

SOLON CITY COUNCIL
July 6, 2009 – 7:00 P.M.

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

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

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 Engineer Busch, Construction Manager Driscoll, Planner Fowlie, Senior Services Director Frankel, Police Chief Godzich, IT Director Pokorny, Assistant Fire Chief Shebeck, Public Works Director Stanek, Finance Director Weber

PLANNING COMMISSION:

Ms. Fowlie reviewed each item from the Planning Commission.

1. 33505 Bainbridge Road – CarQuest: This item was tabled at the Council's previous meeting and the applicant was notified to attend this meeting.
2. 39910 Aurora Road – Charles Randazzo – Station 43: Ms. Fowlie said there are two areas of screening involving roof top equipment and ground mounted equipment. Although a wall type screening for the roof top equipment was discussed on a number of occasions, it was determined the best solution would be to paint the units with a high heat paint and require the owner to be responsible for ongoing maintenance. The Planning Commission also approved a plan for board-on-board fencing to screen the ground equipment at the rear of the building. Vice Mayor Drucker asked if the fencing was previously approved. Councilman Stolarsky said the applicant indicated the board-on-board fencing was approved.

Ms. Randazzo said it was her understanding that the screening of the roof top equipment is the only issue before the Council because the fencing for screening the ground mounted equipment was already approved.

Ms. Fowlie said she reviewed the approved plan and did not believe the screening fence was indicated on the landscape plan, although the fencing surrounding the dumpster enclosure was included.

3. 33816 Baldwin Road – Byronduc Ngo: Ms. Fowlie explained the Planning Commission approved a 4.8' wide section of pavement onto the existing driveway, however, the applicant met with Ms. Fowlie and will be submitting a revised plan to the Planning Commission which will add additional paving.

Councilman Suit suggested the Council comment on the plan and then refer it back to the Planning Commission. He encouraged the Council members to visit the site and noted the homes in this area are very close together.

Councilman Kraus said he also visited the site and spoke with the neighbors adjacent to the property from the west who also expressed concern. He requested the item be tabled.

Councilman Pelunis agreed the homes are very close and requested Councilman Kraus attempt to obtain letters from the neighbors.

4. 37725 Pettibone Road – James Zelch: Ms. Fowlie explained the application for approval to install a baseball field. Councilman Stolarsky said one of the contingencies listed on the agenda states the field will be used exclusively by the Zelch family and said it should include those invited by the Zelch family.

Mayor Patton said an e-mail was received from a resident concerned about the number of children entering the location on Pettibone Road considering the current road conditions, which was forwarded to Police Chief Godzich. Chief Godzich feels the resident had legitimate concerns regarding the road conditions and also had concerns regarding safety and adequate parking.

Councilman Suit questioned a Planning Commission contingency regarding no additional lighting. Councilman Stolarsky clarified there is currently some lighting for the house but there is no lighting on the field.

Councilman Scott said there may be some concern regarding ingress and egress and suggested it be reviewed by the Safety and Public Properties Committee. He also questioned the contingencies for variance approval and Law Director Matty agreed the variance stays with the property and the contingencies should state "property owner" instead of "the Zelch Family".

5. 6795 Solon Boulevard – Solon Schools for Roxbury School: Ms. Fowlie explained the variance was previously approved for face brick, however, the applicant is now requesting the building be constructed in concrete block to match the existing dugouts. An additional variance for building color is necessary. The Planning Commission required that the press box and dugouts be painted an earth tone color as approved by the Planning Director.

Councilman Russo questioned why the press box cannot be painted the same color as the dugouts. Although a letter objecting to the color was received from a resident, Councilman Russo feels the resident is not directly affected and cannot see the field from her residence. He said the school colors are blue and white and the dugouts are currently white. Councilman Russo said timely

approval is necessary because the previously approved variance will soon expire. He also questioned the authority given to the Planning Director regarding approval of the color. Councilman Russo noted when earth tone colors were discussed by the Master Plan Committee, it was in regard to avoiding the need for an applicant to seek color approval and accelerate the planning review process.

Ms. Fowlie feels having the Planning Director choose the color allows some flexibility and helps expedite the project.

Councilman Russo feels there should be a range of approved colors so the color choice is not determined by only the Planning Director.

Vice Mayor Drucker agreed having a range of colors to choose from would make the process easier.

PLANNING COMMISSION CONSENT:

There were no objections to any of the Planning Consent Items and Vice Mayor Drucker advised those applicants it was not necessary for them to stay for the meeting.

Councilman Suit advised Item 9 regarding the Solon Methodist Church is actually in Ward 4 and not Ward 6 as indicated on the agenda.

NEW:

15. Ordinance No. 2009-170 – Mansour, Gavin, Gerlack & Manos agreement: Mr. Matty advised he and Mr. Coyne received conflict waivers from Giant Eagle. He requested a motion be made authorizing him to work with Mr. Coyne on the development agreement for the Solar Shopping Center Project.

CORRESPONDENCE:

16. Request received from Reit Management & Research regarding a proposed text amendment to the I-1 Warehouse District: Councilman Stolarsky requested this item be tabled to provide him an opportunity to meet with affected residents.

The caucus ended at 7:25 P.M. and the meeting began at 7:30 P.M.

Also Present: City Engineer Busch, Economic Development Manager Weil-Dorfman, Construction Manager Driscoll, Planner Fowlie, Senior Services Director Frankel, Police Chief Godzich, IT Director Pokorny, Assistant Fire Chief Shebeck, Public Works Director Stanek, Finance Director Weber

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:

There were no comments from the audience.

PLANNING COMMISSION:

1. 33505 Bainbridge Road – The Warner Company (Carquest) 025-2009
 - 3' rear yard setback variance – PC approved
 - 16' side yard street setback variance – PC approved
 - Site plan – dumpster enclosure – PC recommends approval of alternate plan

Ms. Fowlie displayed a site plan and indicated the location approved by the Planning Commission for the requested dumpster enclosure. She noted the original approval of the site plan was contingent upon the employee vehicles being parked in the rear of the building.

Councilman Stolarsky explained the Planning Commission reviewed two possible locations for the dumpster enclosure. It was determined the first proposed site was not possible because of insufficient area for a vehicle to unload the dumpster. The Commission determined the alternate location was the best option.

Mr. Glen Ramage, Architect, was present.

In response to Councilman Suit's question, Mr. Ramage confirmed that three small pick-up trucks will be parked in the rear of the building.

Councilman Suit said he drove to the rear of the building with a mid-size vehicle and he did not have sufficient room to turn around and had to back out of the lot. He is concerned about a refuse truck's ability to maneuver in the area and feels it would have to back into the driveway.

Mr. Ramage said due to the problems with maneuverability, the alternate location was recommended for the refuse truck to approach the dumpster head-on without the need to turn. He said the site has been carefully examined and it was determined this would be the best location for the dumpster. He agreed that this is a difficult site to place a dumpster, however, it is greatly needed. Mr. Ramage said currently the employees take the refuse home for disposal.

Councilman Pelunis said a dumpster is a necessity for a business. However, he agreed with Councilman Suit that it will be very difficult to maneuver a truck in this location, especially in the winter.

Mr. Ramage agreed with Councilman Pelunis and said the parking lot will have to be well maintained and effectively cleared during the winter. He said the store manager contacted the refuse company who assured him they would be able to access the rear of the building to service the dumpster location. The refuse company indicated the plan with the least amount of maneuvering would be best.

Councilman Suit said an alternate solution to this problem is to park the vehicles in the lot behind the adjoining property owner's building as there is room to park the three vehicles and is empty in the evenings and on weekends. Councilman Suit finds it unfortunate that the two business owners cannot cooperate for mutual benefits.

Although, as Vice Mayor Drucker stated, it is common for a refuse truck to back up to a dumpster, Mr. Ramage said they normally have adequate room to turn and exit facing forward. However, in many cases backing out is necessary.

Councilman Scott said there was a similar situation with the dumpster location for CVS. The problem was resolved by scheduling a specific time for the refuse company to access the dumpster when no cars were allowed to park adjacent to the dumpster. This provided the refuse truck room to maneuver.

There were no objections to the 3' rear yard setback variance, therefore, it stood approved.

There were no objections to the 16' side yard street setback variance, therefore, it stood approved.

Motion by Councilman Stolarsky, seconded by Councilman Russo to approve the site plan for the dumpster enclosure as shown on the alternate plan.

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

Nay: None

Motion Carried

2. 39910 Aurora Road – Charles J. Randazzo (Station 43) 018-2009
- Mechanical equipment screening variance – PC approved with contingencies:
 - equipment is painted with high heat paint in a color to match the roof
 - applicant will agree to provide ongoing maintenance of painted equipment
 - Variance to expand a non-conforming use by more than 60% of its valuation – PC approved
 - Site plan - alteration for mechanical equipment screening
 - PC recommends approval of board-on-board wood fence to match fence surrounding the dumpster with a gated opening on the south side

Ms. Fowlie said mechanical equipment is required to be screened from view by the adjacent property owners and the street right-of-way. The Planning Commission considered various options for screening which included an addition onto the roof of the building. However, the Commission ultimately approved allowing the applicant to paint the rooftop equipment with a high heat paint that will match the roof color contingent upon the owner's agreement to perform ongoing maintenance of the painted equipment when necessary.

Ms. Fowlie displayed a site plan and indicated a location to the rear of the building where ground mounted equipment is located which also requires screening. The proposal is to screen the equipment with a wood board-on-board fence. Ms. Fowlie explained that the Planning Commission also requested the applicant provide the cost calculations for the fence screening since the application is to expand a non-conforming use by more than 60% of its valuation.

Councilman Stolarsky further explained the Commission's consideration of various options for screening the equipment.

Councilman Stolarsky said the Planning Commission also approved the screening of the ground mounted equipment with a board-on-board wooden fence to match the fence surrounding the dumpster with a gated opening on the south side.

Councilman Stolarsky explained that the variance to expand a non-conforming use by more than 60% of its valuation was previously approved for this location. Therefore, it is only necessary for the applicant to supply the costs associated with the additional fence used for screening the equipment which is a marginal cost.

Councilman Suit said although he does not support granting a variance for expansion of a non-conforming use and did not support the expansion of Station 43, he will not formally object to the variance because it involves minor issues.

Vice Mayor Drucker said she is in agreement with Councilman Suit and will not object to the variance.

In response to Vice Mayor Drucker's question, Ms. Fowlie said the paint color will closely match the roof color.

Vice Mayor Drucker said the purpose of the variance is to screen the equipment and painting does not adequately screen it. Ms. Fowlie said the Commission determined that painting the mechanical units the same color as the roof would allow the units to blend better inasmuch as the current units are a bright, shiny galvanized metal and are noticeable.

Councilman Pelunis has no objection to the variance providing the applicant agrees to ongoing maintenance of the painted equipment.

There was no objection to the mechanical equipment screening variance, including the Planning Commission's contingencies, therefore, it stood approved.

There was no objection to the variance to expand a non-conforming use by more than 60% of its valuation, therefore, it stood approved.

Motion by Councilman Stolarsky, seconded by Councilman Scott to approve the site plan alteration for mechanical equipment screening for the ground/wall equipment with a board-on-board wood fence to match the fence surrounding the dumpster with a gated opening on the south side.

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

Nay: None

Motion Carried

3. 33816 Baldwin Road – Byronduc Ngo 032-2009
- 3.1' side yard setback variance – PC approved
(PC rejected a 5' accessory pavement setback variance)

Ms. Fowlie displayed a site plan and reviewed the application. She explained the applicant originally requested approval to add 4.8' of width onto the existing driveway to park two vehicles. The Planning Commission approved the 3.1' side yard setback variance but rejected his request for an accessory pavement setback variance for two additional sections of pavement.

Ms. Fowlie said subsequent to the Planning Commission meeting, the applicant submitted an alternate plan to add six more inches of pavement in addition to the 4.8' approved by the Commission. The potential new pavement would be 1.5' from the property line. Ms. Fowlie clarified the new request has not been reviewed by the Planning Commission and is not on the Council's agenda.

Councilman Stolarsky said the 3.1' side yard setback variance was unanimously approved by the Planning Commission. Although the request for the accessory pavement was rejected by the Commission, the side yard setback variance for the purpose of parking two vehicles in the driveway was considered a reasonable request.

Councilman Suit questioned the calculations on the site plan and Ms. Fowlie explained the numbers represented the width measurements of the existing pavement in inches.

Councilman Suit disapproves of the plan as the houses are very close together and the area between the two houses would be almost entirely concrete. He believes the proposal ignores property lines and property rights. He said any new plan that is submitted should be reviewed by the Planning Commission.

Councilman Pelunis said if a new plan is submitted, letters from the neighbors should be solicited stating their opinions. He has viewed the neighborhood and agrees with Councilman Suit regarding the houses being close together and believes 1.5' from the property line is too close and could negatively affect the neighborhood.

Councilman Kraus said he met with the adjacent neighbors who expressed concern regarding the proximity of the pavement to their property. Councilman Kraus told them he would request the Council table this item for further review by the Planning Commission.

Vice Mayor Drucker questioned whether the item should be referred back to the Planning Commission or tabled because the applicant is now submitting a revised plan.

Mr. Matty said if the applicant does not withdraw the application, it would have to be rejected and then referred to the Planning Commission. If the Council takes no action within three meetings, it will be considered approved.

Mr. Ngo was present. Vice Mayor Drucker explained that he must decide if he wants to change the plan. If so, the Council would have to reject the plan previously approved and refer the new plan back to the Planning Commission.

Mr. Matty advised the applicant of his option to withdraw the application from the Council's agenda and consideration to avoid a record of rejection.

Mr. Ngo asked if he would be able to request the original application again.

Councilman Scott asked if the application could be reinstated.

Mr. Matty said the application could be reinstated, however, the applicant would have to begin the entire process again.

Mr. Matty confirmed Ms. Fowlie's explanation that once the Council rejects the application, the applicant cannot re-apply for the same variance within a 6-month period.

Councilman Scott recommended the application be tabled for one meeting and requested the Engineering Department stake the property to indicate the property lines and the location of the additional pavement.

Motion by Councilman Kraus, seconded by Councilman Pelunis to table consideration of Item 3.

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

Nay: None

Motion Carried

Councilman Suit requested the Council be notified once the property is staked.

4. 37725 Pettibone Road – James Zelch - NZW Enterprises 034-2009
 - 17' recreational court side yard setback variance – PC approved contingent upon:
 - occupancy of the residence by Zelch family only
 - use of the field exclusively by Zelch family
 - no additional lighting will be added

- 4' fence height variance – PC approved

Ms. Fowlie displayed the site plan and reviewed the application for a proposed baseball field. The Code requires a recreational court must maintain a 25' side yard setback. As the backstop is as close as 8' from the side property line, a 17' variance is required. The chain link fence for the backstop is 10' in height and 6' is the maximum height limit allowed by the Code, therefore, a 4' fence height variance is required. The Planning Commission approved the variances with the above listed contingencies.

Councilman Stolarsky further explained the Commission's actions. Although he did not support the side yard setback variance as he believes the field could be moved an additional 17' to comply with the Code, he supports the 4' fence height variance.

Vice Mayor Drucker questioned the location of the nearest house to the field. Ms. Fowlie indicated the closest house is approximately 100' away from the backstop and there is substantial screening by a row of pine trees between the house and the backstop.

Councilman Pelunis asked Ms. Fowlie what is currently located on the property. Ms. Fowlie said a residence and accessory buildings are located on the property and indicated their locations on the site plan.

In response to Vice Mayor Drucker's question regarding parking, Dr. James Zelch, said parking would be entirely on the property and no cars would be parked on Pettibone Road.

At Councilman Kraus' request, Dr. Zelch confirmed the field would be used by family members and invited guests only and no additional lighting would be installed, although there are currently a few existing lights in the rear of the property.

Councilman Suit expressed concern over safety issues and requested input from the Law Director to determine if this is a permitted use in a residential zone. He said it appears there will be regular activity in this area and although trees screen the field from the neighbors, there will still be noise issues.

Dr. Zelch said there have only been two events held in the last twelve months.

Councilman Stolarsky said the Assistant Law Director defined a recreation court at the Planning Commission meeting. The contingencies were listed based on Dr. Zelch's explanation that the field will serve only family members and invited guests. No special parking accommodations were discussed.

Councilman Suit stated the Council does not have a site plan indicating the layout of the baseball field or where the parking will be located. The applicant previously indicated 45 vehicles were parked on the property, however, the driveway cannot accommodate 45 cars.

Dr. Zelch said the vehicles were parked on the grass.

Councilman Kraus asked Mr. Matty if the property is required to be occupied as it pertains to the accessory use issue. Mr. Matty said the actual use of the court is at issue.

Mr. Matty asked Ms. Fowlie if the application indicates the intended use of the field. Ms. Fowlie explained the only information submitted with the application is a description of the location and the required variances.

Mr. Matty said a description of the actual use as it has existed and the proposed intended use as it would be in the future is necessary to determine if it is a permitted use. Dr. Zelch said the land was previously a pasture. Mr. Matty said if this request is for occasional use by the resident and/or the resident's invitees, it is a permitted use under the Code. However, it would be a different consideration if the field was to be used by groups or leagues.

Dr. Zelch said the field will not be used by groups or organized leagues.

Councilman Scott said he would prefer no trees be removed to meet Code compliance and, therefore, he will support the side yard setback variance.

Councilman Scott said the Council received an e-mail questioning the parking in that location and correspondence from the Police Chief regarding concerns about ingress and egress from the location.

Councilman Scott believes the parking is an important issue to resolve and suggested the item be tabled and possibly referred to the Safety and Public Properties Committee for review.

Dr. Zelch said during recent use of the field, vehicles were able to ingress and egress in an orderly, polite and deliberate manner. Many people who attended are residents in the Signature Subdivision and used golf carts for transportation. He said there were no safety issues.

Councilman Scott said the Council needs to consider the parking and traffic situation, especially with the current construction of Pettibone Road.

Councilman Suit said upon review of the Planning Commission minutes, it was noted that Dr. Zelch said the home might possibly be occupied by a family member. Councilman Suit asked Dr. Zelch if the home will be occupied.

Dr. Zelch said it was occupied over the weekend by family members and he expects it will eventually be occupied by a family member. He compared the home to a vacation home for use by family and said he does not anticipate full-time occupation by any local family members.

Councilman Pelunis asked if it would be possible to install removable netting as a backstop instead of installing a fence, so the adjacent residents would not have to view the fence in the winter.

Dr. Zelch believed it would be unnecessary to add netting because the neighbor attended a function on the property and is very pleased with the improvements that have been made and as a result, is making improvements to his own property. Dr. Zelch feels netting would serve no purpose since he has already planted shrubs and will plant ivy which will adhere to the fence and offer additional coverage.

Vice Mayor Drucker said although concerns have been raised about the number of people on the property, parking issues and Pettibone Road safety, the use is permitted. She said people are allowed on residential property to play baseball whether it resembles a baseball field or is only grass and the Council should focus on the fact that it is a permitted use.

Councilman Suit said although he will not make a formal motion to object, he is not convinced that the use is permitted and he is extremely opposed to what is being proposed and is concerned for the neighbors.

Vice Mayor Drucker said the contingency should be changed to include the statement "use of the field exclusively by the property owner or their invitees".

Mr. Matty said a motion to modify will be necessary.

Councilman Scott asked if the Council was prepared to move forward with the application based on Chief's Godzich's concerns.

Chief Godzich said he was unaware a parking area is located on the property prior to sending his e-mail expressing his concerns. However, based on the applicant's statements about parking on the property, he has no objections.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to amend the contingencies as follows:

- o occupancy of the residence by the ~~Zelch-Family~~ **property owner/family**
- o use of the field exclusively by the ~~Zelch-Family~~ **property owner** or their invitees
- o no additional lighting will be added

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

Nay: Suit

Motion Carried

Motion by Councilman Stolarsky, seconded by Councilman Scott to approve a 17' recreational court side yard setback variance as amended.

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

Nay: Stolarsky, Suit

Motion Carried

There were no objections to the 4' fence height variance, therefore, it stood approved.

5. 6795 Solon Boulevard – Solon City Schools – Roxbury School 035-2009
 - Building material variance – PC approved

Ms. Fowlie displayed the plan and reviewed the application. The application was previously approved using face brick. However, the schools are now requesting approval to construct the press box in concrete block only and originally wanted to paint the press box white. The applicant withdrew the request for a color variance and the Planning Commission approved the building material variance contingent upon the applicant's agreement to paint the press box and existing dugouts an earth tone color approved by the Planning Director.

Councilman Stolarsky further explained the Commission's actions. The building material variance is the only issue currently before the Council. The setback variance was previously approved, however, will expire on July 21st. The concrete block will match the existing dugout structures.

There were no objections to the building material variance, therefore, it stood approved.

PLANNING COMMISSION CONSENT:

6. PP# 952-34-034 - Sherwood Drive - Sherwood Park H.O. 030-2009
Association
 - 95' front yard setback from right-of-way variance – PC approved
 - Site plan - portable toilet/storage structure – PC recommends approval
7. 27855 Aurora Road – Mount Olive Cemetery Association 031-2009
 - Site plan - additional pavement – PC recommends approval
8. 35875 Sedge Circle – Jackie Cunningham 038-2009
 - 57' variance to allow a decorative wall to be 87' from residence (left wall) – PC approved
 - 16' variance to allow a decorative wall to be 14' from right-of-way (left wall) – PC approved
 - 55' variance to allow a decorative wall to be 85' from residence (right wall) - PC approved
 - 20' variance to allow a decorative wall to be 10' from right-of-way (right wall) - PC approved
(applicant requested to provide a new plan indicating revised locations of decorative walls)
9. 5540 SOM Center Road – Solon United Methodist Church 039-2009
(Brian Novitsky)
 - Site plan modification – fence installation – PC recommends approval

Motion by Councilman Stolarsky, seconded by Councilman Pelunis 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:

10. ORDINANCE NO. 2009-140 AMENDING THE SOLON COMMUNITY CENTER POLICIES AND PROCEDURES MANUAL TO PROVIDE FOR AN INCREASE IN USER FEES, was read for third reading.

Councilman Scott said the ordinance reflects a 7% to 11% increase in fees in various categories although it is still a competitive rate for the area.

Motion by Councilman Scott, seconded by Councilman Kraus to approve Ordinance No. 2009-140.

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

11. 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 PERSUANT TO A LEASE BY IMPROVING THE BRIAR HILL LAKE DAM AND RELATED AREA AND DECLARING AN EMERGENCY, was read for third reading.

Resolution No. 2009-141 remained on third reading.

12. ORDINANCE NO. 2009-150 AMENDING SECTION 660.14 OF THE GENERAL OFFENSES CODE, SNOW REMOVAL, AND ADOPTING A NEW CHAPTER 838, OF THE BUSINESS REGULATION AND TAXATION CODE, REGISTRATION OF PRIVATE SNOWPLOWERS, was read for second reading.

Ordinance No. 2009-150 remained on second reading

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

This item was referred to the Planning Commission and no new material has been received.

Motion by Councilman Kraus, seconded by Councilman Russo to schedule a public hearing for August 3, 2009.

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

NEW:

14. ORDINANCE NO. 2009-169 APPROVING THE SUBMISSION OF THE 2010 ALTERNATIVE TAX BUDGET INFORMATION TO THE CUYAHOGA COUNTY BUDGET COMMISSION, was read for first reading.

Councilman Russo said this ordinance will set the property tax rates for 2010 and is being submitted without the 3/10th of a mill that voters approved to pay the annual debt service on the bonds issued for the construction of the new library. Paying off the remaining debt on these bonds equals 1.8 million and this will be completed with cash reserves.

Motion by Councilman Russo, seconded by Councilman Pelunis to suspend the rules and place Ordinance No. 2009-169 on third and final reading.

Councilman Stolarsky did support the alternative tax budget but opposed the elimination of the 3/10th of a mill to pay off the library bonds. He supports paying off debt, however, does not support eliminating a revenue stream at this time.

Councilman Suit also questioned whether the debt should be paid off at this time. He referred to a May 14th memo from Finance Director Weber which stated the general funds cash reserves fell to \$18.5 million as of March 31, 2009. It dropped \$1.2 million in the first quarter. Although the memo further stated there are recent indications that it might not drop any further, June figures indicate a drop of more than one-half of a million dollars from June, 2008 figures. Councilman Suit agreed with Councilman Stolarsky and does not approve of paying off the library bonds.

In response to Councilman Pelunis' inquiry, Mr. Weber said the bonds run for eight years and the City is paying between 5½% and 6½% interest.

Councilman Pelunis asked what interest rate is currently being earned.

Mr. Weber said the City is currently earning an interest rate of 2% to 2¼%. Mr. Weber responded to Councilman Suit's concerns and said the City ended the month of May with a general fund cash balance of \$20.408 million which is up from the 2008 year end balance of \$19.745 million. Mr. Weber explained income tax is only one source of the City's revenue and other sources, such as inheritance tax, did very well. The general fund balance is currently higher than the balance at the beginning of the year despite the decrease in income tax.

Mr. Weber said the alternative tax budget form must be adopted per the Ohio Revised Code by July 15th.

Vice Mayor Drucker said the Finance Committee recommended, by a 2 to 1 vote, to pay off the library bonds. In addition, Mr. Weber's memo listed six favorable reasons to pay off the library bonds. Vice Mayor Drucker said although the levy was approved years ago, times have changed and the City is in a position to help

property owners benefit by a small reduction. Therefore, she supports the recommendation.

Mr. Weber said the funds can also be taken from the earned interest fund or the bond retirement fund. In addition, funds were budgeted to pay down the City's notes in November that can be used for the library bonds payoff, therefore, the notes would be rolled over on a higher amount and the interest rate on the notes is 1%. The money for the library bonds is currently borrowed at 5½% to 6½%.

Councilman Pelunis agreed with Mr. Weber and believes residents would approve of the reduction as well. He feels it is sensible to pay the bonds off early.

Councilman Scott questioned the average savings to property owners. Mr. Weber said between \$20 and \$30 per year for the average homeowner.

Councilman Scott asked what would become of the tax income from the levy. Mr. Weber said the tax was exclusively for the debt service on the library bonds and, therefore, it will no longer be necessary.

Councilman Scott questioned why the City would risk removing \$1.8 million from the reserve fund since there might be a downturn in income tax. He said during recent meetings to discuss the Master Plan, it appears the City will have large expenses in the future. Councilman Scott said for a savings of \$30 a year, he is not sure residents would approve and might prefer the City remain more solvent.

Mr. Weber said there is really no risk involved with the type of reserves the City currently has on hand.

Councilman Scott asked what is planned for the remaining reserve balance.

Vice Mayor Drucker said many options were discussed at the Finance Committee meeting, such as paying off Fire Station 2 and 3. Paying off the library bonds was one of the options discussed and Mr. Weber indicated this would be the main priority.

Councilman Scott said the taxes going forward were to be used to pay off the debt which is why residents voted for the levy. The City is uncertain of what its plight may be and he questioned if this is the best use of the reserves.

Vice Mayor Drucker said although \$30 a year might not seem like a large amount, another levy may be needed in the future for the schools. Paying off the library debt may keep tax responsibilities from increasing.

Councilman Pelunis said according to Mr. Weber's memo, the City's credit rating may also benefit since the City will have less debt.

Councilman Scott said he believes the City has the highest credit rating available and Mr. Weber said the City has the highest credit rating with Standard and

Poor's, but Moody's is undecided. The payoff of the library bonds may help Moody's make a favorable decision.

Councilman Scott does not feel it is prudent to pay off the library debt at this time.

Councilman Russo agreed it is sensible to pay off the bonds now and send a goodwill gesture to residents. He said times have changed since this issue was initially voted on and the City is paying more in interest than the interest it is earning in the reserve account. Councilman Russo believes paying off the debt is more advantageous to the City than some of the expenditures recently approved.

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

Final Passage: Aye: Drucker, Kraus, Pelunis, Russo
Nay: Scott, Stolarsky, Suit Motion Carried

15. ORDINANCE NO. 2009-170 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE LAW FIRM OF MANSOUR, GAVIN, GERLACK & MANOS CO., L.P.A. TO SERVE AS SPECIAL LEGAL COUNSEL IN REGARD TO THE SOLAR SHOPPING CENTER REDEVELOPMENT, was read for first reading.

Councilman Kraus said a development agreement is being negotiated with the Solar Shopping Center and it is necessary to have legal counsel working in conjunction with the Law Director during this process.

Mr. Matty said although the firm of Mansour, Gavin, Gerlack & Manos represents Giant Eagle in real estate matters, Mr. Tony Coyne, Mansour, Gavin, Gerlack & and Manos advised Mr. Matty that he has obtained a waiver from Giant Eagle to allow him to work for the City to negotiate a development agreement.

Mr. Matty said his firm represents Giant Eagle in liability cases and based upon his conversation with Mr. Coyne regarding the waiver, his firm contacted the senior corporate counsel for Giant Eagle and also obtained the same type of waiver. Therefore, with the Council's approval, Mr. Matty would like the opportunity to work with Mr. Coyne on the development agreement, as he did with the Coral Development project.

Motion by Councilman Kraus, seconded by Councilman Scott to suspend the rules and place Ordinance No. 2009-170 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:

16. Request from Reit Management & Research, LLC regarding a proposed text amendment to the I-1 Warehouse District

Councilman Stolarsky said a request was received from Reit Management, the primary property owners in the I-1 Industrial Warehouse District area, or more commonly known as Naiman Parkway. They are requesting the Council's consideration to amend the uses in the district.

Councilman Stolarsky requested this item be tabled to allow him time to discuss the request with residents in the area. He believes the interests of residents and adjoining property owners need to be protected.

Councilman Pelunis requested Councilman Stolarsky inform the Council of the results of the resident discussions.

Councilman Russo noted the Master Plan Committee considered expanding the uses in this area.

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to table consideration of Item 16.

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

CONSENT:

Motion by Councilman Pelunis, seconded by Councilman Russo 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. 2009-171 REJECTING BIDS RECEIVED FOR A WHEEL CHAIR ACCESSIBLE MINI-VAN FOR USE BY THE SENIOR CENTER, 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. 2009-172 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR THE PURCHASE OF A NEW 2008 OR 2009 WHEEL CHAIR ACCESSIBLE MINI-VAN FOR USE BY THE SENIOR CENTER, 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. 2009-173 ACCEPTING THE PROPOSAL OF URS FOR PROFESSIONAL TRAFFIC ENGINEERING SERVICES TO UPDATE TRAFFIC SIGNAL TIMING FOR THE CENTRAL CORRIDOR TRAFFIC SIGNAL SYSTEM, 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. 2009-174 AMENDING SECTION 234.09(A)(13) OF THE ADMINISTRATION CODE TO INCREASE THE AMOUNT OF THE RECREATION DEPARTMENT'S PETTY CASH FUND, 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. 2009-175 ACCEPTING THE PROPOSAL OF SAFETY NATIONAL CASUALTY CORPORATION FOR EXCESS WORKERS' COMPENSATION INSURANCE, 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

22. ORDINANCE NO. 2009-176 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR A FORENSIC VIDEO SYSTEM FOR USE BY THE POLICE DEPARTMENT DETECTIVE BUREAU, 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. 2009-177 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR CLEANING SERVICES FOR CITY BUILDINGS, 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. 2009-178 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE PDI GROUP AND PDI GROUND SUPPORT SYSTEMS, INC.

UNDER THE JOB CREATION GRANT PROGRAM 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

25. ORDINANCE NO. 2009-179 AUTHORIZING THE FINANCE DIRECTOR TO SELL OBSOLETE EQUIPMENT AND SEIZED VEHICLES OF NO FURTHER USE TO THE POLICE DEPARTMENT BY INTERNET AUCTION WITH GOVDEALS, 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. 2009-180 AUTHORIZING AND DIRECTING THE D.A.R.E. OFFICER IN THE POLICE DEPARTMENT TO REQUEST AND ACCEPT D.A.R.E. GRANT MONEY FROM THE STATE OF OHIO ATTORNEY GENERAL D.W.U.I. FUND, 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. 2009-181 ACCEPTING THE PROPOSAL OF URS FOR PROFESSIONAL DESIGN SERVICES FOR THE BRIAR HILL LAKE DAM 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

28. ORDINANCE NO. 2009-182 ACCEPTING THE PROPOSAL OF ENVIRO SCIENCE FOR PROFESSIONAL DESIGN SERVICES FOR THE ST. MARY'S STREAM 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

29. ORDINANCE NO. 2009-183 APPROVING A CHANGE ORDER AND GRANTING AN EXTENSION TO THE CONTRACT WITH CARRON ASPHALT PAVING, INC., FOR

COMPLETION OF THE 2008 ANNUAL ASPHALT PAVEMENT REPAIR PROGRAM (CONTRACT NO. 2008.08), 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. 2009-184 ACCEPTING THE BID OF CARRON ASPHALT PAVING, INC. FOR THE 2009 ANNUAL ASPHALT REPAIR PROGRAM (CONTRACT NO. 2009.08), 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. 2009-185 ACCEPTING THE FINAL CONTRACT ADJUSTMENT WITH JIM'S ELECTRIC, INC. FOR THE TENNIS COURT PATHWAY LIGHTING (CONTRACT NO. 2007.23), 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. 2009-186 ACCEPTING THE BID OF ASPHALT FABRICS & SPECIALTIES FOR A 2009 PREVENTATIVE MAINTENANCE PROGRAM UTILIZING FIBERCRETE JOINT SEALER (CONTRACT NO. 2009.25), 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. 2009-187 AUTHORIZING THE FINANCE DIRECTOR TO ADVERTISE FOR BIDS FOR AN ADDITIONAL SIDEWALK REPAIR PROGRAM FOR 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

34. ORDINANCE NO. 2009-188 ACCEPTING THE BID OF FABRIZI TRUCKING AND PAVING FOR THE ADA DRIVE AND NAVAJO TRAIL ROAD REHABILITATION PROJECT (CONTRACT NO. 2009.22), 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. 2009-189 ACCEPTING THE BID OF ALBA CONTRACTORS, INC., FOR MASONRY WORK AT THE VETERAN'S MEMORIAL PARK (CONTRACT NO. 2009.16), 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. 2009-190 AUTHORIZING AN INCREASE IN COMPENSATION FOR THE DIRECTOR OF CITY SERVICES, 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:

In turn, the Council commended the Administration and the support staff, Recreation, Police, Fire and Service Departments for their efforts with the Fourth of July celebration.

Councilman Scott referred to the Pettibone Road Construction Project and said construction is taking place on the opposite side of Pettibone Road. The curbing on Pettibone Road is almost complete between Aurora and Liberty Road and the paving should start very soon. City Engineer Busch will be scheduling a resident meeting in the next week to discuss the project with residents.

Councilman Kraus commended Councilman Scott and Ms. Weil-Dorfman for their efforts to bring the PDI Group to the City with a Job Creation Grant Agreement.

Councilman Russo requested an acceptable palette of earth-tone colors be made available for applicants to review during the application process to bypass the Planning Department process.

Vice Mayor Drucker said the request should be referred to the Administration and Planning Department. She agreed with the concept, however, suggested a range of colors be provided as opposed to specific colors to ensure the applicant is permitted to select variations of the earth-tone colors.

Councilman Russo said it was the Master Plan Committee's intention to have an acceptable range of colors to minimize the approval process.

Mr. Matty requested Ms. Fowlie relay this issue to the Planning Director to prepare an amendment to the Zoning Ordinance to accommodate Councilman Russo's request.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to authorize Law Director Matty to work with Mr. Coyne in negotiating a development agreement for the Solar Shopping Center at the current contracted rate of \$140 per hour.

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

Vice Mayor Drucker said in past years, residents in Ward 1 have had parking issues on the Fourth of July and this year the traffic situation was handled very efficiently. She extended her thanks to Chief Godzich.

COMMENTS FROM THE ADMINISTRATION:

Mayor Patton thanked the Recreation Department, the Police Department, the Fire Department and the Service Department for a job well done for the Fourth of July festivities.

Mayor Patton explained he was unable to attend the July 15th Council meeting because he was out of town attending a Mayors Conference.

Mayor Patton referred to a letter that appeared in both City newspapers inquiring about his position regarding the Bainbridge Road Project. Mayor Patton said during a previous Council meeting, he displayed awards entitled "Above and Beyond" that were presented to the City by the State National Guard. Mayor Patton said the awards reflect his opinion of how he, City officials and employees service the residents by going above and beyond for all residents. He worked with the Department heads to reach an acceptable solution regarding the Bainbridge Road project and supports their recommendation. Mayor Patton advised the plan for two lanes on Bainbridge Road during construction was recommended by the Cuyahoga County Engineer and not City officials. Mayor Patton said he did not have any special knowledge about this issue in 2005 or 2006. He learned of the plan in late 2008 or early 2009.

Mayor Patton said he is supportive of the two lanes on Bainbridge Road, just as he is supportive of the agreement with Briar Hill Lake, the storm sewer project and assisting residents who have detention basins. City staff is available for all of the residents in Solon and at times, assist individual residents with specific situations. Therefore, at the end of the Bainbridge Road Project, the Council will consider on a case-by-case basis, landscaping issues impacted by the project and try to help as many residents as possible.

Mr. Matty said the Council received an order from the Court of Appeals in a case involving Grantwood. The City's immunity was upheld by the Court of Appeals who reversed a trial court decision denying the City's sum of judgment. The Plaintiff has the right by discretion to appeal to the Supreme Court if they wish, but the City prevailed in the case. Mr. Matty said it is important to read the opinion because it provides an excellent description of the immunity defense that the City often asserts.

Chief Godzich reported that there were no problems reported with the parking during the Fourth of July festivities and no citations were issued. Although there was a large crowd, traffic was cleared in one hour and ten minutes and at least fifteen minutes can be attributed to an accident that occurred on Cannon Road and SOM Center Road that included minor injuries.

Chief Godzich said Police apprehended two individuals involved in theft issues at the Solon Community Center.

In regard to the Game Stop robberies, Chief Godzich said all of the parties involved have changed their pleas from "not guilty" and were all convicted on serious charges.

Chief Godzich said the individual responsible for a shooting behind Jimmy Daddona's restaurant has been apprehended and is in jail awaiting arraignment.

Motion by Councilman Pelunis, seconded by Councilman Russo to adjourn into executive session at 9:08 P.M. for consideration of property acquisition, compensation of a public employee, collective bargaining issues and imminent litigation matters.

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

The meeting reconvened at 11:12 P.M.

Motion by Councilman Stolarsky, seconded by Councilman Scott to adjourn the meeting at 11:12 P.M.

Vice Mayor

Clerk of Council