ordinance to amend Section 237.03 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 650-05, passed June 6, 2005, relating to configuration of adult video booths.**

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 237.03 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 650-05, passed June 6, 2005, is amended to read as follows:

**Section 237.03 Configuration**

No person shall operate an Adult Video Arcade or an Adult Live Entertainment Arcade unless the Arcade complies with the following requirements:

(a) It is the duty of the owners and operator of the premises to ensure that at least one employee is on duty and can see the monitor located at the manager's station at all times that any patron is present inside the premises.

(b) The premises' owner or operator installs a camera system in the video booths that complies with the following requirements:

(1) The owner or operator operates the camera system when any of the booths are available for viewing videos.

(2) The owner or operator numbers all the booths in the store with an individual number so that the booth is identified on the monitor,

the digital recording, and the maintenance log.

(3) The camera system includes an individual camera in each video booth.

(4) The individual cameras are placed in the booths in a way that shows the people inside the booths from at least the knees to the shoulders.

(5) Each Video Arcade will ensure that nothing obstructs the camera from showing the people inside the booths from at least the knees to the shoulders.

(6) Each Video Arcade will immediately remove anything that obstructs the camera from showing the people inside the booths from at least the knees to the shoulders.

(7) The camera system has a monitor at the manager's station so that the owner, operator, or employee who is present in the store can view it.

(8) The monitor faces into the store's public area so that it is visible from the public area.

(9) The monitor's screen is not obstructed from view from the public area at any time that the store is open to the public.

(10) The monitoring system operates on a switcher system so that the monitor switches sequentially and continuously from one camera to another. The continuous switching process will be timed to allow an adequate view of each area surveyed by each camera. The view inside each booth must be at least four seconds, but not more than six seconds. Once the camera system completes a circuit showing the inside of all the booths, the system must immediately start a new circuit showing inside all the booths.

(11) The monitor and the recording identify the booth number for the booth that is being shown on the monitor.

(12) The camera system records the view required in division (b)(10) of this section in digital format on a minimum five consecutive days recording loop. The owner or operator must maintain at least the most recent five-day period's recordings at all times.

(13) The camera system records the date and time for the recorded images.

(14) The owner or operator places a sign that is at least 5" by 7" in a conspicuous place in each booth stating words to the effect: "This arcade installed a video-camera-monitoring-and-recording system in this booth. The arcade monitors and records activity in this booth."

(15) If anyone removes or defaces the sign required by division (b)(14) of Section 237.03, then the owner or operator will replace the sign with a new one as soon as store personnel find that the sign has been removed or defaced. The owner or operator must keep enough extra signs in supply at the store to be able to replace any sign as needed.

(16) If a camera is not operating in any booth, the store must close that booth until the camera is repaired. "Not operating" means that the camera does not transmit images showing the booth's interior so that the image is shown on the monitor and recorded by the recording device.

(17) If the entire camera system is not operating, then the Video Arcade may not operate any video booths until the system is repaired.

(18) Each Video Arcade will keep a log for every time the camera system or an individual camera is not working. The log also must note any time that the sign required by division (b)(14) of Section 237.03 is defaced or removed. The log should show the date and time the camera or camera system stopped working, the date and time a repair company fixed it, and the repair company's contact information. The owner or operator must immediately provide a copy of this log to City officials on request.

(c) Restrooms may not contain video-reproduction equipment and shall not be used for viewing videos.

(d) No owner or operator, and no person who is the owner's or operator's agent or employee, shall fail to ensure that the requirements of division (b) of this section are met at all times.

(e) Except inside the video booths, the owner or operator will provide artificial light at the premises in all areas where the public is permitted at a level that provides an average illumination of 10 foot candles (107 lux) over the area at a height of 30 inches above the floor level. Inside the video booths, the owner or operator will provide artificial light at a level that allows the activities inside the booth to be clearly visible on the camera system's monitor and recordings. If City officials cannot clearly see activities inside the booths either on the camera system's monitor or recordings, then the Video Arcades must raise the light level inside the booths to the point where the activities are clearly visible.

(f) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

(g) No viewing room or booth may be occupied by more than one person at any time.

(h) No opening of any kind shall exist between viewing rooms or booths.

(i) It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one person at a time occupies a viewing booth or room, and to ensure that no person attempts to make an opening of any kind between the viewing booths or rooms.

(j) The operator of the sexually oriented business, either personally or through an agent or employee, shall regularly during each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

(k) The operator of the sexually oriented business, either personally or through an agent or employee, shall regularly during each business day clean the viewing booths.

(l) The operator of the sexually oriented business, either personally or through an agent or employee,

shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

(m) The operator of the sexually oriented business, either personally or through an agent or employee, shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable material. No wood, plywood, composition board or other porous material shall be used within 48 inches of the floor.

**Section 2.** That existing Section 237.03 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 650-05, passed June 6, 2005, is repealed.

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

Passed March 20, 2006.

Effective March 24, 2006.

**Ord. No. 2210-05.**

**By Council Members Jackson, Pierce Scott and Cimperman (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 5158 Broadway Avenue to Dr. Javier Lopez.**

Whereas, the Director of Economic Development has requested the sale of the City-owned property to Dr. Javier Lopez no longer needed for public use and located at 5158 Broadway Avenue; 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 property located at 5158 Broadway Avenue, depicted on the map placed in File No. 2210-05-A, is no longer needed for public use.

**Section 2.** That the Commissioner of Purchases and Supplies is authorized to sell the above-described property to Dr. Javier Lopez under terms to be negotiated by the Department of Economic Development, at the appraised price of \$130,000, which is determined to be fair market value 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.

Passed March 20, 2006.

Effective March 24, 2006.

**Ord. No. 7-06.**

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

**An emergency ordinance authorizing the Director of Public Service to enter into one or more contracts with Cuyahoga County for professional services necessary to perform bridge inspections; and to supplement the Codified Ordinances of Cleveland, Ohio, 1976, by enacting new Section 131.061 relating to agreements with Cuyahoga County for annual bridge inspections.**

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 one or more contracts with Cuyahoga County for professional services necessary to perform bridge inspections for a one year period in the total sum of \$90,000, for the Department of Public Service. The contracts or contracts shall be paid from Fund No. 01-400401-632000, Request No. 166653.

**Section 2.** That the Codified Ordinances of Cleveland, Ohio, 1976, are supplemented by enacting new Section 131.061 to read as follows:

**Section 131.061 Agreements with Cuyahoga County for Annual Bridge Inspections**

The Director of Public Service is authorized to enter into successive agreements, each for a term not to exceed one year, with the Board of County Commissioners, County of Cuyahoga, for the County to perform annual bridge inspections in the City of Cleveland. The cost of the contract for each year shall be subject to annual appropriation.

**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 March 20, 2006.

Effective March 24, 2006.

**Ord. No. 109-06.**

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

**An emergency ordinance authorizing the Director of Public Utilities to make alterations and modifications in Contract No. 63697, for the West 28th Street/Chatham area sewer project with Fabrizi Trucking Paving Inc., for the Department of Public Utilities.**

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

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

**Section 1.** That the Director of Public Utilities is authorized to make the following alterations and modifications in Contract No. 63697 with Fabrizi Trucking & Paving Inc. for the West 28th Street/Chatham area sewer project, for the Department of Public Utilities:

**West 28th/Chatham Area Sewer Project  
City Contract No. 63697 A  
Subsidiary Agreement — Schedule of Items**

Balance in Contract	\$ 10,588.10	
1. Asphalt Restoration		\$ 19,845.00
Total		\$ 19,845.00
Balance to be paid	\$ 19,845.00	
Less Amount Remaining in Contract	<u>- 10,588.10</u>	
TOTAL SUBSIDIARY ADDITIONS	\$ 9,256.90	
Original Contract Amount	\$ 196,823.00	
Total Subsidiary Additions	<u>+ 9,256.90</u>	
REVISED CONTRACT AMOUNT	\$ 206,079.90	

which alteration has been recommended in writing by the Director of Public Utilities, countersigned by the Mayor, and consented to by the surety on the contract, which price to be paid has been agreed upon in writing and signed by the Director of Public Utilities and the contractor. This alteration will cause an increase in the amount of the original contract in the sum of \$9,256.90, to be paid from Fund No. 54 SF 001.

**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 March 20, 2006.

Effective March 24, 2006.

**Ord. No. 158-06.**

**By Council Members Zone and Sweeney (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 2006, and authorizing Cleveland Public Power to apply any remaining proceeds from previously collected tax remittances and interest thereon.**

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, under Ordinance No. 2197-04, passed January 10, 2005, 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 2005; and

Whereas, legislative authority is necessary to permit the general fund to retain tax remittances collected by Cleveland Public Power during calendar year 2006 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 remittances

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, and Ordinance No. 2197-04, passed January 10, 2005, the general fund shall retain 100% of the tax remittances collected under Section 5727.81 of the Revised Code during calendar year 2006.

**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 March 20, 2006.

Effective March 24, 2006.

**Ord. No. 193-06.  
By Council Members Cimperman,  
Lewis, Pierce Scott, Brady and  
Sweeney (by departmental request).**

**An emergency ordinance authorizing the Director of Public Service to enter into a Local Project Administration Agreement with Ohio Department of Transportation to partially fund rehabilitating a portion of St. Clair Avenue; determining the method of making the public improvement; authorizing the Director to enter into one or more public improvement contracts to construct the improvement; and to employ one or more professional consultants necessary to design 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 partially fund a portion of St. Clair Avenue; determining the method of making the public improvement; to employ one or more professional consultant necessary to design the improvement; and authorizing the Director to enter into one or more public improvement contracts to construct the improvement.

**Section 2.** That, under Section 167 of the Charter of the City of Cleveland, this Council determines to make the public improvement of rehabilitating a portion of St. Clair Avenue from E. 55th Street to E. 72nd Street (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 3.** 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 4.** That the Director of Public Service is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to design the Improvement.

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

Public Service for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Public Service, and certified by the Director of Finance.

**Section 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, 20 SF 506, and from the fund or funds to which are credited the proceeds of the Local Project Agreement authorized in this ordinance, Request No. 166652.

**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 March 20, 2006.

Effective March 24, 2006.

**Ord. No. 197-06.  
By Council Members Cimperman,  
Pierce Scott and Sweeney (by departmental request).**

**An emergency ordinance authorizing the Director of Economic Development to enter into contract with PerceptIS, LLC to provide economic development assistance to partially finance the build-out of a new enterprise service center and to purchase equipment for the facility located at 1228 Euclid Avenue and all other associated costs necessary to redevelop the property.**

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 contract with PerceptIS, LLC to provide economic development assistance to partially finance the build-out of a new enterprise service center and to purchase equipment for the facility and all other associated costs necessary to redevelop the property located at 1228 Euclid Avenue.

**Section 2.** That the terms of the loan shall be according to the terms set forth in the Summary contained in File No. 197-06-A, made a part of this ordinance as if fully rewritten, as presented to the Finance Committee of this Council at the public hearing on this legislation, is approved in all respects and shall not be changed without additional legislative authority.

**Section 3.** That the costs of the contract shall not exceed Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00), and shall be paid from Fund Nos. 17 SF 008 and 12 SF 954, which funds are appropriated for this purpose, Request No. 103689.

**Section 4.** That the Director of Economic 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 shall be prepared and approved by the Director of Law.

**Section 5.** That the Director of Economic Development is authorized to accept monies in repayment of the loan and to deposit the monies in Fund Nos. 17 SF 006 and 12 SF 958.

**Section 6.** That the Director of Economic 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 shall be deposited to and expended from Fund No. 17 SF 305, Loan Fees Fund.

**Section 7.** That the contract and other appropriate documents needed to complete the transaction authorized by this legislation shall be prepared by the Director of Law.

**Section 8.** The contract authorized in this legislation will require the recipient of financial assistance to work with The Workforce Investment Board for Workforce Area No. 3 to identify and solicit qualified candidates for job opportunities related to the City's contracts, and place special emphasis on the hard to employ, including but not limited to the disabled and persons who have been convicted of or have pled guilty to a criminal offense, unless the criminal conviction or related circumstances relate to the duties for the particular job sought.

**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 March 20, 2006.

Effective March 24, 2006.

**Ord. No. 242-06.  
By Council Members Zone and  
Sweeney (by departmental request).**

**An emergency ordinance authorizing the Director of Finance to enter into one or more contracts to conduct a study to determine whether to upgrade or replace the City-wide 800 MHz radio system, including a comprehensive study of the City's needs and a technical and financial feasibility analysis; and authorizing the director to apply for and accept grants and other funds for this purpose.**

Whereas, the City of Cleveland owns and operates an 800 MHz radio communications system for the benefit of its police, fire, utility, and airport operations and various other departments of the City; and

Whereas, the City intends to upgrade or replace the existing radio system in the near future to take advantage of newer technology, replace obsolete equipment, and integrate the City's radio system

with those of the county and other regional agencies to achieve the interoperability mandated by the U.S. Department of Homeland Security; and

Whereas, to proceed with the planning stages of this project it is necessary to conduct a comprehensive study of the City's internal needs and conduct a technical and financial feasibility assessment and analysis; and

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

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

**Section 1.** That the Director of Finance is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments to provide professional services necessary to conduct a comprehensive evaluation of the City's internal needs and a technical and financial feasibility analysis and assessment, including evaluating the current usage and performance of the 800 MHz system, conducting a technical and business risk assessment and analysis, recommending an action plan to extend the life of obsolete equipment, conducting an interagency feasibility study on the City, county, and regional interoperability capabilities, assisting in securing Homeland Security and other funding; and assisting in identifying any new federal mandates that may impact the City's short-term and long-term requirements.

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

**Section 2.** That the Director of Finance is authorized to apply for and accept grants and other funds that may become available for the purposes of funding the project authorized by this ordinance and to execute all documents necessary to receive such funds, and that the funds are appropriated for the purposes described in this ordinance.

**Section 3.** That the costs of the contract or contracts authorized by this ordinance shall be paid from the fund or funds to which are deposited, any grants or other funds accepted under this ordinance and from Fund Nos. 11 SF 006, 52 SF 001, 58 SF 001, Fund 54 SF 001, and 60 SF 001. Request No. 146285.

**Section 4.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and

approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed March 20, 2006.

Effective March 24, 2006.

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**Ord. No. 243-06.**  
**By Council Members Zone and Sweeney (by departmental request).**  
**An emergency ordinance authorizing the Director of Public Utilities to enter into agreements for the planning and reconfiguration of the City's 800 MHz radio communications system to comply with federal mandates and to provide for the payment of the City's eligible costs by Sprint Nextel.**

Whereas, the City of Cleveland owns and operates a Motorola 800 MHz radio communications system for the benefit of its police, fire, utility, and airport operations and various other departments of the City; and

Whereas, by orders dated August 6, 2004 and December 22, 2004, the Federal Communications Commission (FCC) modified its rules governing use of the 800 MHz band to address the interference to radio communications systems operated by various state and local agencies caused by the wireless operations of Nextel Communications on the same 800 MHz band, and appointed a Transition Administrator; and

Whereas, Nextel subsequently merged with Sprint Corporation, and, under the FCC orders, Sprint Nextel will bear the reasonable, prudent, and necessary costs of planning for and reconfiguring the state and local radio communications systems to relocate the systems to different frequencies on the 800 MHz band to minimize interference and provide comparable technological and operational capabilities; and

Whereas, to participate in the reconfiguration program, the City must apply for planning funding, conduct various technical studies to analyze the impact on the City's radio system, and implement any necessary activities to reconfigure the City's system; and

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

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

**Section 1.** That the Director of Public Utilities is authorized to enter into such agreements with Sprint Nextel and the Transition Administrator and to execute such other applications, agreements, and other documents as may be necessary for the planning and reconfiguration of the City's 800 MHz radio system under orders and rules issued by the FCC, and for the payment or reimbursement by Sprint Nextel of the City's related costs. Such agreements may authorize the City to transfer to Sprint Nextel legal title to any City equipment replaced at the cost of Sprint Nextel.

**Section 2.** That the Director of Public Utilities is authorized to employ by contract or contracts one

or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments to provide professional services necessary for the planning and reconfiguration of the City's 800 MHz radio system, including requesting planning funding, inventorying subscriber equipment and infrastructure facilities, analyzing the existing 800 MHz system and defining the interoperability environment, evaluating proposed new frequencies, preparing cost estimates, preparing the statement of reconfiguration work, negotiating frequency reconfiguration agreements, assisting in any necessary negotiations and mediation with Sprint Nextel and the Transition Administrator, preparing any necessary FCC license applications or reports, preparing specifications for any equipment and infrastructure necessary to accomplish the reconfiguration, implementing the reconfiguration, and retaining and managing engineering and other technical consultants, contractors, and vendors.

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

**Section 3.** That if the reconfiguration of the City's 800 MHz radio system requires the upgrade of Motorola equipment or the replacement of such equipment with new Motorola equipment, such acquisition is non-competitive and cannot be secured from any source other than Motorola because of the proprietary nature of such equipment, and the Director of Public Utilities is authorized to enter into agreements with Sprint Nextel and Motorola to accept such equipment.

**Section 4.** That the Director of Public Utilities is authorized to make one or more written contracts under the Charter and Codified Ordinances of Cleveland, Ohio, 1976, for radio communications equipment necessary for the reconfiguration of the City's 800 MHz system and not supplied under other sections of this ordinance, to be purchased by the Commissioner of Purchases and Supplies on a unit basis, for the Department of Public Utilities.

**Section 5.** That the contract or contracts authorized by sections 2, 3, and 4 of this ordinance shall provide that to the extent that such costs are eligible to be paid by Sprint Nextel, such costs shall be the responsibility of Sprint Nextel and the City shall have no liability to such vendor(s) for such costs. The City shall retain the right to approve all work performed under such contracts and to review all invoices prior to payment.

**Section 6.** That the costs, if any, of any contract or contracts authorized by sections 2 and 4 of this ordinance that are not eligible for payment by Sprint Nextel shall be paid by each user department or division based upon such user's proportionate use of the radio system and shall be paid from funds legally available and appropriated for the use of the various departments and divisions to pay such expenses.

**Section 7.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed March 20, 2006.  
Effective March 24, 2006.

**Ord. No. 244-06.**  
**By Council Members Zone and Sweeney (by departmental request).**  
**An emergency ordinance authorizing the Director of Public Utilities to enter into a "Long-Term Power Purchase Schedule" with AMP-Ohio that includes authorization to prepay and to temporarily or permanently finance all or a portion of the costs of the purchase of the electricity and the related prepayment and financing costs.**

Whereas, the City of Cleveland owns and operates Cleveland Public Power ("CPPP"), a municipal electric utility, to provide electricity to the residents and businesses of Cleveland; and

Whereas, the City is a member of American Municipal Power — Ohio, Inc. ("AMP-Ohio"), a non-profit corporation that generates, transmits, purchases, and sells electricity for its member municipal electric utilities through master services agreements with each of its members; and

Whereas, the City and AMP-Ohio are negotiating and will execute, upon this Council's authorization through separate legislation, a new master services agreement to provide for the purchase and sale of electricity and the provision of other services; and

Whereas, AMP-Ohio has negotiated an economical long-term wholesale power purchase from J. Aron & Company, an affiliate of the Goldman Sachs Group, on behalf of its members and has proposed to sell up to approximately 100,000 kilowatts of this power to CPP through the new master services agreement for a cost not to exceed \$0.05 per kilowatt-hour (excluding taxes, transmission costs, replacement power costs, AMP-Ohio service fees, and any other costs expressly described in such schedule) for delivery beginning in March 2006 and ending no later than December 31, 2012; and

Whereas, to provide further savings to its member utilities, AMP-Ohio may prepay all or a portion of the wholesale power purchase price and temporarily or permanently finance all or a portion of the prepayment to obtain a discount from the power supplier; and

Whereas, to accomplish the proposed power purchase and possible prepayment, it is necessary for the City and AMP-Ohio to enter into a "Long-Term Power Purchase Schedule" that contains the specific terms and conditions relating to the proposed power purchase and possible prepayment and in other respects prescribes the rights and responsibilities of the parties; and

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

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

**Section 1.** That the Director of Public Utilities is authorized to enter into a "Long-Term Power Purchase Schedule" with AMP-Ohio substantially in the form contained in File No. 244-06-A.

**Section 2.** That the "Long-Term Power Purchase Schedule" authorized by this ordinance shall have a term ending no later than December 31, 2012, and shall have a price not to exceed \$0.05 per kilowatt-hour (excluding taxes, transmission costs, replacement power costs, AMP-Ohio service fees, and any other costs expressly described in such schedule).

**Section 3.** That all costs of the power to be acquired and any savings realized through the prepayment financing shall be passed through to CPP's customers at cost as required by Section 523.21 of the Codified Ordinances and shall be payable by CPP as an operating expense consistent with CPP's payments for purchased power generally.

**Section 4.** That it is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of the Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

**Section 5.** That the Director of Finance and the Director of Public Utilities are authorized, upon receiving requisite consent of the insurer of the Cleveland Public Power Mortgage Revenue Bonds, to make, execute, acknowledge and deliver to the Trustee, a Sixth Supplemental Trust Indenture, as needed to comply with representations made in the "Long-Term Power Purchase Schedule" authorized by this ordinance and as may be needed to accomplish other transactions.

**Section 6.** That if any section, subsection, paragraph, clause, or provision of this ordinance shall be finally adjudicated by a court of competent jurisdiction to be invalid in whole or in part, the remainder of this ordinance shall be unaffected by such adjudication and all the remaining provisions of this ordinance shall remain in full force and effect as though such section, subsection, paragraph, clause, provision, or part adjudicated to be invalid had not, to the extent of such invalidity, been included in this ordinance.

**Section 7.** That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed March 20, 2006.  
Effective March 24, 2006.

**Ord. No. 245-06.**  
**By Council Members Zone and Sweeney (by departmental request).**

**An emergency ordinance authorizing the Director of Public Utilities to enter into a master services agreement with AMP-Ohio to provide for the purchase and sale of wholesale electricity for Cleveland Public Power; and to terminate Contract No. 35162 with AMP-Ohio.**

Whereas, the City of Cleveland is a member of American Municipal Power — Ohio, Inc. ("AMP-Ohio"), a non-profit corporation engaged in generating, transmitting, purchasing, and selling wholesale electricity for its member municipal electric systems and providing various technical services; and

Whereas, under the authority of Ord. No. 2389-84, passed December 10, 1984, the City and AMP-Ohio entered into a master services agreement on February 21, 1985, to provide for the purchase and sale of wholesale electricity for Cleveland Public Power (City Contract No. 35162); and

Whereas, AMP-Ohio and the City desire to enter into a new master services agreement to reflect changes in the electric utility industry and to enable Cleveland Public Power to acquire engineering services, training, and other technical services and support from AMP-Ohio and its affiliated entities; 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 it is determined that the services authorized in this ordinance are non-competitive and cannot be secured from any source other than AMP-Ohio in that AMP-Ohio is the sole agency engaged in providing such services for municipal electric systems in Ohio.

**Section 2.** That the Director of Public Utilities is authorized to enter into a master services agreement with AMP-Ohio, Inc. and its affiliated entities substantially in the form contained in File No. 245-06-A.

**Section 3.** That City Contract No. 35162 is terminated with the exception of transactions between the City and AMP-Ohio that have not yet been completed. Such transactions shall continue in full force and effect and be governed by their original terms unless the Director of Law determines that it is in the best interest of Cleveland Public Power to request AMP-Ohio to convert one or more transactions to the new master services agreement.

**Section 4.** That the costs of the expenditures authorized by this ordinance for wholesale electricity, transmission, and related services shall be paid solely from the revenues derived from the sale of electricity by Cleveland Public Power, and that the costs, if any, of engineering, training, and other technical services and support shall be paid from funds appropriated for such purposes.

**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 March 20, 2006.  
Effective March 24, 2006.

**Ord. No. 255-06.**  
**By Council Members Johnson and Sweeney (by departmental request).**  
**An emergency ordinance authorizing the purchase by one or more requirement contracts of Urban Forestry maintenance services, for the Division of Park Maintenance and Properties, Department of Parks, Recreation and Properties, for a period of one year.**

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

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

**Section 1.** That the Director of Parks, Recreation and Properties is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one year for the necessary items of Urban Forestry property maintenance services in the approximate amount as purchased during the preceding year, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Division of Park Maintenance and Properties, Department of Parks, Recreation and Properties. Bids shall be taken in a manner as to permit an award to be made for all items as a single contract, or by separate contract for each or any combination of items as the Board of Control shall determine. Alternate bids for a period less than a year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire year.

**Section 2.** That the cost of the contract or contracts shall be charged against the proper appropriation account and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract duly certified by the Director of Finance. (RL 158754)

**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.

Passed March 20, 2006.  
Effective March 24, 2006.

**Ord. No. 290-06.**  
**By Council Members Zone and Sweeney (by departmental request).**  
**An emergency ordinance authorizing the issuance of Bonds by the City for the purpose of refunding a portion of the City's currently Outstanding Public Power System First Mortgage Revenue Bonds to obtain debt service savings; authorizing hedge agreements; authorizing a supplemental indenture or an amended and restated indenture and certain other documents related thereto; and authorizing and approving related matters.**

Whereas, the City of Cleveland, Ohio (the "City"), a municipal corporation and political subdivision in and of the State of Ohio, is authorized and empowered pursuant to Article XVIII of the Constitution of the State of Ohio and the Charter of the City, among other things: (a) to own and operate the public utility hereinafter defined and referred to as "Cleveland Public Power"; (b) to make, from time to time, such additions, extensions, improvements, replacements and alterations to Cleveland Public Power as it may deem advisable; (c) to borrow money for the purpose of providing funds for such additions, extensions, improvements, replacements and alterations and to refund obligations issued for such purpose; (d) to issue its bonds and notes in anticipation thereof, in evidence of money borrowed for such purpose in the manner and on the terms set forth in the Indenture, as hereinafter defined, and to issue Series 2006 Bonds to refund, in advance or otherwise, such bonds or notes; and (e) to secure any bonds, or notes issued in anticipation thereof, by a pledge of and lien on the Net Revenues, as hereinafter defined, of Cleveland Public Power and by a mortgage on the properties of Cleveland Public Power, including with respect to any bonds, as a part of the mortgaged properties a franchise stating the terms upon which, in the event of foreclosure, a purchaser at a foreclosure sale of the mortgaged properties may operate the same for a period of years from the date of such sale; and

Whereas, by and pursuant to Ordinance No. 1516-91, duly passed on July 24, 1991 (the "Original Bond Legislation"), this Council authorized the issuance of Public Power System Improvement First Mortgage Revenue Bonds, dated September 1, 1991 in the aggregate principal amount of \$66,930,000 consisting of Series 1991A Bonds in the aggregate amount of \$13,895,000 for the purposes of paying Capital Costs and Series 1991B Bonds in the aggregate amount of \$53,035,000 for the pur-

pose of refunding all of the outstanding revenue bonds that had previously been issued for Cleveland Public Power (collectively herein the "Series 1991 Bonds"), all as defined in the Original Bond Legislation; and

Whereas, the Series 1991 Bonds were issued under and secured on a parity with any Additional Bonds by a Trust Indenture, dated as of September 1, 1991 (the "Original Indenture"), between the City and Star Bank, N.A., Cincinnati, Ohio, as Trustee, now known as U.S. Bank National Association (the "Trustee"); and

Whereas, the Original Bond Legislation provides, in Section 12 thereof, that the City may issue Additional Bonds on a parity with the Series 1991 Bonds for certain purposes including the payment of Capital Costs and the refunding of obligations issued for that purpose; and

Whereas, pursuant to Ordinance No. 1133-93, duly passed on June 7, 1993, this Council authorized the issuance of Additional Bonds, entitled Public Power System First Mortgage Revenue Bonds, Series 1994A (the "Series 1994A Bonds"), in the aggregate principal amount of \$179,775,000, for the purpose of providing funds for Capital Costs and to refund notes issued for such purpose; and

Whereas, pursuant to Ordinance No. 55-94, duly passed on June 6, 1994, this Council authorized the issuance of Additional Bonds, entitled Public Power System First Mortgage Revenue Bonds, Series 1994B (the "Series 1994B Bonds"), in the aggregate principal amount of \$39,330,000, for the purpose of providing funds for the payment of a judgment involving the City and Cleveland Public Power and to refund notes issued for such purposes (the Series 1994A Bonds and the Series 1994B Bonds are hereinafter collectively referred to as the "Series 1994 Bonds"); and

Whereas, pursuant to Ordinance No. 1003-95, duly passed on June 19, 1995, this Council authorized the issuance of Additional Bonds entitled Public Power System First Mortgage Revenue Bonds, Series 1996, Sub-Series 1 (the "Series 1996 Bonds") in the aggregate principal amount of \$123,720,000, for the purpose of providing funds for the refunding of a portion of the Series 1994A Bonds; and

Whereas, pursuant to Ordinance No. 816-98, duly passed on June 8, 1998, this Council authorized the issuance of Additional Bonds entitled Public Power System Revenue Bonds, Series 1998 (the "Series 1998 Bonds") in the aggregate principal amount of \$44,840,000, for the purpose of providing funds for the refunding of a portion of the Series 1991 Bonds and a portion of the Series 1994A Bonds; and

Whereas, further pursuant to Ordinance No. 816-98, this Council authorized the issuance of Additional Bonds entitled Public Power System Refunding Revenue Bonds, Series 2001 (the "Series 2001 Bonds") in the aggregate principal amount of \$41,925,000, for the purpose of providing funds for the current refund-



ing of a portion of the Series 1991 Bonds; and

Whereas, this Council has determined that the City may achieve further reductions in the Bond Service Charges by refunding certain Outstanding Bonds through the issuance and sale of Additional Bonds ("Series 2006 Bonds"); and

Whereas, this Council has determined to authorize the City to enter into interest rate swap, swaption and other hedging arrangements with respect to the Outstanding Bonds and the Series 2006 Bonds in order to obtain reductions in Bond Service Charges as provided in this Ordinance; and

Whereas, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department and providing for the immediate preservation of the public peace, property, health or safety in that authorizing the Series 2006 Bonds to refund Outstanding Bonds is necessary to enable Cleveland Public Power to take advantage of favorable market conditions on a timely basis to obtain debt service savings; now, therefore,

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

**Section 1. Definitions.** In addition to the words and terms defined in the Original Bond Legislation and in the Original Indenture as previously amended and supplemented, which shall have the same meaning herein as therein unless otherwise defined herein or unless the context or use otherwise indicates, the following words and terms as used in this Ordinance, the Indenture and the Series 2006 Bonds (each as hereinafter defined) shall have the following meanings unless the context or use otherwise indicates. Words importing the singular number shall include the plural number, and vice versa, and the terms "hereof," "herein," "hereby," "hereto," and "hereunder" and similar terms refer to this Series 2006 Bond Legislation and the Indenture, unless the context otherwise indicates. The use of 2006 in the definition of the Bonds, Bond Legislation, Certificate of Award and other defined terms shall not be construed to require the issuance of the Series 2006 Bonds of any series in calendar year 2006. The Director of Finance shall replace 2006 with the calendar year in which the bonds are actually issued and may make further designations in nomenclature as may be appropriate.

"Credit Support Instrument" means an insurance policy, surety, letter of credit, standby bond purchase agreement or other credit enhancement, support or liquidity device used to enhance the security or liquidity of any Series 2006 Bonds or any Hedge Agreements in accordance with the Indenture.

"Financial Advisor" means any financial advisory firm or firms retained by the Director of Finance of the City, from time to time, in connection with the Series 2006 Bonds or any Hedge Agreement.

"Hedge Agreement" has the meaning given in Section 4 of this Series 2006 Bond Legislation.

"Indenture" means the Original Indenture as amended and supplemented by the First Supplemental Indenture, the Second Supplemental Indenture, the Third Supplemental Indenture, the Fourth Supplemental Indenture, the Fifth Supplemental Indenture and the Sixth Supplemental Indenture, and as the same may be further supplemented, amended or modified from time to time in accordance with the provisions thereof.

"Refunded Bonds" means those Outstanding Bonds designated in the Series 2006 Certificate of Award to be refunded from proceeds of the Series 2006 Bonds.

"Series 2006 Bond Legislation" means this Ordinance, constituting part of the Sixth Supplemental Indenture.

"Series 2006 Bond Purchase Agreement" means one or more Bond Purchase Agreements between the City and the Original Purchaser of the Series 2006 Bonds, authorized in Section 6 hereof.

"Series 2006 Bonds" means the City's Public Power System Revenue Bonds Series 2006 authorized pursuant to Section 3 hereof.

"Series 2006 Certificate of Award" means the one or more certificates authorized pursuant to Section 6 hereof.

"Series 2006 Escrow Agent" means the Trustee, acting as escrow agent under the Series 2006 Escrow Agreement with respect to the Refunded Bonds.

"Series 2006 Escrow Agreement" means the escrow agreement (which may consist of more than one escrow agreement with appropriate distinguishing definitions if the Series 2006 Bonds are issued in more than one series) between the City and the Series 2006 Escrow Agent authorized pursuant to Section 7 hereof.

"Series 2006 Escrow Fund" means the escrow fund established in the Series 2006 Escrow Agreement.

"Sixth Supplemental Indenture" means the Sixth Supplemental Indenture (which may consist of more than one Supplemental Indenture with appropriate distinguishing designations if the Series 2006 Bonds are issued in more than one series), provided for in Section 8 hereof between the City and the Trustee, including this Series 2006 Bond Legislation as part thereof, as the same may be duly supplemented, amended or modified from time to time in accordance with the provisions hereof.

**Section 2. Authority.** This Series 2006 Bond Legislation is adopted pursuant to Sections 3, 4 and 12 of Article XVIII of the Constitution of the State, Section 12 of the Original Bond Legislation, and the City's Charter.

**Section 3. Authorization of Series 2006 Bonds.** This Council finds and determines it is necessary and proper and in the best interest of the City to authorize the issuance of the Series 2006 Bonds for the purpose of refunding one or more series of the Outstanding Bonds, or designated maturities thereof, to obtain aggregate net present value debt service

savings of not less than three percent (3%). The Series 2006 Bonds may be issued in one or more separate series so long as the aggregate net present value savings achieved by each series shall be not less than three percent (3%). The principal amount of each series of Series 2006 Bonds is to be the amount set forth in the Series 2006 Certificate of Award authorized in Section 6 and shall be the amount determined by the Director of Finance, based on the written advice of a Financial Advisor, to be necessary (i) to refund the Refunded Bonds, (ii) to fund any deposit to the Bond Service Reserve Fund or the Renewal and Replacement Fund required under the Indenture, (iv) to pay costs of any Credit Support Instruments, (v) to pay identified amounts owed under Hedge Agreements, and (vi) to pay costs of issuing the Series 2006 Bonds and refunding the Refunded Bonds. The proceeds from the sale of each series of Series 2006 Bonds shall be allocated, deposited and applied as provided in Section 7 of this Ordinance.

The Series 2006 Bonds may be issued in one or more separate series, each bearing a distinctive designation, provided that the Series 2006 Bonds of each series satisfy the requirements of this Series 2006 Bond Legislation and the Indenture. Separate series of Series 2006 Bonds may be issued at the same or different times. The Series 2006 Bonds of each series shall be designated as provided in the applicable Certificate of Award (including replacing references to 2006 to the calendar year in which the obligations are issued). A separate Certificate of Award and a separate Supplemental Indenture may be delivered for each series. Costs of issuance of the Series 2006 Bonds and any required deposit to the Bond Service Reserve Fund attributable to the Series 2006 Bonds shall, in each case, be included in the costs funded from the proceeds of the Series 2006 Bonds. The Series 2006 Bonds shall constitute Bonds for all purposes of the Indenture.

This Council finds and determines that the issuance of the Series 2006 Bonds to obtain debt service savings with respect to Outstanding Bonds serves a proper, public, municipal purpose by reducing the cost at which Cleveland Public Power can provide electric power.

**Section 4. Authorization of Hedging Arrangements.**

This Council finds that by engaging in interest rate hedging arrangements from time to time, the City may reduce its cost of borrowing by optimizing the relative amounts of fixed and variable rate obligations and minimizing the risk of variations in its debt service costs. Certain types of hedging arrangements (referred to in this Series 2006 Bond Legislation as "swaptions") may enable to the City to obtain savings prior to the issuance of Series 2006 Bonds by providing for an upfront payment to the City by a financial institution or other organization that is the counterparty to the hedge arrangement in consideration of the City's giving

the counterparty the option to make effective at a future date an interest rate exchange transaction with the City. To permit the City to have the flexibility to undertake interest rate swap, swaption, rate cap, rate collar and other hedging transactions from time to time, and to establish the procedures for approving those transactions, this Council authorizes the signing and delivery of one or more agreements (each, a "Hedge Agreement") and any related agreements necessary for the consummation of the transactions contemplated by each Hedge Agreement. The authorizations in this Section are supplemental to and not in derogation of any authority provided by any other ordinance of this Council concerning hedging arrangements, and are all subject to the requirements and restrictions of the Indenture.

Upon the determination of the Director of Finance, based on the written advice of a Financial Advisor, that it is to the financial advantage of the City and in the City's best interests that a hedging arrangement be undertaken by the City with respect to any Bonds issued or to be issued under the Indenture, the Director of Finance may authorize one or more interest rate hedge transactions in accordance with the applicable Hedge Agreement; provided that (a) the counterparty shall be rated at the time of signing the Hedge Agreement not lower than A+ or A1 by at least one rating agency or its obligations under the Hedge Agreement shall be guaranteed or insured by an entity rated at the time of signing the Hedge Agreement not lower than A+ or A1 by at least one rating agency, and (b) the term of each hedge transaction shall not exceed the final maturity of the Bonds to which the hedge relates or (in the case of an option) will relate. The requirements of this paragraph are in addition to, and not in place or in derogation of, any other applicable requirements of the Indenture.

The Director of Finance shall negotiate the terms of each Hedge Agreement with a counterparty satisfying the credit criteria in this Series 2006 Bond Legislation and the Indenture. The City shall receive a written opinion of a Financial Advisor that the upfront payment or the periodic payments, as the case may be, to be made by the counterparty to the City, or by the City to the counterparty, shall be fair value for the Hedge Agreement, given the credit of the counterparty and the terms and conditions of the Hedge Agreement. The Director of Finance shall determine the terms and conditions of the Hedge Agreement, including without limitation, the time or times and procedures for the exercise by the counterparty or the City, as the case may be, of its option under the Hedge Agreement, whether the obligations of the City under the Hedge Agreement shall be secured by a Credit Support Instrument, and the rates to be paid by the counterparty to the City and by the City to the counterparty under the Hedge Agreement in the event of the exercise of the option. The

approval of each interest rate hedge transaction by the Director of Finance shall be conclusively evidenced by the signing and delivery of the applicable Hedge Agreement by the Director of Finance.

The City's obligations under any Hedge Agreement shall be payable from the Net Revenues and the Pledged Funds as permitted by the Indenture, and may be payable also from other funds permitted by law to be used for the purpose, as identified by the Director of Finance in the Hedge Agreement. Those payments may be secured by a pledge of the Net Revenues and the Pledged Funds to the extent permitted by the Indenture, all as determined by the Director of Finance and set forth in the Hedge Agreement. The obligation of the City to make payments under any Hedge Agreement does not and shall not represent or constitute a general obligation, debt, bonded indebtedness or a pledge of the faith and credit of the City or the State of Ohio. Nothing gives any party to any Hedge Agreement the right to have excises, ad valorem or other taxes levied by the City or the State of Ohio for the payment of any amounts due under any Hedge Agreement.

#### **Section 5. Terms of Series 2006 Bonds.**

The Series 2006 Bonds shall contain the terms provided in or determined pursuant to, the Indenture, this Series 2006 Bond Legislation, the Series 2006 Certificate of Award and the Sixth Supplemental Indenture. Each series of Series 2006 Bonds may be secured by a separate Supplemental Indenture, or a single Supplemental Indenture may secure more than one series of Series 2006 Bonds, and the authorization in this Series 2006 Bond Legislation for the Sixth Supplemental Indenture shall encompass the authorization for those one or more Supplemental Indentures, regardless of their designation.

(a) General. In the event that the Director of Finance, based on the written advice of a Financial Advisor, determines that the City's best interests will be served by causing a series of Series 2006 Bonds to be Variable Rate Bonds, then the Director of Finance is authorized to so specify in the Series 2006 Certificate of Award. If the Director of Finance so determines, then the method and procedure by which the variable rate of interest to be borne by the Series 2006 Bonds of that series shall be determined as provided in the Sixth Supplemental Indenture, whether by auction, by reference to a market index, by a remarketing agent or otherwise, provided that no series of variable rate Series 2006 Bonds shall bear interest at a rate in excess of twenty-five percent (25%) per year (including any Series 2006 Bonds held by a provider of a Credit Support Instrument). The Director of Finance may determine that the terms of a variable rate series of Series 2006 Bonds may or may not permit the holders to tender their variable rate Series 2006 Bonds for purchase by the City. If the Director of Finance designates

any series of Series 2006 Bonds as Variable Rate Bonds, and if the Holders of that series of Series 2006 Bonds are to be entitled to tender those Series 2006 Bonds for purchase, then the Director of Finance shall also designate for those variable rate Series 2006 Bonds (and may designate others, from time to time, in substitution therefor) the tender agent or agents and the remarketing agent or agents, which designations shall be based on the determination of the Director of Finance, based on the written advice of a Financial Advisor, that the parties so designated possess the requisite resources and experience to provide the services required of them and that the terms on which the designated parties have agreed to provide such services are fair and commercially reasonable. The Director of Finance is authorized to enter into agreements in connection with the delivery of the Series 2006 Bonds, and from time to time thereafter so long as the Series 2006 Bonds are outstanding, with providers of Credit Support Instruments, tender agents (which may be the Trustee), remarketing agents (which may be any of the Original Purchaser) and others as may be determined by the Director of Finance to be necessary or appropriate to provide for the method of determining the variable interest rates, permitting holders the right of tender and providing for payment of the purchase price of, or debt service on, the variable rate Series 2006 Bonds. In the event the variable rate Series 2006 Bonds are issued as auction rate obligations, the Director of Finance is authorized to enter into agreements, from time to time, with auction agents and others, or to cause the Trustee to enter into those agreements, based on the written advice of a Financial Advisor that the parties so designated possess the requisite resources and experience to provide the services required of them and that the terms on which the designated parties have agreed to provide such services are fair and commercially reasonable.

The Director of Finance, in connection with the original issuance of any series of Series 2006 Bonds, and regardless of whether that series of Series 2006 Bonds bears interest at variable or fixed rates, is authorized to contract for a Credit Support Instrument, and to pay the costs of it from proceeds of the Series 2006 Bonds, if the Director determines, based on the written advice of a Financial Advisor, that the Credit Support Instrument will result in a savings in the cost of the financing to the City.

(b) Form; Exchange and Transfer. All Series 2006 Bonds shall be issued in fully registered form. The Series 2006 Bonds initially shall be delivered only in book-entry form, shall be registered in the name of the Depository or its nominee, as registered owner, and immobilized in the custody of the Depository, and shall not be transferable or exchangeable (except for transfer to another Depository or its nominee) without further action by the City pursuant to the provisions of the Sixth Supplemental Indenture. No Series 2006

Bonds shall be exchanged for or transferable into a coupon Revenue Bond or Bonds except to the extent that the Indenture permits such exchanges or transfers.

If any Depository determines not to continue to act as a Depository for the Series 2006 Bonds of any series for use in a book entry system, the Director of Finance and the Trustee may attempt to establish a securities depository/book entry relationship with another qualified Depository. If the Director of Finance and the Trustee do not or are unable to do so, the Director of Finance and the Trustee, after making provision for notification of the beneficial owners by the then Depository and any other arrangements deemed necessary, shall permit withdrawal of the Series 2006 Bonds of any series from the Depository, and authenticate and deliver registered Bond certificates to the assigns of the Depository or its nominee, all at the cost and expense (including any costs of printing), if the event is not the result of action or inaction of the City, of those persons requesting such issuance.

The Director of Finance is authorized to enter into any agreements determined by the Director to be necessary in connection with the book entry system for the Series 2006 Bonds, after determining that those agreements will not endanger the funds or securities of the City under the Indenture (as evidenced by the Director's signing of those agreements).

(c) Dates; Denominations. The Series 2006 Bonds of each series shall be dated as of the date or dates provided in the Series 2006 Certificate of Award for that series. The Series 2006 Bonds of each series shall be issued in the denominations permitted in the Sixth Supplemental Indenture.

(d) Interest and Place of Payment. The Series 2006 Bonds of each series shall bear interest at their respective interest rates specified in the Series 2006 Certificate of Award (or, in the case of variable rate Series 2006 Bonds, determined pursuant to the Sixth Supplemental Indenture) for that series. The Series 2006 Bonds of each series shall bear interest from the most recent date to which interest has been paid or duly provided for or, if no interest has been paid or duly provided for, from their date. The principal and any redemption premium and the interest payable on each series of Series 2006 Bonds shall be payable at the times, to the persons and in the manner set forth in, or referenced by, the Supplemental Indenture, including, without limitation, provisions thereof permitting special arrangements for payments to the Depository.

(e) Maturities. The Series 2006 Bonds of each series shall mature on the Principal Retirement Dates and in accordance with the Principal Retirement Schedule specified in the Series 2006 Certificate of Award, consistent with this Series 2006 Bond Legislation and the Indenture and subject to any provisions for their optional or mandatory redemption specified in the Series 2006 Cer-

tificate of Award pursuant to this Series 2006 Bond Legislation.

(f) Optional and Mandatory Redemption. The Series 2006 Bonds of each series may be subject to redemption prior to maturity at the option of the City, if and to the extent so provided in the Series 2006 Certificate of Award for that series. Any Series 2006 Bonds so determined to be subject to optional redemption and maturing by their stated terms after the earliest optional redemption date shall be subject to redemption at the option of the City on or after the earliest optional redemption date in whole or in part on any date at the redemption prices provided in the Series 2006 Certificate of Award and in accordance with the Indenture. The Series 2006 Bonds designated in the Series 2006 Certificate of Award as Term Bonds subject to mandatory sinking fund redemption shall be redeemed prior to maturity on each Mandatory Redemption Date designated in the Series 2006 Certificate of Award in the aggregate amount of the Mandatory Sinking Fund Installment to be paid on such Mandatory Redemption Date, all as provided in the Series 2006 Certificate of Award and in accordance with the Indenture.

(g) Signing. The Series 2006 Bonds shall be signed by the Mayor and the Director of Finance, and approved as to form by the Director of Law. Any or all of the signatures of those officials may be facsimiles. The Series 2006 Bonds shall bear the corporate seal of the City or a facsimile thereof.

(h) Numbering. The Series 2006 Bonds shall be numbered as determined by the Director of Finance.

#### **Section 6. Award and Sale of Series 2006 Bonds.**

The Director of Finance shall sign and deliver a Series 2006 Certificate of Award for the Series 2006 Bonds. In the event the Series 2006 Bonds are issued in more than one series sold at different times, a separate Series 2006 Certificate of Award shall be signed and delivered for each separately delivered series. Each series of Series 2006 Bonds shall bear such designation as the Director of Finance determines to be appropriate (including, without limitation, changing 2006 to the year in which the series is issued). The sale of the Series 2006 Bonds shall be awarded to the firm or firms (collectively, the "Original Purchaser") identified in the Certificate of Award, following consultation with the Director of Public Utilities and based on an evaluation of the qualifications of firms that have proposed to underwrite the Series 2006 Bonds. Each Series 2006 Certificate of Award shall determine the following, based on the written advice of a Financial Advisor, consistent with this Series 2006 Bond Legislation and the Indenture:

(a) the aggregate principal amount of Series 2006 Bonds issued;

(b) the Purchase Price to be paid to the City by the Original Purchaser, which amount shall be not less than: (i) 97% of the amount determined by adding to the aggregate principal amount of the Series 2006 Bonds any aggregate original

issue premium and subtracting from that amount any aggregate original issue discount, plus (ii) any accrued interest on the Series 2006 Bonds from their date to the date of their delivery to the Original Purchaser;

(c) whether any Series 2006 Bonds are to be subject to optional redemption prior to maturity, and, if so, the earliest optional redemption date for those Series 2006 Bonds that are subject to prior redemption, which shall be not later than ten years from the first interest payment date of the applicable series, and the applicable Optional Redemption Price, which shall be not greater than 102% of the principal amount redeemed;

(d) the Principal Retirement Dates, the Term Maturity Dates (if any), and the Mandatory Redemption Dates (if any) on which principal of the Series 2006 Bonds is to be paid, which shall be not later than thirty (30) years from their respective dates of issuance;

(e) the Specified Interest Rates to be borne by Series 2006 Bonds bearing interest at a fixed rate, the weighted average of which shall not exceed six percent (6%) as to Series 2006 Bonds of any series and the method by which the interest rate is to be determined for Series 2006 Bonds bearing interest at variable rates, consistent with Section 6 (Series 2006 Bonds of the same series and same maturity may bear interest at different interest rates);

(f) the particular Outstanding Bonds or portions thereof to be Refunded Bonds;

(g) the title and series designation for the Series 2006 Bonds;

(h) the amount, if any, of proceeds of the sale of the Series 2006 Bonds to be deposited in the Bond Service Reserve Fund in order to cause the balance therein to equal the Bond Reserve Requirement, if and to the extent required by the Sixth Supplemental Indenture, and any determination as to whether there shall be special reserve fund for the Series 2006 Bonds of any series, separate from the common Bond Service Reserve Fund, or a Credit Facility from a Qualified Credit Facility Provider or any other instrument in lieu of a funded reserve fund, all as may be permitted by the Indenture;

(i) the Paying Agent; and

(j) whether any Series 2006 Bonds are to be secured by or payable from a Credit Support Instrument.

It is determined that the terms of the Series 2006 Bonds as so determined and specified in the Series 2006 Certificate of Award within the limitations set forth in this Series 2006 Bond Legislation and as permitted or required by the Indenture will be in the best interest of the City and consistent with all legal requirements.

The Director of Finance may enter into one or more Series 2006 Bond Purchase Agreements with the Original Purchaser of Series 2006 Bonds setting forth the conditions for delivery of the Series 2006 Bonds that are consistent with this Series 2006 Bond Legislation, the Series 2006 Certificate of Award, and the Indenture and that are determined by the Director of Finance, based on the written advice of a Financial

Advisor, to be customary for comparable revenue bonds issued by governmental entities, including, without limitation, representations as to the accuracy and completeness of information contained in the Official Statement of the City described in Section 11.

**Section 7. Allocation of Purchase Price for the Series 2006 Bonds; Refunding of Refunded Bonds; Escrow Agreements.** The net proceeds from the sale of the Series 2006 Bonds (consisting of the Purchase Price less bond insurance premiums and other costs of Credit Support Instruments) shall be received and receipted for by the Director of Finance or by the Trustee on the City's behalf and shall be allocated, deposited and credited as follows, all pursuant to and in accordance with the Indenture: (a) to the Interest Payment Account in the Bond Service Fund, that portion, if any, representing accrued interest on the Series 2006 Bonds from their date to the date of their delivery; (b) to the Bond Service Reserve Fund, the amount, if any, necessary to cause the balance therein to equal the Bond Reserve Requirement; (c) to the Renewal and Replacement Fund, the amount, if any, necessary to cause the balance therein to equal the Renewal and Replacement Fund Required Balance; (d) to the Series 2006 Escrow Fund, the amount necessary to provide for the defeasance of the Refunded Bonds; (e) to the counterparty under any Hedge Agreement, any payment determined by the Director of Finance to be paid from the proceeds of the Refunding Bonds, including any termination payment in the event that the Director of Finance determines it is in the best interests of the City to terminate a Hedge Agreement relating to Outstanding Bonds; and (f) to an account to be created under the Indenture for the payment of costs of issuance, such amounts as are needed to pay costs of issuing the Series 2006 Bonds and refunding the Refunded Bonds. The proceeds from the sale of the Series 2006 Bonds are appropriated and shall be used for the purposes for which the Series 2006 Bonds are issued as provided in this Series 2006 Bond Legislation.

The Director of Finance is authorized to sign and deliver, in the name and on behalf of the City, a Series 2006 Escrow Agreement between the City and the Trustee, as Series 2006 Escrow Agent, providing for, among other matters: the investment and holding in escrow of the proceeds of the Series 2006 Bonds to be applied to the refunding of the Refunded Bonds; the application of the moneys derived from those investments to the payment of the Bond Service Charges on those Refunded Bonds; and the irrevocable call for redemption of the Refunded Bonds to be called for redemption prior to maturity. The Director of Finance shall provide for the payment of the services rendered and for reimbursement of expenses incurred pursuant to the Series 2006 Escrow Agreement from proceeds of the Series 2006 Bonds to

the extent available and then from other money lawfully available and appropriated or to be appropriated for that purpose. Provision shall be made in the Series 2006 Escrow Agreement to give the Trustee any written notice of redemption required under Article III of the Original Indenture. The Director of Finance, the Director of Public Utilities and other appropriate City officials shall sign all documents and take all other actions necessary or appropriate on the part of the City to effect such refunding in accordance with the Indenture and to cause the Refunded Bonds to be deemed paid and discharged, including without limitation, the retention of an independent firm of accountants to verify the mathematical accuracy of the calculations relating to the escrow.

**Section 8. Sixth Supplemental Indenture.** In order to secure the payment of Bond Service Charges as and when due and payable, the Director of Finance and the Director of Public Utilities are hereby authorized, in the name and on behalf of the City, to make, execute, acknowledge and deliver to the Trustee, a Sixth Supplemental Indenture, approved as to form and correctness by the Director of Law, not inconsistent with this Series 2006 Bond Legislation, the Series 2006 Certificate of Award and the Indenture and not substantially adverse to the City as may be approved by the officers executing the same on behalf of the City. The determination by such officers that the Sixth Supplemental Indenture is not substantially adverse to the City shall be conclusively evidenced by the execution of the Sixth Supplemental Indenture by such officers. This Series 2006 Bond Legislation shall constitute a part of the Sixth Supplemental Indenture as therein provided and for all purposes thereof, including, without limitation, the application to this Series 2006 Bond Legislation of the provisions of the Sixth Supplemental Indenture relating to amendment, modification, supplementation and severability.

Without limiting the generality of the authorization contained in the preceding paragraph, the Sixth Supplemental Indenture may also (subject to Article VIII of the Original Indenture and any applicable requirements thereof for the obtaining of consent of Bondholders and further subject to any applicable requirement for the obtaining of consent from any insurer of any outstanding Bonds) include provisions for such additional amendments, supplements and modifications to the Original Indenture, as previously amended and supplemented, as the officers executing the Sixth Supplemental Indenture on behalf of the City determine serve the best interests of the City by making the Indenture more flexible, useful and advantageous for the City's purposes of financing Capital Costs or refunding outstanding Bonds without materially increasing the City's obligations under the Indenture or materially increasing the restrictions imposed on the City by the

Indenture, and their execution of the Sixth Supplemental Indenture shall conclusively evidence their having made that determination. The authority conferred by the preceding sentence shall include the authorization to cause the Original Indenture as amended and supplemented by the Sixth Supplemental Indenture and all preceding Supplemental Indentures to be restated in a single amended and restated Indenture, and the authorization in this Section 8 for the execution of the Sixth Supplemental Indenture shall encompass the authorization for the execution of any such amended and restated Indenture.

**Section 9. Tax Covenants.**

With respect to Series 2006 Bonds that are to be issued and sold as obligations bearing interest to be excluded from gross income for federal income tax purposes (the "Tax-Exempt Bonds"), the City covenants that it will use, and will restrict the use and investment of, the proceeds of the Tax-Exempt Bonds in such manner and to such extent as may be necessary so that (a) the interest on the Tax-Exempt Bonds will be excluded from gross income for federal income tax purposes, and (b) in the case of any Tax-Exempt Bonds qualifying as bonds, the interest on which is not treated as an item of tax preference under Section 57 of the Code ("Non-AMT Bonds"), such Tax-Exempt Bonds will be treated as Non-AMT Bonds.

The City further covenants that (a) it will take or cause to be taken such actions that may be required of it for the interest on the Tax-Exempt Bonds to be and to remain excluded from gross income for federal income tax purposes, (b) it will not take or authorize to be taken any actions that would adversely affect that exclusion, and (c) it, or persons acting for it, will, among other acts of compliance, (i) apply the proceeds of the Tax-Exempt Bonds to the governmental purposes of the borrowing, (ii) restrict the yield on investment property, (iii) make timely and adequate payments to the federal government, (iv) maintain books and records and make calculations and reports, and (v) refrain from certain uses of those proceeds and, as applicable, of property financed with such proceeds, all in such manner and to the extent necessary to assure such exclusion of that interest under the Code.

The Director of Finance, or any other officer of the City having responsibility for issuance of the Tax-Exempt Bonds, is hereby authorized (a) to make or effect any election, selection, designation, choice, consent, approval, or waiver on behalf of the City with respect to the Tax-Exempt Bonds as the City is permitted or required to make or give under the federal income tax laws, including, without limitation thereto, any of the elections provided for in Section 148(f)(4)(C) of the Code or available under Section 148 of the Code, for the purpose of assuring, enhancing or protecting the favorable tax treatment or status of the Tax-Exempt Bonds or

interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing the rebate amount or payments of penalties, or making payments of special amounts in lieu of making computations to determine, or paying, excess earnings as rebate, or obviating those amounts or payments, as determined by that officer, which action shall be in writing and signed by the officer, (b) to take any and all other actions, make or obtain calculations, make payments, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Tax-Exempt Bonds, and (c) to give one or more appropriate certificates of the City, for inclusion in the transcript of proceedings for the Tax-Exempt Bonds, setting forth the reasonable expectations of the City regarding the amount and use of all the proceeds of the Tax-Exempt Bonds, the facts, circumstances and estimates on which they are based, and other facts and circumstances relevant to the tax treatment of the interest on and the tax status of the Tax-Exempt Bonds.

Each covenant made in this Section 9 with respect to the Tax-Exempt Bonds is also made with respect to all issues any portion of the debt service on which is paid from proceeds of the Tax-Exempt Bonds (and, if different, the original issue and any refunding issues in a series of refundings), to the extent such compliance is necessary to assure exclusion of interest on the Tax-Exempt Bonds from gross income for federal income tax purposes, and the officers identified above are authorized to take actions with respect to those issues as they are authorized in this Section to take with respect to the Tax-Exempt Bonds.

#### **Section 10. Additional Documents.**

The Director of Finance, the Director of Public Utilities and other City officials are authorized to sign and deliver such instruments, certificates and documents as are necessary or appropriate to consummate the transactions authorized by this Series 2006 Bond Legislation, the Series 2006 Bond Purchase Agreement, the Sixth Supplemental Indenture, the Indenture, the Series 2006 Escrow Agreement and the Hedge Agreements.

The Director of Finance, the Director of Public Utilities, the Director of Law and other City officials, as appropriate, are authorized to make the necessary arrangements on behalf of the City to establish the date, location, procedure and conditions for the delivery of each series of Series 2006 Bonds to the Original Purchaser and to take all actions necessary to effect due signing, authentication and delivery of each series of Series 2006 Bonds under the terms of this Series 2006 Bond Legislation, the Sixth Supplemental Indenture, the Series 2006 Bond Purchase Agreement and the Indenture. The Clerk of Council or other appro-

prate official of the City shall furnish the Original Purchaser a true transcript of proceedings certified by the Clerk or other official, of all proceedings had with reference to the issuance of the Series 2006 Bonds along with such information for the records as is necessary to determine the regularity and validity of the issuance of the Series 2006 Bonds.

#### **Section 11. Official Statements; Continuing Disclosure.**

The Director of Finance, the Director of Public Utilities and other City officials as deemed appropriate, each are authorized, on behalf of the City and in their official capacities, to (i) prepare or cause to be prepared, and make or authorize modifications, completions or changes of or supplements to, disclosure documents in the form of a preliminary official statement relating to the issuance of the Series 2006 Bonds of one or more series, and (ii) determine, and certify or otherwise represent, when each preliminary official statement as so prepared is a "deemed final" official statement (except for permitted omissions) by the City as of its date for purposes of Securities and Exchange Commission ("SEC") Rule 15c2-12(b)(1). The distribution and use of one or more preliminary official statements are hereby authorized and approved.

Those officers and each of them are also authorized, on behalf of the City and in their official capacities, to complete each preliminary official statement with such modifications, changes and supplements as those officers shall approve or authorize for the purpose of preparing and determining, and to certify or otherwise represent, that the official statement as so revised is a final official statement for purposes of SEC Rule 15c2-12(b)(3) and (4). Those officers each are further authorized to use and distribute, or authorize the use and distribution of, one or more final official statements and supplements thereto in connection with the original issuance of the Series 2006 Bonds as may, in their judgment, be necessary or appropriate. Those officers each are further authorized to sign and deliver, on behalf of the City and in their official capacities, each final official statement and such certificates in connection with the accuracy of each preliminary official statement and each final official statement and any amendments thereto as may, in their judgment, also be necessary or appropriate. The Director of Finance is authorized to contract for services for the production and distribution of preliminary and final official statements, including by printed and electronic means.

For the benefit of the holders and beneficial owners from time to time of the Series 2006 Bonds, the City agrees, in accordance with, and as an obligated person with respect to the Series 2006 Bonds under, SEC Rule 15c2-12, to provide or cause to be provided such financial information and operating data and notices, in such manner, as may be

required for purposes of SEC Rule 15c2-12. In order to describe and specify certain terms of the City's continuing disclosure agreement for that purpose, and thereby to implement that agreement, including provisions for enforcement, amendment and termination, the Director of Finance and the Director of Public Utilities are authorized to prepare, or cause to be prepared, and to sign and deliver, in the name and on behalf of the City, a continuing disclosure agreement or certificate, which shall constitute the continuing disclosure agreement made by the City for the benefit of the holders and beneficial owners of the Series 2006 Bonds in accordance with SEC Rule 15c2-12. The performance of that agreement shall be subject to the availability of funds and their annual appropriation to meet costs the City would be required to incur to perform it.

#### **Section 12. Lien of Pledge.**

The Net Revenues are subject to the lien of the pledge under the Indenture without any physical delivery of the Net Revenues or further act, and the lien of such pledge is valid and binding against all parties having claims of any kind against the City (irrespective of whether such parties have notice of such pledge and create a perfected security interest for all purposes of Chapter 1309, Ohio Revised Code) without the necessity for separation of delivery of the Net Revenues or for the filing or recording of the Indenture or any other resolution or instrument by which such pledge is created or any certificate, statement or other document with respect to such pledge. The pledge of the Net Revenues under the Indenture shall be effective and the money therefrom and thereof may be applied to the purposes for which pledged without necessity for any further act of appropriation.

#### **Section 13. Financial Advisors and Consultants.**

The Director of Finance may obtain the services of one or more Financial Advisors, from time to time, to assist the Director of Finance in making any of the determinations required by this Series 2006 Bond Legislation to be determined by the Director of Finance or to negotiate any Hedge Agreements. The Director of Finance may rely on the written advice of any Financial Advisor so retained. The Director of Public Utilities may obtain the services of one or more feasibility consultants, from time to time, to provide reports in connection with the issuance and sale of any Series 2006 Bonds or the delivery of any Hedge Agreements concerning the utilization and operation of Cleveland Public Power, debt service coverage, rates and charges or other matters. Any Financial Advisor or consultant employed under the authority of this Series 2006 Bond Legislation shall be disinterested in the transaction and be independent of the underwriters or counterparties and any other party interested in the transaction.

**Section 14. Appointment of Successor Trustee.**

The Director of Finance is hereby authorized to appoint a successor Trustee on behalf of the City in the event that the current Trustee shall resign or be removed, or be dissolved or otherwise become incapable of acting as Trustee under the Indenture, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, in accordance with the provisions of Section 6.08 of the Original Indenture.

**Section 15. Open Meeting Determination.**

It is found and determined that all formal actions of the Council concerning and relating to the adoption of this Series 2006 Bond Legislation were adopted in an open meeting of the Council, and that all deliberations of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all applicable legal requirements.

**Section 16. Separability.**

Each section of this Series 2006 Bond Legislation and each subdivision of any section is declared to be independent, and the finding or holding of any section or subdivision of any section to be invalid or void shall not be deemed or held to affect the validity of any other section or subdivision of this Series 2006 Bond Legislation.

**Section 17. Recitals.**

It is determined and recited that all acts, conditions and things necessary to be done precedent to and in the issuing of the Series 2006 Bonds in order to make the same legal, valid and binding special obligations issued by the City of Cleveland, Ohio will have happened, been done and performed or will happen, be done and performed in regular and due form as required by law; and that no limitation of indebtedness or taxation, either statutory or constitutional, is applicable to the issuance of the Series 2006 Bonds.

**Section 18.** That the authority granted in this ordinance shall expire on March 31, 2008. If the issuance of authorized Series 2006 Bonds is initiated before March 31, 2008, then the authority granted in this ordinance shall not expire as to that issuance. No issuance of authorized Series 2006 Bonds may be initiated after March 31, 2008.

**Section 19. Emergency.**

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 adoption and approval by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed March 20, 2006.  
Effective March 24, 2006.

**Ord. No. 294-06.**

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

**An emergency ordinance authorizing the Director of Finance to employ one or more professional consultants to provide maintenance and support service for the CCA/MITIS computer system for one year with two one year options to renew.**

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

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

**Section 1.** That the Director of Finance is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to provide maintenance and support service for the CCA/MITIS computer system for one year with two one-year options to renew.

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

**Section 2.** That the cost of the contracts authorized shall be paid from Fund No. 81 SF 001, Request No. 127081.

**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 March 20, 2006.

Effective March 24, 2006.

**Ord. No. 303-06.**

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

**An emergency ordinance authorizing the purchase by one or more requirement contracts for construction and demolition debris disposal services, for the Division of Waste Collection and Disposal, Department of Public Service.**

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

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

**Section 1.** That the Director of Public Service is authorized to

make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the term of one year or two years for the necessary items of construction and demolition debris disposal services in the approximate amount as purchased during the preceding term, purchased by the Commissioner of Purchases and Supplies on a unit basis for the Division of Waste Collection and Disposal, Department of Public Service. Bids shall be taken in a manner that permits an award to be made for all items of services as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Public Service is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance, a financial advantage shall be determined by the Director of Public Service by comparing the bids received for both terms.

Bids shall also be taken so as to permit an award to be made for provision of such services citywide or by separate contracts for the districts determined by the Director of Public Service.

**Section 2.** That notwithstanding any provision of the Codified Ordinances of Cleveland, Ohio, 1976, to the contrary, the Director of Public Service may require that each bid be accompanied by a single bond securing both the execution of a contract and the performance of the term of each contract. If a single bond securing both execution and performance is required by the Director, it shall be substantially in accordance with the form attached as Exhibit "A". Each bond, whether to secure the execution of a contract, its performance, or both, shall be in an amount determined by the Director of Public Service. Each bond submitted to secure the contract or contracts authorized by this ordinance shall be executed by a surety authorized to do business in the State of Ohio and shall be acceptable to the Director of Law.

**Section 3.** That the cost of the contract or contracts shall be charged against the proper appropriation account and the Director of Finance shall certify the amount of the initial purchase, which purchase, together with all later purchases, shall be made on order of the Commissioner of Purchases and Supplies under a requisition against the contract or contracts certified by the Director of Finance. (RL 130618)

**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.

BID GUARANTY AND CONTRACT BOND

KNOW ALL MEN BY THESE PRESENTS, that we the \_\_\_\_\_

(Name and Address)

(Name of Surety)

as Surety are hereby held and firmly bound unto the City of Cleveland, hereinafter called the Obligee, in the penal sum hereinafter stated, pertaining to the bid submitted by the Principal to the Obligee on \_\_\_\_\_(date) to undertake the project known \_\_\_\_\_

The penal sum referred to herein shall be \_\_\_\_\_

For the payment of the penal sum well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors, and assigns.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, that whereas the above named Principal has submitted a bid on the above referred project;

NOW, THEREFORE, if the Obligee accepts the bid of the Principal and the Principal fails to enter into a proper contract in accordance with the bid, plans, details, specifications, and bills of material; and in the event the Principal pays to the Obligee the difference not to exceed ten percent of the penalty hereof between the amount specified in the bid and such larger amount for which the Obligee may in good faith contract with the next lowest and best bidder to perform the work covered by the bid; or in the event the Obligee does not award the contract to the next lowest and best bidder and resubmits the project for bidding, the Principal will pay the Obligee the difference not to exceed ten percent of the penalty hereof between the amount specified in the bid, or the costs in connection with the resubmission, of printing new contract documents, required advertising, and printing and mailing notices to prospective bidders, whichever is less, then this obligation shall be void, otherwise to remain in full force and effect. If the Obligee accepts the bid of the Principal and the Principal within ten days after the awarding of the contract and submitting to the Principal a contract for execution, enters into a proper contract in accordance with the bid, plans, details, specifications, and bills of material, which said contract is made a part of this bond the same as though set forth herein; and

IF THE SAID Principal shall well and faithfully perform each and every condition of such contract; and indemnify the Obligee against all damage suffered by failure to perform such contract according to the provisions thereof and in accor-

dance with the plans, details, specifications, and bills of material therefor; and shall pay all lawful claims of subcontractors, materialmen, and laborers for labor performed and materials furnished in the carrying forward, performing, or completing said contract; we agreeing and assenting that this undertaking shall be for the benefit of any materialman or laborer having a just claim as well as for the Obligee herein; then this obligation shall be void; otherwise the same shall remain in full force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall in no event exceed the penal amount of this obligation as herein stated.

THE SAID Surety hereby stipulates and agrees that no modifications, omissions, or additions, in or to the terms of said contract or in or to the plans and specifications therefor shall in any wise affect the obligations of said Surety on this bond, and it does hereby waive notice of any such modifications, omissions or additions to the terms of the contract or to the work or to the specifications.

SIGNED AND SEALED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

PRINCIPAL:

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

SURETY:

BY: \_\_\_\_\_

Attorney-in-Fact

SURETY COMPANY ADDRESS:

Street \_\_\_\_\_

City State Zip \_\_\_\_\_

SURETY AGENT'S ADDRESS:

Agency Name \_\_\_\_\_

Street \_\_\_\_\_

City State Zip \_\_\_\_\_

"Exhibit"

Passed March 20, 2006. Effective March 24, 2006.

Ord. No. 312-06. By Council Members Brady and Sweeney (by departmental request). An emergency ordinance to supplement Ordinance No. 1504-05, passed August 3, 2005, by adding new Section 8; and to renumber existing Section 8 to new Section 9, relating to the cause payment of the City's share of the bicycle racks and bench seats at various locations in the City to the Ohio Department of Transportation.

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

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

Section 1. That Ordinance No. 1504-05, passed August 3, 2005, is supplemented by adding new Section 8 to read as follows:

Section 8. That this Council authorizes payment to the State of Ohio of the City's share of the construction of bicycle racks and bench seats at various locations in the City from Fund Nos. 11 SF 006 and 20 SF 474, Request No. 166666.

Section 2. That existing Section 8 of Ordinance No. 1504-05, passed August 3, 2005, is renumbered to new "Section 9".

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 March 20, 2006. Effective March 24, 2006.

Ord. No. 313-06. By Council Members Britt and Sweeney (by departmental request). An emergency ordinance authorizing the purchase by one or more requirement contracts of clothing, bedding and shoes for inmates, for the Division of Correction, Department of Public Health.

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

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

Section 1. That the Director of Public Health is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of one or two years of the necessary items clothing, bedding, and shoes for inmates, in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies upon a unit basis for the Division of Correction, Department of Public Health. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than one year may be taken if deemed desirable by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term. The Director of Public Health is authorized to enter into one or more contracts with a term of two years instead of one year when there is a financial advantage to the City. For purposes of this ordinance,

a financial advantage shall be determined by the Director of Public Health 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 176819)

**Section 3.** That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Public Health may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

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

Passed March 20, 2006.

Effective March 24, 2006.

**Ord. No. 318-06.**

**By Council Members Britt, Johnson, Cleveland and Sweeney (by departmental request).**

**An emergency ordinance to amend Sections 203.02, 209.02, 209.03, 209.04, 209.05, and 209.99 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended or enacted by various ordinances, relating to vacant lots and structures.**

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 203.02, as amended by Ordinance No. 511-76, passed, June 14, 1976; and

Sections 209.02, 209.03, 209.04, 209.05, and 209.99 as enacted by Ordinance No. 1017-97, passed June 16, 1997

are amended to read as follows:

**Section 203.02 Notice to Abate; Exception**

Whenever the Commissioner of Environment or any authorized City officer or employee ascertains, either upon information or by observation or inspection, that any condition amounting to a nuisance or defined by law or ordinance as a nuisance exists on any premises, which nuisance affects or endangers

the public health, either of them shall, in writing, notify the owner or person in charge of the premises, requiring the abatement or removal of the nuisance within a reasonable time, unless no such owner or person in charge can be found, or unless the circumstances are such, in their opinion, as to require the immediate abatement or removal of the nuisance, without waiting to give notification.

In the case of a vacant lot or a lot on which the main building or structure is vacant, either of which lot contains a nuisance as described in 209.01, the procedures outlined in Chapter 209 may be followed.

**Section 209.02 Notice Regarding Care of Vacant Lots and Lots with Vacant Building**

(a) At least annually, the Commissioner of Environment shall cause a notice to be mailed to the last known address of the owner of each vacant parcel of land, or shall publish a notice in a newspaper of general circulation, advising owners, operators, and persons in possession or control of vacant parcels of the requirements of this Chapter regarding the care of property.

(b) The Commissioner of Environment may cause a notice to be mailed to the last known address of the owner of each parcel of land on which the main building or structure is vacant, or may publish a notice in a newspaper of general circulation, advising owners, operators and persons in possession or control of parcels of land on which the main building or structure is vacant, of the requirements of this Chapter regarding the care of the property. Vacant means that no person actually and legally resides in any part of the building or that no person conducts a lawful business in any part of the building.

(c) The notice shall describe each of the nuisances described in Section 209.01 and shall state that one or more of the following may occur beginning 30 days after the notice is mailed or published:

(1) That, if any nuisances exist and are not removed or otherwise abated, the Department of Parks, Recreation, and Properties, or its designee, may take any action necessary to abate the nuisance, and that the owner will be billed for all costs of the abatement.

(2) That property nuisances may be ticketed and that the violation is a minor misdemeanor.

(3) That other civil or criminal legal actions may be filed by the Commissioner of Environment to enforce nuisance violations, without additional notice.

(d) The above-described notice may be appealed to the Commissioner of Environment.

**Section 209.03 Powers of the Commissioner Regarding Vacant Lots**

Upon the finding of any nuisance described in this Chapter on a vacant parcel of land, the Commissioner of Environment may do one or more of the following:

(a) If the nuisance presents an imminent threat to public health,

request that the Department of Parks, Recreation, and Properties immediately abate the nuisance without notice, and bill the owner for the costs of any abatement.

(b) If it is 30 days after the notice described in 209.02 is mailed or published, request that the Department of Parks, Recreation, and Properties abate the nuisance without further notice, and bill the owner for the costs of any abatement.

(c) Order the owner, operator, or person in possession or control of the property to abate the nuisance, giving a timeframe for compliance. If the abatement does not occur within the stated timeframe or if the action taken does not completely abate the nuisance, the Commissioner may request the Department of Parks, Recreation, and Properties, or its designee, to abate the nuisance and bill the owner for the costs of any abatement.

(d) Order the owner, operator, or person in possession or control of the property to install and maintain fencing or another similar barrier, in such a manner that the nuisance will be abated or will be kept from re-occurring.

(e) Issue a citation for the violation, under Rule 4.1 of the Ohio Rules of Criminal Procedure.

(f) Pursue any civil or criminal legal actions that may be necessary for the protection of the public health, safety, or welfare.

**Section 209.04 Powers of the Commissioner Regarding All Other Property**

Upon the finding of any nuisance described in this Chapter on a parcel of land that has a building or other structure on it, the Commissioner of Environment may do one or more of the following:

(a) If the nuisance represents an imminent threat to the public health, request that the Department of Parks, Recreation, and Properties immediately abate the nuisance without notice, and bill the owner for the costs of any abatement.

(b) If it is 30 days after the notice described in 209.02 is mailed or published, request that the Department of Parks, Recreation, and Properties abate the nuisance without further notice, and bill the owner for the costs of any abatement.

(c) Order the owner, operator, or person in possession or control of the property to abate the nuisance, giving a timeframe for compliance. If the abatement does not occur within the stated timeframe or if the action taken does not completely abate the nuisance, the Commissioner may request the Department of Parks, Recreation, and Properties, or its designee, to abate the nuisance and bill the owner for the costs of any abatement.

(d) Order the owner, operator, or person in possession or control of the property to install and maintain fencing or another similar barrier, in such a manner that the nuisance will be abated or will be kept from re-occurring.

(e) Issue a citation for the violation, under Rule 4.1 of the Ohio Rules of Criminal Procedure.



(f) Pursue any civil or criminal legal actions that may be necessary for the protection of the public health, safety, or welfare.

**Section 209.05 Costs of Abatement; Liens on Property**

(a) The Director of Parks, Recreation, and Properties, or his designee, after abating a nuisance under this Chapter shall bill the owner of the property for reimbursement of the costs of abatement. The bill shall be mailed to the owner's last known address, when the name and address of the owner are known.

(b) Costs that may be billed include inspection, records research, notification, if any, and billing. A schedule of the costs shall be on file in the office of the Director of Parks, Recreation, and Properties, open for public inspection, and shall be published at least once in the City Record.

(c) If a bill is not paid within 60 days, or if the name or address of the owner is not known, the Director of Parks, Recreation, and Properties may certify that fact to the Commissioner of Assessments and Licenses. The Commissioner shall make a written return to the County Auditor of the action under this Chapter, including a statement of the costs of the abatement services and a description of the property sufficient to allow the costs to become a lien on the property. The lien shall be collected in the same manner as other taxes and returned to the City general fund in accordance with Revised Code Chapter 731.

(d) Nothing in this Section shall prevent the Director of Law from taking any other action necessary to collect the costs of abatement described by this Section.

**Section 209.99 Enforcement; penalties**

(a) This Chapter may be enforced through civil or criminal legal proceedings. These remedies are in addition to any right the City may have under this Chapter to abate a nuisance and to recover the costs of the abatement.

(b) No person shall fail to abate a nuisance described in this Chapter.

(c) A violation of this Chapter shall be a minor misdemeanor.

(d) In addition to any other method of enforcement provided in this Chapter, this Chapter may be enforced by the issuance of a citation in compliance with Rule 4.1 of the Ohio Rules of Criminal Procedure.

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

Section 203.02, as amended by Ordinance No. 511-76, passed, June 14, 1976; and

Sections 209.02, 209.03, 209.04, 209.05, and 209.99 as enacted by Ordinance No. 1017-97, passed June 16, 1997

are repealed.

**Section 3.** That this ordinance is declared to be an emergency measure and, provided it receives the

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

Passed March 20, 2006.

Effective March 24, 2006.

**Ord. No. 368-06.**

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

**An emergency ordinance authorizing the Director of Parks, Recreation and Properties to employ one or more professional consultants to develop, install and implement an urban forestry tree management software system, and for training, support and maintenance for a one year period, including the acquisition of software licenses if necessary, for the Division of Park Maintenance and Properties, Department of Parks, Recreation and Properties.**

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

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

**Section 1.** That the Director of Parks, Recreation and Properties is authorized to employ by contract or contracts one or more consultants or one or more firms of consultants for the purpose of supplementing the regularly employed staff of the several departments of the City of Cleveland in order to provide professional services necessary to develop, install and implement an urban forestry tree management software system, and for training, licenses, support and maintenance for a one year period.

**Section 2.** The selection of the consultants for the services shall be made by the Board of Control on the nomination of the Director of Parks, Recreation and Properties from a list of qualified consultants available for employment as may be determined after a full and complete canvass by the Director of Parks, Recreation and Properties and for the purpose of compiling a list. The compensation to be paid for the services shall be fixed by the Board of Control. The contract or contracts authorized shall be prepared by the Director of Law, approved by the Director of Parks, Recreation and Properties, and certified by the Director of Finance.

**Section 3.** That the cost of the services authorized shall be paid from Fund No. 11 SF 006, Request No. 135791.

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

Passed March 20, 2006.

Effective March 24, 2006.

**Ord. No. 370-06.**

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

**An emergency ordinance authorizing the purchase by one or more requirement contracts of labor and materials necessary to clean the West Side Market, for the Division of Convention Center and Stadium, Department of Parks, Recreation and Properties, for a period not to exceed three years.**

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

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

**Section 1.** That the Director of Parks, Recreation and Properties is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for the period of three years of the necessary items of labor and materials necessary to clean the West Side Market in the approximate amount as purchased during the preceding term, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Division of Convention Center and Stadium, Department of Parks, Recreation and Properties. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control shall determine. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term.

**Section 2.** That the cost of the contract or contracts shall be charged against the proper appropriation account and the Director of Finance shall certify thereon 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 duly certified by the Director of Finance. (RL 151064)

**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 March 20, 2006.

Effective March 24, 2006.

**Ord. No. 371-06.**

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

**An emergency ordinance authorizing the purchase by one or more requirement contracts for the purchase of various types of small equipment as needed, for the Division of Park Maintenance and Properties, Department of Parks, Recreation and Properties.**

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

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

**Section 1.** That the Director of Parks, Recreation and Properties is authorized to make one or more written requirement contracts under the Charter and the Codified Ordinances of Cleveland, Ohio, 1976, for the requirements for a one year period of the necessary items of the purchase of small equipment as needed for the Division of Park Maintenance and Properties, in the estimated sum of \$26,000.00, to be purchased by the Commissioner of Purchases and Supplies on a unit basis for the Division of Park Maintenance and Properties, Department of Parks, Recreation and Properties. Bids shall be taken in a manner that permits an award to be made for all items as a single contract, or by separate contract for each or any combination of the items as the Board of Control determines. Alternate bids for a period less than the specified term may be taken if desired by the Commissioner of Purchases and Supplies until provision is made for the requirements for the entire term

**Section 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 158762)

**Section 3.** That under Section 108(b) of the Charter, the purchases authorized by this ordinance may be made through cooperative agreements using state procedures. The Director of Parks Recreation and Properties may sign all documents with the State of Ohio or any of its political subdivisions that are necessary to make the purchases, and may enter into one or more contracts with the vendors selected through that cooperative process.

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

Passed March 20, 2006.  
Effective March 24, 2006.

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**Ord. No. 372-06.**  
**By Council Members Johnson and Sweeney (by departmental request).**  
**An emergency ordinance to supplement Ordinance No. 765-05, passed June 6, 2005, by adding new Section 2 relating to authorizing the Director of Parks, Recreation and Properties to extend the terms of Contract Nos. 57220 and 57291 for the**

**operation of food and beverage service at the City Hall Cafeteria and Convention Center; and to renumber existing Sections 2 and 3 to new Sections 3 and 4.**

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 Ordinance No. 764-05, passed June 6, 2005, is supplemented by adding new Section 2 to read as follows:

Section 2. That the Director of Parks, Recreation and Properties is authorized to extend the terms of Contract Nos. 57920 and 57921 with Executive Caterers, Inc. on a month-to-month-basis, cancelable upon thirty days' notice, until December 31, 2006, to provide food and beverage service at the City Hall Cafeteria and Convention Center. All other terms and conditions of the contracts shall remain the same. The contract extensions authorized by this ordinance shall be prepared by the Director of Law and approved by the Director of Parks, Recreation and Properties.

**Section 2.** That existing Sections 2 and 3 of Ordinance 764-05, passed June 6, 2005 are renumbered to new "Section 3" and new "Section 4".

**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 March 20, 2006.  
Effective March 24, 2006.

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**Ord. No. 373-06.**  
**By Council Members Britt and Sweeney (by departmental request).**  
**An emergency ordinance authorizing the Director of Public Health to apply for and accept a grant from the Cuyahoga County Board of Health for the 2006 Immunization Action Plan Program.**

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

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

**Section 1.** That the Director of Public Health is authorized to apply for and accept a grant in the approximate amount of \$135,209, and any other funds as they become available during the grant term, from the Cuyahoga County Board of Health, to conduct the 2006 Immunization Action Plan Program, for the purposes in the summary and budget and according thereto; that the Director of Public Health is authorized to file all papers and execute all documents necessary to receive the funds under the grant; and that the funds are appropriated for the purposes in the summary and budget for the grant.

**Section 2.** That the summary and budget for the grant, File No. 375-06-A; made a part as if fully rewritten herein, is approved in all respects.

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

**Section 4.** That 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 March 20, 2006.  
Effective March 24, 2006.

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**Ord. No. 505-06.**  
**By Council Members Conwell, Lewis, Cleveland and Sweeney (by departmental request).**

**An emergency ordinance to amend Section 135.12 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 555-02, passed March 25, 2002, relating to the number of persons in the rank of Lieutenant.**

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 135.21 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 555-02, passed March 25, 2002, is amended to read as follows:

**Section 135.21 Division of Fire**

There is hereby established a Division of Fire in the Department of Public Safety to be administered and controlled by a Fire Chief, subject to the provisions of the Charter and ordinances of the City, and to the direction of the Director of Public Safety.

(a) The Division of Fire shall comprise the fire force of the City and shall consist of the ranks set forth in the table below and not more persons per rank than are designated in such table. Designation of the number of persons in each rank constitutes the maximum authorized strength for the ranks and does not require, and shall not be construed as requiring, the appointment of the number of officers so designated, or of any specific lesser number. All members of the fire force shall be appointed by the Director of Public Safety unless otherwise provided by Charter.

<u>Rank</u>	<u>Not to Exceed</u>
Fire Chief	1
Assistant Fire Chief	7
Battalion Chief	32
Captain	78
Lieutenant	173*
Firefighter	1500

\* plus ten lieutenant positions to be filled only in accordance with the

settlement agreement in Luke v. City of Cleveland, U.S. District Court Case No. 1:02 CV 1225.

(b) No person holding any of the above ranks in the Division of Fire shall perform any work which is of the same nature as, or included within the duties of, any other classified employee of the City, except as is immediately necessary incident thereto.

(c) The provisions of Section 171.05 to the contrary notwithstanding, commencing January 1, 1981, the Fire Chief shall not be entitled to compensation in money for hours worked on a holiday, or in excess of eight hours per day, or in excess of forty hours during any work week.

**Section 2.** That existing Section 135.21 of the Codified Ordinances of Cleveland, Ohio, 1976, as amended by Ordinance No. 555-02, passed March 25, 2002, is repealed.

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

Passed March 20, 2006.  
Effective March 24, 2006.

**Ord. No. 508-06.**  
**By Council Member Cleveland.**  
**An emergency ordinance authorizing certain persons to engage in peddling in Ward 5 (John Sisamis).**

Whereas, pursuant to Section 675.08 of the Codified Ordinances of

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

Whereas, this Council has considered the requests of certain persons to engage in peddling outside of the Central Business District, and has determined that it is in the public interest to allow each of said persons to peddle in Ward 5; and

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

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

**Section 1.** That this Council consents, as required by, Section 675.08 of the Codified Ordinances to allow each persons named below to engage in peddling in the public rights of way of Ward 5: John Sisamis at 2900 Community College Avenue.

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

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

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

Passed March 20, 2006.  
Effective March 24, 2006.

**COUNCIL COMMITTEE MEETINGS**

**Monday, March 27, 2006**

**2:00 p.m.**

**Finance Committee:** Present: Sweeney, Chair; Cimperman, Vice Chair; Brady, Britt, Westbrook, Conwell, Brancatelli, Zone, Coats, Pierce Scott. *Authorized Absence:* White. *Pro tem:* Lewis, Kelley.

**Tuesday, March 28, 2006**

**9:30 a.m.**

**Community and Economic Development Committee:** CANCELLED.

**1:30 p.m.**

**Employment, Affirmative Action and Training Committee:** Present: Lewis, Chair; Santiago, Vice Chair; Brancatelli, Turner, Coats. *Authorized Absence:* Johnson, Conwell.

**Wednesday, March 29, 2006**

**10:00 a.m.**

**Public Safety Committee and Health and Human Services Committee:** Present in Safety: Conwell, Chair; Brady, Vice Chair; Britt, Polensek, Coats, Kelley, Cummins, Turner, Santiago.

Present in Health: Britt, Chair; Cleveland, Vice Chair; Kelley, Santiago, Conwell, Westbrook, Reed.

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