

SOLON CITY COUNCIL
August 17, 2009 – 7:05 P.M.

The Solon City Council met at City Hall on the above date.

Present: Council Members Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit,
Law Director Matty, Clerk McConoughey

Absent: Mayor Patton

Vice Mayor Drucker presided.

NOTES OF CAUCUS DISCUSSION:

(Clerk's note: Agenda items not mentioned under Notes of Caucus Discussion are items that were not pertinently discussed during caucus. Agenda topics may not have been discussed in order, however, they have been placed in order for the convenience of this record.)

Also Present: City Services Director Bandiera, City Engineer Busch,
Planning Director Frankland, Police Chief Godzich, Assistant
Public Works Director Hromco, Fire Chief Shaw, Public Works
Director Stanek

PLANNING COMMISSION:

Mr. Frankland reviewed each item from the Planning Commission.

1. 30500 Bruce Industrial Parkway – Bruce Industrial Associates: Mr. Frankland explained the lot split of a 20.67 acre property will create an additional lot in the Industrial District at the end of Bruce Industrial Parkway. Parcel "B" will contain the existing building and Parcel "A" will be a 3.9 acre buildable lot, however, there is currently no tenant.

Mr. Frankland said cross access easement and cross parking agreements are required and have been approved by the Law Department.

2. 6372 SOM Center Road – Finelli Investment (Blue Fig): Councilman Pelunis questioned why the project was started prior to approval. Mr. Frankland said the applicant was requested to attend tonight's meeting and can address that question. The Planning Commission wanted clarification that the existing green railing will also be painted blue to match the building because the applicant was not present at the Planning Commission's meeting.

PLANNING COMMISSION CONSENT:

4. 38235 Aurora Road - Pat Carbone/City of Solon: Councilman Suit questioned which parcel is to be acquired by the City and it was clarified subplot 2 is to be acquired by the City.

There were no objections to Items 3 thru 8 on the Planning Consent Agenda and those applicants were advised it was not necessary to stay for the meeting.

PENDING:

10. Rezoning request from Cresco Real Estate: Vice Mayor Drucker explained the public hearing scheduled for the rezoning request will be continued from the previous meeting. Mr. Frankland will provide an update regarding the request and Mr. Matty will review the current status of the development agreement. Councilman Stolarsky reviewed the Planning Commission's recommendation.

Mr. Matty said it appears a special meeting will be necessary on August 31st to consider Items 10 thru 13.

NEW:

14. Ordinance repealing Resolution No. 2009-168: Mr. Matty explained the legislation will repeal prior approved legislation because there are two sources which allow the City to seek retribution and he prefers to seek the \$25,000 retribution that the bonding company is willing to pay.

CONSENT:

No items were removed from the Consent agenda.

33. Ordinance No. 2009-217 - relocation of temporary fire station building to Grantwood: Vice Mayor Drucker asked when the building is scheduled to be moved and Mr. Hromco expects it will be moved at the end of the month.

Vice Mayor Drucker said there is a need for an executive session to consider property acquisition and imminent litigation matters.

Mr. Matty advised action may be taken following the executive session.

Mr. Mike Tabba, representing The Blue Fig, (Item 2) entered the caucus and was advised the Council required clarification regarding the application and it was necessary for him to stay for the meeting.

The caucus ended at 7:20 P.M. and the meeting began at 7:30 P.M.

Also Present: City Services Director Bandiera, City Engineer Busch, Economic Development Manager Weil-Dorfman, Planning Director Frankland, Police Chief Godzich, Fire Chief Shaw, Public Works Director Stanek

CHANGES TO THE AGENDA:

There were no changes to the agenda.

ANNOUNCEMENTS:

Vice Mayor Drucker said announcements are as listed on the agenda.

COMMENTS FROM THE AUDIENCE:

Mr. John Nolan, 35200 Bainbridge Road, commended the Safety and Public Properties Committee for recognizing a problem on Bainbridge Road that affects safety and the usage of Bainbridge Road during the construction project. However, Mr. Nolan said there are additional issues of concern that require attention prior to requesting bids. The project affects driveways on both sides of the road at the same time. He is concerned with the use of metal plates in winter months which could possibly ice over and cause safety concerns. Mr. Nolan said a meeting was held with the Mayor, R.E. Warner, Mr. Nolan and others and, at that time, the residents had not analyzed the plans. However, since then, the residents have become more familiar with the details of the plan and have more questions. He noted the open house meeting to be held by Councilman Kraus and the County representatives is scheduled a week after tree removal begins. He urged the City to speak with the County regarding the resident's concerns prior to the preparation of bid specifications and before tree removal.

Councilman Kraus said an open house meeting with the County is tentatively scheduled for September 22nd, however, he would like to hold a smaller meeting prior to that date to discuss the issues before the bidding process begins.

Mr. Nolan said the prior meeting with the Mayor and R.E. Warner addressed past issues and the residents would like an additional meeting to discuss future issues.

Mr. Bob Paulson, 33378 Allenbury Drive, spoke regarding Item 33, the ordinance accepting the bid to relocate the temporary Fire Station building to Grantwood. He questioned if the \$23,400 cost included footers, utilities, asphalt and/or concrete at Grantwood.

Councilman Suit said some additional pavement work may be necessary which could cost up to an additional \$10,000, however, the project would still be less than the engineer's estimate.

Mr. Hromco acknowledged the cost. When it was decided to place the building in the general parking area, it was believed potential cost savings would result by not having to install a concrete pad under the building. The contract currently before the Council includes piers or footers for the new building, the dismantling of the old building and reassembly of the new building. The asphalt pad will be

installed by the City's asphalt contractor and the utilities will be installed by the City Service Department.

Councilman Suit said even if the cost is \$10,000 over, it will still be under the Engineer's lowest estimate of \$36,000. Mr. Hromco agreed.

Mr. Paulson asked how many of the golf carts purchased by the City will be stored in the new building. Mr. Hromco was unsure, however, Councilman Pelunis said he and the Mayor visited the site and they were given figures regarding the capacity of the building in comparison to the existing maintenance building and he will forward the information to Mr. Paulson.

Mr. Paulson questioned the additional costs involved, such as storage, due to the purchase of the golf carts as opposed to the cost of leasing.

Mr. Paulson said at the last Safety and Public Properties Committee meeting, the Committee tabled an issue involving a Woodbury Drive resident requesting a special needs sign on Woodbury for her child. Mr. Paulson said signs have been posted in the past throughout the City for special needs residents. He believes the Administration should make the decision of where special needs signs should be placed.

MINUTES:

Motion by Councilman Scott, seconded by Councilman Russo to approve the minutes of the June 30, 2009 special meeting.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to approve the minutes of the July 20, 2009 meeting as read.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

STORM WATER ACTION PLAN UPDATE:

- The ABC streets dye testing project is complete. Mr. Stanek encouraged residents in other areas to follow through with the dye testing program because it is important. He noted private property issues are most important but most difficult.
- Smoke testing will begin in the Preserve and notification was sent.
- The design work has begun on the Briar Hill Lake Modification Project and construction is expected late next summer.
- The Pepperwood drainage improvements will be bid early next spring and will be a one-year construction project.
- The North Huntington detention basin is on the agenda for authorization for bid. The engineer expects the Army Corp of Engineers approval shortly.

- The Liberty Hill detention modification project is occurring in conjunction with the Woodbury basin. The projects are waiting on the pump station start-up near the Carrington Court subdivision in which a piece of sewer will be abandoned that runs through the Woodbury basin. He expects completion in October.
- The Miles Road Storm Sewer Project is progressing and expected completion is mid-October.
- Final issues are being addressed with Forest City regarding the Dorset detention basin modification and it is expected to begin this year.
- A pond modification is necessary on Route 91 since approval of the storm sewer system at North Hill. Improvements will be made to the inlet and outlet and additional storage will be provided.

Mr. Stanek advised a recent rainfall event tested the storm water system and no significant incidents were reported. He stated that sewer complaints have been significantly reduced this year.

PLANNING COMMISSION:

1. 30500 Bruce Industrial Parkway – PP# 953-25-005 – 051-2009
Bruce Industrial Associates, LLC
 - Lot split – PC approved
 - 50 space parking variance – Parcel "B" – PC approved
 - 5' side yard setback variance – Parcel "A" – PC approved
 - 5' side yard setback variance – Parcel "B" – PC approved
 - Cross access easement and cross parking agreement – PC approved contingent upon the Law Department's approval of an amended cross access agreement

Mr. Frankland displayed the plan and explained the proposal to create a new, buildable lot within the Industrial District. A 3.97 acre area will be split off of the 20.67 acre lot to create the buildable lot (Parcel A). He explained the existing building has 344 parking spaces and is required to have 390 spaces. Parcel A contains 308 banked parking spaces that will be eliminated if it is approved as a buildable lot, therefore, a 50 space total parking variance is necessary to create the buildable lot. He explained the setback variances are necessary because the location of the new lot line crosses the southern access into the project. Property lines are required to be 5' from either side of an access point, therefore, the need for the variances. Mr. Frankland said when the project develops, it will require access to the drive and building. Therefore, a cross access agreement was reviewed by the Assistant Law Director and approved.

Councilman Stolarsky further explained the Commission's actions. He said the lot split will help maximize the use of the industrial area. He noted the 50 space parking variance is somewhat mitigated by the cross access and cross parking agreement between Parcels A and B.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to approve the lot split for PP# 953-25-005.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

There were no objections to the 50 space parking variance, therefore, it stood approved.

There were no objections to the 5' side yard setback variance for Parcel A, therefore, it stood approved.

There were no objections to the 5' side yard setback variance for Parcel B, therefore, it stood approved.

Councilman Stolarsky said the cross access and parking agreement requires no action and has been approved by the Law Department.

Mr. Matty said Assistant Law Director Melling reviewed and amended the cross access agreement. Mr. Matty approved Mr. Melling's amendments which have been incorporated by the applicant into the existing cross access easement.

2. 6372 SOM Center Road – Finelli Investment (Blue Fig) 056-2009
 - Site plan – exterior façade modifications – PC recommends approval contingent upon the Planning Department's approval of modifications to the wrought iron accents on the top of the building

Mr. Frankland displayed the plan and explained the request to paint the Blue Fig Restaurant a cream color with blue trim and a blue awning. However, the application was unclear if the green wrought iron railing on the second floor will be painted to match the trim and awning. The applicant was not present at the Planning Commission meeting, therefore, in order to proceed, the Commission recommended approval of the application with a contingency.

Councilman Stolarsky further explained the Commission's actions. He said the Commission decided to move the application forward with the contingency that the applicant clearly state their intentions of the wrought iron fence on the top of the building. The Planning Commission members desired a blue or black paint for the fence.

Mr. Mike Tabba, Blue Fig, was present.

Councilman Pelunis asked Mr. Frankland if it was his understanding that the painting process had already begun. Mr. Frankland spoke earlier with Mr. Tabba who said they have primed the building. Councilman Pelunis clarified to the applicant that priming had begun before the applicant had obtained permission to proceed.

Mr. Tabba said it was his understanding that the Planning Department had approved the paint color and that the only issue was to paint the wrought iron railing blue.

Councilman Pelunis said although he has no objection to the applicant's request, he wants to clarify that it is not acceptable for applicant's to begin projects without prior approval. He advised the Planning Department to address the issue for the future.

Mr. Frankland said he was aware work on the project had started, however, it was assumed that the Planning Commission and Council would not have issues with the color.

Vice Mayor Drucker and Councilman Stolarsky asked Mr. Tabba to state his intentions for the wrought iron fence.

Mr. Tabba said his intention is to paint the wrought iron fencing on the second level a matching blue.

Motion by Councilman Stolarsky, seconded by Councilman Scott to approve the site plan for exterior façade modifications, specifically the items approved by the Planning Commission, and pursuant to Mr. Tabba's representation that the wrought iron fence on the second level will be painted a matching blue.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit

Nay: None

Motion Carried

PLANNING COMMISSION CONSENT:

3. 6574 Hyllwynd Circle – Peter G. Sedlak 052-2009
 - 23' rear yard setback variance – PC approved
4. 38235 Aurora Road, PP# 955-35-022, 027 & 028 – 053-2009
Pat Carbone/City of Solon
 - Lot split/consolidation – PC approved
 - .6014 acre lot area variance (S/L 1)- PC approved
 - .8955 acre lot area variance (S/L 2) – PC approved
 - Lot Street frontage variances for S/Ls 2,3,4,5,6 – PC approved
5. 31000 Aurora Road – Chelm Properties 055-2009
 - Number of wall signs variance to permit (2) – PC approved
6. 32875 Solon Road – Hartville Professional Center, Inc. 057-2009
(former Solon Athletic Club)
 - Site plan – exterior façade modifications – PC recommends approval contingent upon the Planning Department's approval of a landscape plan
7. 30725 Aurora Road – GRL Engineers and PDI 058-2009
 - 28' 2" front yard setback variance – PC approved
 - Site plan – re-approval – PC recommends approval contingent upon approval of a landscape plan by the Planning Department
8. PP# 953-17-006 – Hall Street - The Robbins Company 060-2009
 - Driveway material variance – PC approved for a two-year period

- Site plan modification – PC recommends approval contingent upon applicant's agreement to install additional screening if necessary

Motion by Councilman Stolarsky, seconded by Councilman Kraus to suspend the rules and approve the items of the Planning Commission Consent Agenda.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

PENDING:

9. RESOLUTION NO. 2009-141 DECLARING IT NECESSARY TO IMPROVE CERTAIN PROPERTY IN THE CITY BY PROVIDING FOR A STORM WATER RETENTION FACILITY OF THE CITY PURSUANT TO A LEASE BY IMPROVING THE BRIAR HILL LAKE DAM AND RELATED AREA AND DECLARING AN EMERGENCY. This resolution has had three readings.

Resolution No. 2009-141 remained on third reading.

10. Correspondence from Cresco Real Estate requesting to rezone 6 parcels on Aurora Road to the C-3 and C-4 Zoning.

The public hearing from the previous Council meeting was continued.

Mr. Frankland displayed the plan and explained the Council referred the request to the Planning Commission for consideration and a recommendation regarding rezoning options to potentially accommodate a GetGo gas station on the site. The first option was to change the C-3 zoning to allow gas stations, however, it would allow gas stations throughout the Central Retail District and was considered an unattractive choice. The second option was to rezone the property to C-4, however, placing it on one lot is considered spot zoning which is potentially illegal. The Commission determined to create a new C-3-A Zoning classification which expands the uses of the C-3 district including expanding the setbacks for buildings with slightly larger building sizes. The district is specifically designed for the redevelopment of shopping center projects. The Commission recommended the Aurora Road parcels be rezoned to C-3 to avoid a service station on the site. Mr. Frankland added that the C-3-A zoning will allow only one gas station per property tied to the anchor tenant and a definition of anchor tenant was included in the proposal. Mr. Frankland said the development agreement is still under review.

Mr. Matty asked the developer's representatives to review the revised zoning ordinances for correct legal descriptions and permanent parcel numbers.

Mr. Matty said he and Mr. Coyne have reviewed several drafts of the development agreement. He anticipates providing the final city draft to the developer for review by the end of the week to allow for the Council's

consideration of the agreement at a Council meeting to be scheduled on August 31, 2009.

Vice Mayor Drucker announced the Council has discussed scheduling a Council meeting on August 31, 2009 to address the development agreement. Therefore, it is necessary to provide the development agreement and any additional information by August 28, 2009 to be included in the Council's weekly informational packets.

Mr. Matty said a final signed development agreement will be necessary for the Council by August 28th to proceed on August 31st.

Mr. Matty advised there are four property owners involved in the rezoning and requested the developer's representatives identify the owners of each parcel so that he and Mr. Coyne have the correct information required for the development agreement.

Mr. William Phillips, attorney for the developer, and Mr. Dave Scherry, Herschman Architects, were present. Mr. Phillips indicated on the plan the properties owned by four entities of the same family under different limited liability company names. The four entities involved are Solar Center Ltd., Percap Realty Ltd., SOM Solon Ltd, and Caplan Perlick Ltd.

Mr. Matty asked Mr. Scherry if the parcel numbers are indicated on the plan and asked for a list of the parcel numbers. Mr. Phillips provided the following: Percap Realty Ltd.: 954-29-027, 954-29-028, 954-29-029, 954-29-030, 954-29-031 and 954-29-032; SOM Solon Ltd.: 954-29-046; Caplan Perlick Ltd.: 954-34-014, 954-34-013, 954-34-016 and 954-34-001. Mr. Scherry said the remaining parcels are owned by Solar Center Ltd.

Mr. Matty asked if all four entities will be signing the agreement. Mr. Phillips said yes.

In answer to Councilman Suit's question, Mr. Phillips said he represents all of the entities in the transaction and he would not have an issue with written authorization from the corporate entity authorizing Mr. Caplan and Mr. Perlick to request the rezoning of the parcels.

Councilman Stolarsky explained the Planning Commission strongly preferred the GetGo location be off site, however, the option was provided that the station be located on site through C-3-A zoning if necessary. He advised the Commission recommended creation of the C-3-A zoning, the existing O-1 be rezoned to C-3 to avoid gas stations on that site and the inclusion of various definition sections within the C-3-A to associate a gas station to an anchor tenant of 90,000 square feet or greater.

Councilman Stolarsky believes a signed development agreement between the City and the property owners is critical to the process.

Mr. Matty said he, Mr. Coyne and Mr. Phillips understand that if a development agreement is signed, the project will proceed for the Council's agenda on August 31st. He noted if the development agreement is not prepared and signed by that date, the project will not proceed.

Mr. Matty advised during the negotiation of the development agreement, certain concerns were raised which could not be answered by the developer and required an answer from Giant Eagle. Through phone conversations and meetings with Giant Eagle, some answers have been received. Mr. Matty advised representatives from Giant Eagle were present to answer any additional questions from the Council.

Mr. Jim Chickini and Mr. Pat Avolio, representatives from Giant Eagle, were present. Mr. Chickini said a finalized business deal for a new Giant Eagle store is very near. Proposed is a 99,000 square foot store with the necessary amenities including their corporate strategy of having a fueling station near the store. Mr. Chickini said ongoing efforts have been made to have the fueling station offsite near the Giant Eagle store in Solon, however, they have been unable to do so for several reasons. He said Giant Eagle definitely wants the fueling station accommodated with the redevelopment effort if they are unable to find an alternate location for fuel.

Councilman Stolarsky asked if Giant Eagle has been seeking an offsite location over the years for the existing Giant Eagle store. Mr. Chickini said within the last five years, a property was under contract and there have been ongoing discussions with other locations, however, for many reasons, they have been unable to reach an agreement to acquire an existing station.

Councilman Stolarsky asked what radius is required of the fueling station to the store. Mr. Chickini said although it is not specific, it is to be as proximate as possible, on site or at the intersection, to the store it is serving.

Mr. Matty asked the cost of Giant Eagle's investment for this project. Mr. Chickini said the inside of the store will cost approximately \$8 million and the building will cost approximately \$8 to \$10 million not including site development.

Mr. Matty asked what number of employees is projected for the new facility. Mr. Chickini said based on size, there could be 40% more employees.

Based on Mr. Chickini's comments, Councilman Suit asked if Giant Eagle has a signed business agreement with the shopping center owners. Mr. Chickini said the agreement is not fully signed and Giant Eagle intends to deliver their position on certain items tomorrow. He anticipates an agreement within the next few days.

Councilman Suit asked who will construct the new Giant Eagle store. Mr. Chickini said they will use their own contractor and the owners of the shopping center will not be constructing the new store. Mr. Chickini said they will use an Ohio contractor that does the general contracting on all the new stores.

Councilman Kraus encouraged Giant Eagle to get the business agreement signed and for the attorneys to ensure that the City is well protected. He intends to support the project. He commended those involved for the opportunity to renovate a shopping center given the current economy. He believes it will revive the area so residents will shop in Solon. He believes it follows specifications outlined in the Master Plan, will bring new jobs to the City and that it will spur development in other parts of the City. Councilman Kraus believes it will provide an opportunity to review the traffic patterns within the shopping center and within the City. He added that the storm water management of the area will be critical to address.

Councilman Pelunis asked what percentage of stores have a GetGo on site as compared to offsite. Mr. Chickini said with the exception of one store being developed in Upper Arlington with an existing GetGo, 100% of the new stores have a GetGo as part of a new store development.

Councilman Scott asked Mr. Chickini if it is critical that the rezonings be on the ballot in November.

Mr. Chickini said they do find it critical because there are so many factors to consider for such a project including financial issues. He said they may be operating in a different financial environment next year, therefore, because funds are allotted for the project, Giant Eagle is anxious to proceed.

Councilman Scott asked if Giant Eagle is aware of the phasing the shopping center will do to accommodate existing tenants. Mr. Chickini said it is understood and accepted.

Councilman Scott asked if Giant Eagle will continue to pursue an offsite GetGo location between the time of ballot approval and actual construction.

Mr. Chickini said they have made a commitment to continue their efforts to find an offsite location for the GetGo. However, he does not expect the national service stations to change their positions during that period.

At Councilman Scott's request, Mr. Chickini confirmed the Council received the most recent site plan.

Councilman Scott referred to the site plan and asked if Giant Eagle approves of the internal ingress and egress.

Mr. Chickini said although Giant Eagle originally requested an entrance and exit onto SOM Center, the developers were unwilling to proceed with that request and Giant Eagle agreed. Councilman Scott was pleased that no additional traffic will be on SOM Center.

Councilman Suit inquired about the Upper Arlington GetGo located off site. Mr. Chickini said the station was built a number of years before the redevelopment effort, however, the GetGo is very close to the Giant Eagle store.

Councilman Suit questioned financing arrangements for Giant Eagle and the developer. Mr. Chickini said Giant Eagle's financing is in place and the developer has indicated their financing will be in place very soon.

Although there is much support for the project, Councilman Suit does not believe the development agreement provides sufficient protection for the City. He and Councilman Stolarsky have participated in many meetings regarding the agreement and after reviewing the version submitted to the Council, he would not approve of signing it and feels the majority of the Council would not approve of it. Councilman Suit said an additional version of the agreement was received after business hours which has not been provided to the Council for review. Councilman Suit advised additional meetings are scheduled which he and Councilman Stolarsky will attend and he is hopeful an acceptable agreement can be reached.

Councilman Suit requested a rendering of the new Giant Eagle store showing the proposed architecture, however, Mr. Chickini did not have one available. Councilman Suit asked if the new Giant Eagle will coordinate with other proposed buildings in the shopping center. Mr. Chickini said they have not commissioned their architectural drawings, however, they plan to model their design from the drawings submitted for the project.

At Councilman Suit's request, Mr. Frankland displayed drawings of the proposed architecture. Councilman Suit believes the design of the shopping center is an important element of the development agreement. Of the three drawings displayed by Mr. Frankland, Councilman Suit feels only one is somewhat acceptable and stressed that much work still needs to be done.

Councilman Scott said the rezoning will require voter approval and normally the Council receives a perspective view of a rezoning project before the issue goes to the ballot. He urged Giant Eagle representatives to provide a rendering prior to the election. Councilman Scott agreed the development agreement is essential to the project and questioned the outcome of the project should the C-3-A zoning be approved but the C-3 be rejected.

Mr. Jim Perlick was present and said it is important that the shopping center be rezoned due to the difficult economic time period. He said the lenders make the final decision regarding the project so it is important to be able to generate enough income and have proformas that are acceptable to the lenders. Mr. Perlick believes the rezoning to the C-3 on the eastern property is critical to the project.

Although Councilman Suit supports the C-3 rezoning, he asked if the development agreement would be voided if the C-3 zoning fails and the C-3-A is approved.

Mr. Perlick said it would be difficult to proceed and the project would need to be re-evaluated. He said the cost for the small buildings have been explored, however, not the larger buildings.

Councilman Suit believes that it is a potential problem because should the C-3-A be approved by voters, a big box store with a gas station could be built with little design standards or city protections that the City would otherwise have under the development agreement.

Councilman Kraus believes preparing the development agreement is a difficult process but he expects the parties to reach an agreement through compromise. He said negotiations will continue as the development will benefit the residents and the non-residents who work in the community. In regard to the architectural renderings, Councilman Kraus said Solon will require above standard architecture due to the prominence of the intersection at Aurora Road and SOM Center Road.

Mr. Matty asked that the representatives of Giant Eagle notify him if the business agreement is finalized with the developer before the August 31st meeting and he will inform the Council.

Vice Mayor Drucker announced although the public hearing remains open for comments, there is no signed development agreement or permanent site plan, therefore, the public hearing will be extended to the August 31st meeting should new information be received.

Mr. Bob Paulson said the commercial areas of the new proposed Master Plan are much more realistic than the previous Center of Town proposal as redevelopment is being considered in small phases. He believes the Giant Eagle renovation may be the stimulus for the rest of the shopping center and possibly at Solon Square Shopping Center. Mr. Paulson referred to several retail developments in communities surrounding Solon and indicated they are mostly vacant. He encouraged the City to negotiate with Giant Eagle and supports the project. Mr. Paulson believes the GetGo should be located off-site if possible. Although he understands the monetary and environmental issues involved with purchasing an off-site location, Mr. Paulson believes such a location can be just as successful as a nearby on-site location. He does not believe the GetGo should be located on the same footprint as the BP Station.

Mr. Marty LoSchiavo, 37418 Hunter's Ridge, questioned if the population of the community and surrounding areas can support such a large grocery store and if the services to be included in the proposed store will negatively affect other businesses in the City. He also questioned if the City needs an additional gas station.

Mr. LoShiavo commended the Council and Administration for their work last year on the Coral project.

Mr. George Hoffman, 6406 Woodbury Drive, asked the status of the D.O. Summers new building construction on SOM Center Road and how it affects the Giant Eagle project.

It was Mr. Frankland's understanding that D.O. Summers intends to proceed with their project. Mr. Frankland believes the D.O. Summers project would improve the Giant Eagle project if the two were incorporated by increasing the access points at Baldwin Road and Linden Drive.

Mr. Hoffman asked if the only difference between C-3-A zoning and C-3 zoning is the gas station. Mr. Frankland said the C-3-A would allow the gas station. The C-3-A would also govern the redevelopment of shopping centers and require greater setbacks for parking. It would theoretically expand the uses to include different service uses which are permitted under the C-3, and allow for a 90,000 square foot building size. Mr. Frankland said the C-3-A zoning is similar to C-3 but has been adapted specifically for shopping centers.

Mr. Hoffman asked if a developer could request a zoning change for any property in the community for a 90,000 square foot building and a gas station, assuming it was approved by the voters.

Mr. Frankland agreed it would have to be approved by the voters. He noted, however, Planned Unit Development Zoning is the preferred zoning for shopping centers in accordance with the Master Plan.

Mr. Hoffman would like more clarification regarding the C-3-A rezoning. He believes the request is being rushed to accommodate Giant Eagle. He suggested that a variance be granted to place the GetGo on the shopping center property.

Mr. Matty said per the City Charter, the Council does not have authority to grant a use variance to place a gas station at that location without a vote of the people.

Mr. Hoffman asked what additional amenities will be provided at the approximately 90,000 square foot store compared to what is offered now.

Mr. Avolio said amenities will include a café with separate entrance and seating area, prepared foods, a coffee bar, a bruschetta bar, and salad bar features, in addition to all the elements of the existing store. The pharmacy would be expanded with an upscale health, beauty and wellness store feature. He will provide a list of amenities for the next Council meeting.

Councilman Suit asked what size GetGo is proposed on site. Mr. Avolio said 1,000 square feet is proposed with 6 fueling dispenser islands.

Ms. Agnes Norton, 35385 Aurora Road, asked if the Council will be voting on Items 11, 12 and 13 at this meeting. Vice Mayor Drucker said those items will be considered on August 31st.

Ms. Norton asked why C-3-A zoning includes 90,000 square feet of area when Giant Eagle is requesting 99,000 square feet. She advised she is not supportive of variances.

Mr. Frankland said the C-3-A zoning was designed for the entire City and not specifically for the Solar Shopping Center site. The building maximum is 50% larger than the current largest building permitted in the City. He recommends no more than 90,000 square feet for the C-3-A zoning, however, the Planning Commission and Council may change it to 100,000 square feet if they desire.

Ms. Norton said according to the Master Plan, the recommended maximum size of 47,000 square feet is allowed except for the anchor store which may be larger. She is concerned future variances may need to be granted and recommends the maximum size accommodate Giant Eagle's plan.

Ms. Norton questioned the off-site locations for a GetGo which may affect future re-development in those locations.

There were no further comments, therefore, Vice Mayor Drucker said the public hearing will be continued at the August 31st Council meeting when it is anticipated new information will be available.

NEW:

11. ORDINANCE NO. 2009-197 SUBMITTING TO THE ELECTORS THE QUESTION OF ENACTING A NEW CHAPTER 1278 OF THE PLANNING AND ZONING CODE CREATING A COMMERCIAL SHOPPING CENTER DISTRICT AND REZONING VARIOUS PARCELS TO THE C-3-A ZONING DISTRICT, was read for first reading.

Ordinance No. 2009-197 remained on first reading.

12. ORDINANCE NO. 2009-198 SUBMITTING TO THE ELECTORS THE QUESTION OF REZONING VARIOUS PARCELS FROM THE O-1 GENERAL OFFICE DISTRICT TO THE C-3 COMMERCIAL DISTRICT, was read for first reading.

Ordinance No. 2009-198 remained on first reading.

13. ORDINANCE NO. 2009-199 APPROVING THE PROJECT DEVELOPMENT AGREEMENT WITH SOLAR CENTER LTD., LLC AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT, was read for first reading.

Ordinance No. 2009-199 remained on first reading.

14. ORDINANCE NO. 2009-200 REPEALING RESOLUTION NO. 2009-168 ENTITLED A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A RELEASE AND ASSIGNMENT AGREEMENT WITH WS HOMES, INC. AND WESTERN SURETY COMPANY AND DECLARING AN EMERGENCY, was read for first reading.

Mr. Matty said the Chief Building Official has been working on an additional claim for the same property, which exceeds the value of the claim previously settled. Mr. Matty recommended the Council repeal the ordinance approving the previous settlement which will allow the City to collect the full value on the bond and will allow the City to seek reimbursement for this value from another insurance company which is available to the City.

Motion by Councilman Scott, seconded by Councilman Kraus to suspend the rules and place Ordinance No. 2009-200 on third and final reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

CORRESPONDENCE:

15. Notice to legislative authority regarding annual renewal of liquor permit applications

Motion by Councilman Scott, seconded by Councilman Pelunis to table Item 6.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

16. Correspondence from the Clerk regarding the September 7, 2009 regular Council meeting

Motion by Councilman Kraus, seconded by Councilman Pelunis to reschedule the September 7, 2009 Council meeting to August 31, 2009 at 7:30 P.M.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

CONSENT:

Motion by Councilman Pelunis, seconded by Councilman Stolarsky to suspend the rules and place the following Consent items on third and final reading.

The appropriate Council or Administrative representative provided an explanation for each item.

17. ORDINANCE NO. 2009-201 AUTHORIZING THE APPROPRIATION OF A STORM SEWER EASEMENT OWNED BY RUTH KLOTZMAN IN THE CITY OF SOLON FOR THE PEPPERWOOD STORM SEWER PROJECT AND DECLARING AN EMERGENCY, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

18. ORDINANCE NO. 2009-202 APPROVING A CHANGE ORDER TO THE CONTRACT WITH CT CONSULTANTS, INC. FOR ADDITIONAL ENGINEERING SERVICES FOR A RENEWABLE ENERGY FACILITY AND ELECTRICAL UPGRADE SYSTEM PROJECT AT THE WATER RECLAMATION FACILITY, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

19. ORDINANCE NO. 2009-203 ACCEPTING THE PROPOSAL OF R.E. WARNER FOR ADDITIONAL PROFESSIONAL DESIGN SERVICES FOR THE SOM CENTER ROAD/CANNON ROAD INTERSECTION IMPROVEMENT PROJECT, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

20. ORDINANCE NO. 2009-204 AUTHORIZING THE PUBLIC WORKS DIRECTOR TO REQUEST QUALIFICATIONS FOR LANDSCAPE ARCHITECTURAL SERVICES FOR A RESTORATION PLAN FOR BAINBRIDGE ROAD, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

21. ORDINANCE NO. 2009-205 ACCEPTING THE BID OF GUALTIERI CONSTRUCTION FOR AN ADDITIONAL 2009 ANNUAL SIDEWALK REPAIR PROGRAM (CONTRACT NO. 2009.31), was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

22. ORDINANCE NO. 2009-206 REJECTING THE BID RECEIVED FOR THE 2009 ANNUAL PAVEMENT LEVELING PROGRAM AND AUTHORIZING THE FINANCE DIRECTOR TO READVERTISE FOR BIDS (CONTRACT NO. 2009.13), was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

23. ORDINANCE NO. 2009-207 AMENDING THE AGREEMENT WITH GROSS BUILDERS FOR THE CONSTRUCTION OF A NEW SANITARY SEWER PUMP STATION AND FORCE MAIN RELATED TO THE CARRINGTON COURT SUBDIVISION, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

24. ORDINANCE NO. 2009-208 APPROVING A CHANGE ORDER TO THE CONTRACT WITH ALPHONSO & SON, INC. FOR THE 2008 ANNUAL CATCH BASIN REPAIR PROGRAM (CONTRACT NO. 2008.04), was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

25. ORDINANCE NO. 2009-209 APPROVING A CHANGE ORDER TO THE CONTRACT WITH FABRIZI TRUCKING FOR EMERGENCY ROADWAY REPAIRS (CONTRACT NO. 2007.27), was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

26. ORDINANCE NO. 2009-210 AUTHORIZING THE PURCHASE OF ROCK SALT FOR THE 2009/2010 SEASON FROM CARGILL SALT, INC. THROUGH THE STATE OF OHIO COOPERATIVE PURCHASING PROGRAM, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

27. ORDINANCE NO. 2009-211 ACCEPTING THE BIDS OF DEXTER COMPANY AND VALK MANUFACTURING FOR SNOW PLOW BLADES FOR USE BY THE SERVICE DEPARTMENT, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

28. ORDINANCE NO. 2009-212 AUTHORIZING THE SALE OF SURPLUS SERVICE DEPARTMENT EQUIPMENT THROUGH INTERNET AUCTION WITH GOVDEALS.COM, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

29. ORDINANCE NO. 2009-213 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR AN ADDITIONAL SALT STORAGE FACILITY, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

30. ORDINANCE NO. 2009-213A ACCEPTING THE BID OF UTILITY TRUCK EQUIPMENT FOR THE PURCHASE OF ONE 37' AERIAL TOWER WITH SERVICE BODY FOR USE BY THE SERVICE DEPARTMENT, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

31. ORDINANCE NO. 2009-214 ACCEPTING THE BID OF HENDERSON ENTERPRISES FOR THE PURCHASE OF ONE 2 ½ TON DUMP BODY FOR USE BY THE SERVICE DEPARTMENT, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

32. ORDINANCE NO. 2009-215 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR THE NORTH HUNTINGTON DETENTION BASIN EXPANSION PROJECT (CONTRACT NO. 2009.15), was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried
Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

33. ORDINANCE NO. 2009-216 ACCEPTING THE BID OF NORTHEASTERN, INC. FOR THE COMPLETE RELOCATION OF THE FIRE STATION 2 TEMPORARY STORAGE BUILDING TO GRANTWOOD GOLF COURSE, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

34. ORDINANCE NO. 2009-217 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR THE SULFER SPRINGS SOUTH BRANCH (MARESH PROPERTY) PROTECTION AND RESTORATION PROJECT, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

35. ORDINANCE NO. 2009-218 APPROVING A CHANGE ORDER TO THE CONTRACT WITH LANDESIGN, LLC FOR PROFESSIONAL SERVICES RELATED TO THE MEMORIAL PARK IMPROVEMENTS, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

36. ORDINANCE NO. 2009-219 AUTHORIZING THE MAYOR TO ENTER INTO A SANITARY SEWER CONNECTION FEE AGREEMENT WITH QUANJIAN YAN FOR PROPERTY LOCATED AT 39760 EDITH STREET, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

37. ORDINANCE NO. 2009-220 AMENDING THE ANNUAL APPROPRIATIONS FOR SALARIES/WAGES AND OTHER EXPENDITURES OF THE CITY OF SOLON FOR THE PERIOD JANUARY 1, 2009 TO DECEMBER 31, 2009, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

38. ORDINANCE NO. 2009-221 ACCEPTING THE BID OF BROOKSIDE CONSTRUCTION SERVICES FOR THE PURCHASE AND INSTALLATION OF A FOUNTAIN AND OTHER GENERAL IMPROVEMENTS FOR THE VETERAN'S MEMORIAL PARK PROJECT, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

39. ORDINANCE NO. 2009-222 ACCEPTING THE BID OF GUALTIERI CONSTRUCTION COMPANY FOR A SIMULATED WOOD TRIM RAILING SYSTEM FOR FIRE STATION 2, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

40. ORDINANCE NO. 2009-223 ACCEPTING THE BID OF SCHALMO BUILDERS FOR A BUILDING ADDITION AT THE POLICE DEPARTMENT, was read for first reading.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

COMMENTS FROM COUNCIL:

Councilman Pelunis asked that residents of Ward 2 place their rubbish at the curb at dusk on their scheduled day of pickup.

Councilman Scott commended Mr. Bandiera for his creative idea for a salt storage building. Councilman Scott said the building will replace the current storage facility and will offer storage for enough salt to accommodate an entire season. He looks forward to Mr. Bandiera's presentation at the Finance Committee meeting.

Councilman Kraus expressed appreciation to the residents of Ward 6 for their patience with road projects.

Councilman Kraus said the project to address vacant and foreclosed houses in the City is proceeding. He explained the detrimental affect a foreclosed home has on a neighborhood. He thanked Mr. Matty's law firm and Mr. Frankland for attending a recent meeting in which a law professor spoke regarding the program for foreclosed and vacant houses. He discussed how property values rapidly decrease as a result of vacant homes and how health and safety issues can be become a concern. Councilman Kraus said the program will need to be budgeted at the Finance Committee meeting and may be an expensive process to remediate the issues involved. He said sections of the Code are being reviewed to address vacant homes.

Councilman Pelunis advised of an article in the *Plain Dealer* regarding Judge Pianka's several programs in the Cleveland Housing Court and Municipal Court that may be helpful.

Councilman Kraus advised of an article in the *Plain Dealer* regarding a program in Cleveland Heights which is more complex, however, explains how nuisance properties are addressed.

In response to complaints in Ward 7, Councilman Russo asked that the issue of residents placing rubbish at the curb at inappropriate times be addressed.

Councilman Russo reported that road work is scheduled in September on Outley Park Drive, Kingswood Drive and Charmwood Oval in Ward 7.

Councilman Suit referred to an item on the Consent agenda in which only one bid was received and was rejected. He said quite often it is more favorable to rebid the item to receive additional bids, but the result is not always favorable. He noted that for a recent project, the bids received after re-bidding were more costly than the bid that was rejected. He advised that such legislation be cautiously considered in the future.

Councilman Stolarsky said the Recreation Department is accepting registration for fall programs. He asked that residents contact the Recreation Department or the website for more information.

As Planning Commission items will be on the Council's next agenda, Vice Mayor Drucker said the August 31st Council meeting will include a 7:00 P.M. Caucus.

Vice Mayor Drucker stated the Solon Center for the Arts' Gallery opening was Friday evening and she encouraged residents to visit the gallery.

Vice Mayor Drucker announced Pretzables, a business in Solon, was presented in *O Magazine*. She extended congratulations to the owner.

Vice Mayor Drucker announced that Findaway World, creator of Playaway, was recently recognized as one of the fastest growing private companies in the nation, one of the fastest growing consumer products companies in the nation and one of the top ten fastest growing companies overall in the State of Ohio. She extended congratulations to Findaway World.

COMMENTS FROM THE ADMINISTRATION:

Mr. Matty said an executive session item regarding imminent litigation may require action after the executive session.

Mr. Bandiera stated the code requires residents to place rubbish at the curb no earlier than sunset the night prior to the regular collection day with the exception of certain holidays. He asked that residents refrain from placing garbage,

including landscape bags, at the curb any sooner than 7:30 P.M. or sunset the night prior to collection to avoid animals from rummaging through rubbish. He asked that residents call the Service Department for early collection if they are unable to hold rubbish until the regular collection day.

Mr. Bandiera said carts for the Automated Rubbish Program will be deployed the first week of September for Phase II. An information packet will be distributed to residents prior and residents may call the Service Department with questions.

Mr. Stanek thanked residents for their patience with the many projects in the City.

Motion by Councilman Pelunis, seconded by Councilman Kraus to adjourn into executive session at 9:35 P.M. for consideration of property acquisition and imminent litigation matters.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

The meeting reconvened at 10:40 P.M.

Roll Call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

ORDINANCE NO. 2009-224 AUTHORIZING A CHANGE ORDER WITH KENMORE CONSTRUCTION COMPANY AND AUTHORIZING THE MAYOR TO EXECUTE A DELAY/CLAIM RESOLUTION ACCELERATION AGREEMENT FOR THE PETTIBONE ROAD INFRASTRUCTURE IMPROVEMENT PROJECT, AND DECLARING AN EMERGENCY, was read for first reading.

Mr. Matty advised representatives from QCI are present in regard to Ordinance No. 2009-224 which authorizes the Mayor, Mr. Busch and Mr. Driscoll to sign and execute certain documents which will result in a Resolution of Kenmore Construction Company's delay claim and will also permit the acceleration of the Pettibone Road Infrastructure Project to be completed by November 30, 2010.

Mr. Rick Capone, President, Quality Control Inspection, said Change Order No. 1 for Kenmore Construction in the amount of \$555,000 will accelerate the contract and complete the project by November 30, 2010.

Mr. Stanek further explained the change order will allow the contractor to begin Phases 2 and 3 possibly as early as 10 days from now with proper notification, to allow work on utilities only and complete Phase 1 by November 30th. As a result, Kenmore may be working on different phases at the same time before shutting down for the winter. Substantial damages will result if the project is not completed by November 30, 2010.

Motion by Councilman Scott, seconded by Councilman Stolarsky to accept the terms of the agreement with Kenmore Construction Company to remedy the

delays and accelerate the project and to suspend the rules and place Ordinance No. 2009-224 on third and final reading.

Mr. Matty requested Mr. Stanek obtain signatures from Kenmore Construction and Mayor Patton on page 2.

Roll call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion carried

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit
Nay: None Motion Carried

Motion by Councilman Pelunis, seconded by Councilman Russo to adjourn the meeting at 10:45 P.M.

Vice Mayor

Clerk of Council