

SOLON CITY COUNCIL
March 2, 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

Absent: None

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: Human Resource Director Cornhoff, Economic Development Manager Weil-Dorfman, Planning Director Frankland, Police Chief Godzich, Grantwood Director Mazzeo, Fire Chief Shaw, Public Works Director Stanek, Finance Director Weber

Vice Mayor Drucker presided.

PLANNING COMMISSION:

Mr. Frankland reviewed the following items from the Planning Commission:

1. 30340 Solon Industrial Parkway – Tameran, Inc. – lot split/consolidation and setback variances: Mr. Frankland explained the application and advised the utility issues involved with this property have been resolved and an easement agreement has been approved by the Council.

Councilman Stolarsky said the Planning Commission's approval was contingent upon the applicant's compliance with a cross access easement and a representative for Tameran indicated his agreement to the contingency.

2. 6795 Solon Boulevard – Roxbury School - site plan for cooler/freezer addition: Mr. Frankland said the unit will be located at the rear of the building and will not be visible from the street. The only access will be from inside of the building and no variances are necessary.

3. 33003 Aurora Road - Ivan Tsou/Lucky Buffet – site plan for lighting: Mr. Frankland said the applicant is requesting approval of a site plan for lighting fixtures and displayed pictures of the fixtures. He provided a brief history stating the use of the fixtures was previously denied by the ABR, however, the fixtures

were installed and had to be removed. Mr. Frankland said the Planning Commission denied approval of the fixtures.

Councilman Suit questioned Mr. Tsou regarding comments that the Lucky Buffet is no longer in business. Mr. Tsou explained the business is still operating in the city, however, it has been temporarily closed until its reopening can be properly advertised.

Vice Mayor Drucker questioned whether the lighting fixtures were denied by the Planning Commission because of the type of fixture or the color. Mr. Frankland said both the type of lighting and the color were denied. The Code requires an earth tone color and a variance would be necessary for the red color.

PENDING:

4. and 5. Ordinance Nos. 2009-24 and 2009-25 - participation in healthcare reimbursement plan: Councilman Suit asked if employees will be required to participate in either of these plans. Mr. Cornhoff said the Finance Committee requested the legislation specifically indicate that employee participation is not mandatory and, therefore, modifications to the legislation will be submitted for review.

The caucus ended at 7:10 P.M. and the meeting began at 7:30 P.M.

Also Present: Human Resource Director Cornhoff, Economic Development Manager Weil Dorfman, Planning Director Frankland, Police Chief Godzich, Grantwood Director Mazzeo, Fire Chief Shaw, 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:

Mr. Richard Mendelsohn, 32790 Ledge Hill, spoke regarding Briar Hill Lake and would like reconsideration of Council's action at the previous meeting. He presented an outline of the history of Briar Hill Lake which included the storm water flow design, past flooding incidents and prior Council and City action. Mr. Mendelsohn compared other detention basins in the city with Briar Hill Lake and noted the importance of the lake to provide retention and detention. He believes the city has utilized the lake for storm water retention for years with no compensation to Briar Hill residents. He questioned why the warranty deed was not discussed earlier.

Mr. Mendelsohn questioned if there are alternative methods to the traffic problems and he believes all aspects should be reviewed. In regard to the Bainbridge/SOM Center Roads intersection, Mr. Mendelsohn finds it appropriate to relocate the utility lines for a cleaner appearance.

Mr. George Hoffman, 6406 Woodbury Drive, said although he supported Grantwood becoming a city department, he believes expenses should be justified for improvements to the golf course in light of the current economy.

Mr. Hoffman believes the highest spending priorities are for the safety and well being of the citizens of the community. He asked the Council to be prudent when considering spending priorities.

Mr. Hoffman requested the Council consider placing a review of financial reports on the agenda to keep residents updated.

MINUTES:

Motion by Councilman Stolarsky, seconded by Councilman Suit to approve the minutes of the February 17, 2009 meeting.

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

Nay: None

Motion Carried

REPORT: TAX INCENTIVE REVIEW COUNCIL:

Mrs. Weil Dorfman reported the following recommendations for the Enterprise Zone Agreements and CRA agreement of the Tax Incentive Review Council:

- Swagelok Company is in compliance with its CRA agreement and it was recommended the agreement be continued. They have exceeded their expectations for job creation by 728 jobs.
- Ameritech, InterDesign and KW Lang Mechanical are in compliance with their Enterprise Zone Agreements and it was recommended the agreements be continued.
- Agreements with Brennan Industries, Guardian Building Products Distribution, Nestle USA Food Group, and the second agreement for InterDesign were in compliance and expired at the end of 2008.
- Six agreements previously rescinded by Council were found to be in compliance.
- An update will be provided on a report that was recently submitted.

Councilman Scott said it was recommended by the committee to continue the Community Reinvestment Act.

Motion by Councilman Scott, seconded by Councilman Pelunis to accept the Tax Incentive Review Council's findings and recommendations.

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

PLANNING COMMISSION

1. 30340 Solon Industrial Parkway – PP#'s 953-22-019 & 020 - 076-2008
Tameran, Inc. (Council approved agreement for land and easement transfers 2/7)
 - Lot split/consolidation
 - 5' Setback variance for "Parcel A" (northern lot)
 - 5' Setback variance for "Parcel B" (southern lot)

Mr. Frankland displayed the plan. He noted the application was reviewed and tabled in 2008, however, the Law Director has since resolved any pending issues. Mr. Frankland reviewed the lot split/consolidation and explained the new lot line will cross the parking lot. As the Code requires 5' of green space between a property line and a parking lot, a 5' foot setback variance is required for the north side of the property line and the south side.

Councilman Stolarsky explained the Council previously approved an agreement for land and easement transfers. He noted the new parcel's future development is unknown at this time and it is likely the setback variance will not be necessary for the new parcel, however, it was approved because it is currently how the property exists. The lot split was approved contingent upon the designation of the sewer easements along Beaver Meadow Parkway, execution of the agreement and cross access between the two parcels.

Mr. Mark Wise, President, Tameran, Inc., indicated his acceptance to the conditions and the cross access.

At Councilman Suit's request, Mr. Wise indicated the location of the cross access which will be added to the site plan.

Motion by Councilman Stolarsky, seconded by Councilman Kraus to approve the lot split/consolidation contingent upon a designated easement for sewer infrastructure on the plat as approved by the Public Works Director and Law Director, execution of the agreement approved by the Council on February 17, 2009 and preparation of a final plat indicating a cross access easement.

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

There were no objections to the 5' setback variance for Parcel A (northern lot), therefore, it stood approved.

There were no objections to the 5' setback variance for Parcel B (southern lot), therefore, it stood approved.

2. 6795 Solon Boulevard – Roxbury School 009-2009
▪ Site plan for cooler/freezer addition

Mr. Frankland displayed the plan and explained the request to add a 150 square foot walk-in cooler/freezer area that would be accessed internally. A new door and window will also be installed.

Councilman Stolarsky further explained the Commission's actions. The cooler will not be visible to Solon Boulevard and was approved contingent upon the installation of guard rails or bollards for safety purposes.

Motion by Councilman Stolarsky, seconded by Councilman Scott to approve the site plan for a cooler/freezer addition contingent upon the installation of guard rails/bollards.

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

3. 33003 Aurora Road –Ivan Tsou – Lucky Buffet (formerly 004-2009
Shanghai Market)
▪ Site plan – new lighting

Mr. Frankland displayed the plan and explained the request to place red gooseneck lighting fixtures onto the tower element of the building. He noted in 2005, the ABR denied an application to place lights on the tower and roof line, however, the lights were installed. The ABR required the lights be removed in 2006 and the applicant complied. Mr. Frankland met with the city's architect consultant and it was determined the design and color of the lights are not acceptable for the building. A cylindrical type light was recommended, therefore, the Planning Commission recommended approval of the site plan/lighting fixtures be denied.

Councilman Stolarsky further explained the Commission's actions and said the architect's recommendation was considered and the Commission members unanimously recommended approval of the site plan be denied.

Mr. Tsou displayed pictures of comparable lighting fixtures located on various restaurants throughout the city.

Vice Mayor Drucker questioned why the light fixtures are acceptable at other locations in the city and are not appropriate for Mr. Tsou's restaurant. Mr. Frankland said the light fixtures were installed on buildings that pre-date the current review process of the Planning Department and the last few years of the ABR. Although it is unfortunate the fixtures were purchased in advance of the Planning Department's review, the architect found them to be inappropriate for the building, however, the final determination would be made by the Council.

Councilman Pelunis disagreed with the Planning Commission's recommendation because the fixtures are numerous throughout the city.

Councilman Russo noticed the pictures Mr. Tsou displayed indicated the lighting fixtures are installed above awnings and asked Mr. Frankland if the combination of the lighting fixture and the awning would be more applicable.

Mr. Frankland said the architect indicated the light fixture is not recommended for that particular building and an awning may not be appropriate for the elevation.

At Vice Mayor Drucker's request, Mr. Tsou displayed the site plan and elevation. Vice Mayor Drucker asked Mr. Tsou to confirm he previously stated he is willing to paint the fixtures.

Mr. Tsou stated his violation was unintentional. Because the business area surrounding his restaurant is no longer thriving, Mr. Tsou desires to brighten his property to attract business and increase safety.

Mr. Frankland said although some of the lights displayed by Mr. Tsou were red, they were installed prior to the 2005 revised Zoning Code and if the Council approves the lighting fixtures, a variance for the color would be necessary.

In view of the fact that similar lighting fixtures are installed on numerous buildings throughout the city, Vice Mayor Drucker does not support the Planning Commission's recommendation.

Councilman Scott was unaware of the number of buildings with the requested lighting and also finds it unfair to the applicant to deny the request.

Mr. Frankland reiterated that if the Council wishes to approve the red color, a variance is necessary. Otherwise, the Council can approve the lighting fixtures if they are painted an earth tone color.

Councilman Suit asked Mr. Tsou if he is willing to paint the fixtures an earth tone color.

Mr. Tsou said he will comply if necessary. Vice Mayor Drucker advised Mr. Tsou he has the option to return to the Planning Commission to request a variance for the red color.

Councilman Scott said the light fixtures were not approved by the Commission, therefore, it is unlikely the color will be approved. Vice Mayor Drucker indicated Mr. Tsou may then appeal to the Council if the request is denied by the Commission.

Motion by Councilman Kraus, seconded by Councilman Pelunis to overrule the recommendation of the Planning Commission and approve the site plan for the new lighting.

It was noted the site plan approval did not include the color of the light fixtures. Councilman Pelunis questioned if the light fixtures will chip and become weathered if Mr. Tsou were to paint them.

Councilman Suit said if Mr. Tsou wants red light fixtures, he will need to return to the Planning Commission.

Mr. Tsou said he will apply for the color variance.

Roll call: Aye: Drucker, Kraus, Pelunis, Russo, Scott, Suit
Nay: Stolarsky Motion Carried

PENDING:

4. ORDINANCE NO. 2009-24 AUTHORIZING ELIGIBLE FULL-TIME EMPLOYEES TO PARTICIPATE IN A HEALTHCARE REIMBURSEMENT ACCOUNT PLAN WITH SECURITIES FINANCIAL RESOURCES, INC. AND DECLARING AN EMERGENCY, was read for third reading.

Ordinance No. 2009-24 remained on third reading.

5. ORDINANCE NO. 2009-25 AUTHORIZING ELIGIBLE FULL-TIME EMPLOYEES TO PARTICIPATE IN A HEALTHCARE REIMBURSEMENT ACCOUNT PLAN WITH ICMA AND DECLARING AN EMERGENCY, was read for third reading.

Ordinance No. 2009-25 remained on third reading.

6. ORDINANCE NO. 2009-35 AUTHORIZING THE MAYOR TO ENTER INTO AN EMPLOYMENT CONTRACT WITH SCOTT N. POLLACK AS GOLF PROFESSIONAL AT GRANTWOOD RECREATIONAL PARK, was read for second reading.

Councilman Scott said the Administration negotiated a one-year contract for an annual compensation of \$58,028 for golf pro services with Scott Pollack which includes his current benefits. It will allow the golf pro to operate a pro shop and give lessons. The contract will be reviewed after one year.

Motion by Councilman Scott, seconded by Councilman Russo to suspend the rules and place Ordinance No. 2009-35 on third and final reading.

Councilman Pelunis does not support the ordinance citing that a golf pro is not an essential position and that a part-time person could be hired in the summer. He believes the services do not justify the expense and the hours cannot be accounted for when Grantwood is closed in winter.

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

NEW:

7. ORDINANCE NO. 2009-49 HIRING CERTAIN MEMBERS OF MANSOUR, GAVIN, GERLACK AND MANOS COMPANY TO SERVE AS SPECIAL LEGAL COUNSEL IN REGARD TO ACQUISITION OF THE BRIAR HILL LAKE PROPERTY, PP# 952-04-027 AND DECLARING AN EMERGENCY, was read for first meeting.

Motion by Councilman Suit, seconded by Councilwoman Drucker to adjourn into executive session at 8:20 P.M. for the purpose of discussing imminent litigation.

Roll Call: Aye: Drucker, Scott, Stolarsky, Suit

Nay: Kraus, Pelunis, Russo

Motion Carried

Motion by Councilman Scott, seconded by Councilman Pelunis to reconvene the meeting at 9:04 P.M.

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

Nay: None

Motion Carried

Mr. Matty explained the ordinance will hire certain members of Mansour, Gavin, Gerlack and Manos Company to serve as special legal counsel in regard to the acquisition of the Briar Hill Lake property, PP# 952-04-027.

Ordinance No. 2009-49 remained on first reading.

8. Renewal application for placement of farmland in an Agricultural District for Stephen and Philomena Luczek

A public hearing was scheduled.

Dr. Luczek was present and requested his property remain in the agricultural district.

Vice Mayor Drucker opened the public hearing and asked for comments.

There were no comments, therefore, the public hearing was closed.

8A. RESOLUTION NO. 2009-50 APPROVING A RENEWAL APPLICATION FOR PLACEMENT OF FARMLAND IN AN AGRICULTURAL DISTRICT FOR STEPHEN AND PHILOMENA LUCZEK FOR PROPERTY LOCATED ON BAINBRIDGE ROAD, was read for first reading.

Motion by Councilman Scott, seconded by Councilman Stolarsky to suspend the rules and place Resolution No. 2009-50 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:

9. Correspondence regarding the Briar Hill Lake Project

Correspondence was received from the Briar Lake Homeowners Association and Mr. Peter Ormond.

Mr. Adam Fair was present.

Mr. Matty asked Mr. Fair if the correspondence from the Briar Lake Association dated February 19, 2009 and February 27, 2009 is to be considered a rejection to the Council's actions at the last meeting.

Mr. Fair said it is neither an acceptance nor rejection. He said the Association did not receive information regarding the motion made at the February 17th meeting and was unaware until recently that there was a deadline for response. Mr. Fair said he viewed a copy of the Council meeting over the weekend and interpreted Mr. Matty's comments to indicate that he would meet with the two directors and revise the agreement. Inasmuch as Mr. Fair only recently received a copy of the legislation with a draft portion of the meeting minutes and did not receive a revised document, he believes he was not given anything to accept or reject.

Mr. Matty said if Mr. Fair does not accept or reject the Council's action, by the actual motion made, the motion will expire on today's March 2nd date. Mr. Fair again stated he was not given anything to accept nor reject or was he given notice of the motion.

Mr. Matty read the motion from the February 17th meeting and said if Mr. Fair is not prepared to accept or reject the agreement, the motion will expire by its own words. Mr. Matty said Mr. Fair's latest proposal will be the only correspondence on the table because it is on the agenda.

Mr. Fair said he was not in attendance at the portion of the meeting in which the motion was discussed and this evening he is prepared to present the Association's most recent proposal.

Mr. Tim Singer, 5889 Briar Hill, also viewed discussion from the video copy of the meeting and understood it to indicate a document would be approved and provided to the Association for approval or rejection, however, no document was provided.

Mr. Matty said the costs and efforts of preparing a revised document was not going to occur unless it was accepted by the Association. If it was accepted, Mr. Matty said his comments were made so that in the next few days, he and the directors would immediately produce a document that reflected the acceptance. He noted Councilman Scott offered additional time to the association for appropriate review. Mr. Matty again said the actual motion made by the Council and the revised lease agreement will terminate this day, March 2nd if not accepted by the Association.

Mr. Fair felt he was being pressured to make a decision for something he was unaware of until very recently and he could not understand how the City Council could expect such a decision on such an important issue. Mr. Fair felt the Association was given insufficient time to present this option to the board and property owners.

Mr. Matty advised Mr. Fair that a certain member from the Association stayed for the remainder of the last meeting after the majority of Briar Hill residents left. He said it cannot be controlled which part of the meeting the Association stayed for, however, the action was taken publicly and made by motion. Mr. Fair said to his knowledge, no board members stayed for the meeting and only the board members may speak on behalf of the Association. In regard to the Association members who stayed for the remainder of the meeting, he received emails with different responses as to what occurred. Mr. Fair believes a formal notice should have been sent advising what should be accepted or rejected.

Vice Mayor Drucker stated she and Mr. Fair met and, at that time, they discussed the motion on the floor and the warranty deed. Mr. Fair said he was unsure of the exact details of the motion and when he met with Vice Mayor Drucker, it was to discuss the Association's position regarding the warranty deed, which is the topic of the proposal he will present, and not in regard to the motion.

Mr. Singer said during all prior negotiations, a revised document was reviewed in each meeting with the city officials. Therefore, he expected to receive a revised document as a result of the February 17th meeting.

Mr. Matty said he received a request from a Council member to contact the ODNR and, as a result, ODNR Enforcement Officer, Tina Griffin, was contacted. After his discussion with Ms. Griffin, he is not convinced of any imminent peril for the ODNR to breach the dam based on ODNR's priorities. He stated there is documentation and procedures the ODNR must follow to protect the downstream property owners, the upstream property owners and the property owners of Briar Hill Lake. He stated there are additional procedures that must be performed by ODNR before any breach or action would be considered, which would include lowering the lake or any other action necessary for safety. Mr. Matty suggested the appropriate ODNR officials be requested to make a presentation at a future Council meeting to explain their procedures.

Mr. Matty said an emergency action plan to address situations similar to the flooding which occurred in 2006, should be initiated by the Association and submitted to ODNR. He is unaware of any such plan and asked if the Association has prepared such a plan. Mr. Matty said the ODNR has two divisions; an Engineering Division and a Management Division that work together with everyone involved in an emergency situation to ensure that their actions do not cause a situation worse than the actual emergency.

Mr. Matty was told that a remediation in response to an emergency will be the least affect to all involved which may be an action less than a breach. He

restated that the action requested by the ODNR is not immediate, however, certain actions have been requested by the ODNR since 2001, but the Association has not responded. He said the ODNR will take a monitoring situation and only react in the case of an emergency. Mr. Matty advised the Council not to move forward until ODNR officials are present at a Council meeting to explain its procedures and recommended actions.

Mr. Fair understands the procedures of the ODNR and said Mr. Matty's comments are factual, however, inevitably the Briar Lake will need to be addressed. Mr. Fair is requesting further negotiations with the City and stated the Association will accept the concept of a warranty deed with different language than originally proposed. The Association will agree to the City activating the warranty deed should the Association fail to provide the retention the city requires.

Mr. Fair reviewed some of the minor lease infractions previously discussed with Mr. Matty that may cause the Association to be in violation of the lease. He explained the Association is requesting that these minor lease infractions should not cause the Association to lose its land. In the event that some minor infractions take place, the Association proposes to convert the lake into a detention basin by using a simple lake drain to provide detention until the issues can be resolved. Mr. Fair said once the lake is drained to be empty, it becomes an effective detention basin and should be treated as other detention basins in the City, which are not required to meet some of the requirements of the lease, for example insurance which is very costly and may not be available at some time in the future.

Mr. Fair said if the Association is in violation because it is unable to obtain insurance in the future, the lake will immediately be drained to empty. The Association will take this responsibility if necessary and should they fail to do so, the warranty deed is activated.

Mr. Fair said a third party maintenance entity providing the physical maintenance of the lake's gate would be necessary. If for some reason the Association can no longer afford to provide the maintenance or is in violation, the lake will be immediately drained by the Association or the City, whichever is preferred.

Mr. Fair said the Association will agree to accept this responsibility, however, he noted no other detention basin on private property is required to have a third party maintenance entity or is required to carry insurance.

Mr. Fair said although there are other points which may be discussed at a later date, he requested that negotiations continue before eminent domain counsel is hired. Mr. Fair asked the Council to direct Mr. Matty to review the plan and determine if it is legally valid.

In response to Mr. Matty's inquiry regarding an increase in annual Association fees, Mr. Fair explained currently Association dues are \$350 per year and it was previously agreed that the up front portion of the money would be paid back through an increase in the dues.

However, the City was hesitant to accept this condition in case the Association would dissolve and there would be no way to collect the funds. It has now been agreed that the funds would be assessed and added to the property tax at an estimated cost of \$350 per year in addition to the property tax.

Mr. Matty said he is not referring to the assessment but is questioning the amount of funding currently available in the Association's account.

Mr. Matty said he must set forth his position against implementing an additional step in place of the default provision in the lease. The provision currently states that if the Association defaults on any of the items listed, the Association has a cure period and Mr. Matty assumes the Association has a minimal amount of funds due to annual maintenance costs and that the association members fees are used annually. He assumes additional costs will result if the project proceeds. Mr. Matty said if the Association defaults on repayment of taxpayer dollars, the amount will be much more than what is owed the city. As the Association must repay the money within three years of a default, Mr. Matty said should the default occur early on, it is impossible for the Association to repay the money in that short amount of time, therefore, the city will own the property. Mr. Matty said the additional step in the default process suggested by the Association will prevent the city from receiving the monetary default, therefore, the taxpayer money would not be recovered. Without agreement to all of the minor infractions Mr. Fair spoke of, the city money will not be paid if default occurs. In conclusion, Mr. Matty said the taxpayer's money has to be returned if there is a default.

Mr. Fair said if it is necessary to drain the lake because of default, the city will still be provided with a detention basin regardless of default provisions and the Association members' properties will still be assessed.

Mr. Singer questioned if the provision that would cause the default should be removed.

Mr. Matty said cure periods are included in the contract to remediate situations. He said the situation is such that there is not a rising income level in the Association bank accounts to accommodate a rising expense level because the Association's documentation restricts the Association from doing so by the voting members.

Mr. Matty is concerned about the amount of money being invested in a public improvement that may not have to be put into the improvement, and the proposal in essence requires the City to put in the public improvement and pay for it. But if there is a default, the public improvement is not needed because the lake will be drained. Mr. Matty questioned why it would not be preferable to take action in advance such as lowering the lake without such a public expenditure if it can be done in a way that would maintain the same volume of feet in the lake even if it was lowered.

Mr. Fair said the ODNR would lower the lake as a temporary solution to reduce an imminent threat such as a predicted storm and it would not meet the requirements of the city without a redesign.

Mr. Fair said if the Association gave the land to the city in its current condition, it would still cost the city at least \$750,000 according to the former Public Works Director, in addition to more engineering costs, to meet the necessary requirements. He questioned what it will cost the city if the land is taken by eminent domain.

Mr. Matty questioned Mr. Stanek's opinion as to what would be necessary if the City controlled the lake property. Mr. Stanek said the scenario of the lake being given to the city has not been studied and, therefore, he could not comment at this time.

Mr. Fair said the gate is the portion of the project that creates a lake, otherwise, it is an efficient detention basin, but the Association desires their lake.

Councilman Suit read correspondence from the Association stating after discussions with URS, a contingency plan has been developed where the Association can, if necessary, at minimal cost to the Association provide the city with requisite retention.

Mr. Singer explained this plan would be developed after the major project is completed and the Obermeyer gate is taken down and a replacement cement structure installed. In response to Councilman Suit's question regarding why the City would want to spend money on the gate, Mr. Fair explained the gate was the least expensive solution. The other estimates were \$2.2 million and \$3 million.

Mr. Singer concluded it is a storm water retention project for the city and an effort for the Association to keep Briar Lake in its current condition. He said they are willing to agree to the warranty deed and are willing to remove language that will prevent the lease from going into default.

Should the Association become defunct or refuse to drain the lake for an effective detention basin, Mr. Fair said the city will be given the land. Mr. Fair again requested continued negotiations and noted eminent domain will be a costly and time-consuming process.

Councilman Kraus said progress is evident and discussions regarding eminent domain are premature. He believes the agreement with the Association is cost effective. He encourages additional negotiations with the Association and to request ODNR to attend a meeting.

Mr. Matty said in addition to his request to have the ODNR attend a Council meeting, he believes the Engineering Department should become involved to offer input.

Mr. Fair said the ODNR will not offer an engineering solution to the problem, but will offer approval of an acceptable solution. Mr. Matty understands and expects the city engineers to find a solution.

Councilman Kraus believes the Engineering Department will benefit from discussions with ODNR.

Mr. Fair asked that his current proposal be reviewed by the Law Director.

In answer to Councilman Suit's request, Mr. Matty said he does not recommend the City sign an agreement which includes Mr. Fair's proposal at this time.

Councilman Kraus believes further research will be beneficial to make an informed decision.

To answer Mr. Fair's question, Mr. Matty said the Engineering Department will be requested to review all the options available for city retention at this location.

Mr. Fair asked if options will include retaining the lake for recreational purposes. Mr. Matty said the Engineering Department will make that determination.

Mr. Fair said any review should include the lake's use as recreational and water retention.

Motion by Councilman Kraus to request additional research be done to properly address the issues.

There was no second to the motion.

Vice Mayor Drucker said based on new information from Mr. Matty regarding the actions of ODNR involving the lake, the Council will request ODNR's attendance at the next meeting.

Motion by Councilman Kraus, seconded by Councilwoman Drucker to request through the Administration that a representative with the position of authority from the ODNR meet with the Engineering Department before attending a Council meeting at their earliest availability and that Briar Lake Association representatives be included at the meeting of the ODNR and the Engineering Department.

Mr. Fair asked what the Association's next step should be and the status of the legislation. Vice Mayor Drucker said the motion expired and said the Association may attend the meeting with the ODNR representative. Mr. Fair requested that the Association be involved in any meetings.

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

10. Correspondence from the Planning Commission recommending approval of the concept and layout for the Veteran's Memorial Park

Mr. Frankland displayed the conceptual plan for the Veteran's Memorial Park located at the corner of Bainbridge Road and SOM Center Road in front of the Fire Station. The plan was designed by an administrative committee and LanDesign. Mr. Frankland is requesting approval of the conceptual plan to begin the bidding process.

Mr. Frankland explained the park has two components. The first and main focal point is the memorial plaza to honor past and present veterans in the City. The plan includes a brick paver walkway, a fountain that includes a bronze eagle sculpture in the center, black granite monuments for the various branches of the military, flags for each branch of the services and a sitting wall. Lighting will be installed to illuminate the top of the flags and the fountain and to wash down over the brick wall.

The second park component is the gazebo park area. The plan includes a pathway of reddish brown bricks that can be purchased by veterans or their families and personalized with inscriptions. A replica of the former gazebo will be built, however, it will be 4 feet wider than the former gazebo. The previous veteran monuments will be incorporated in the walkway path and wrought iron sitting benches will be located across from the monuments. In character with the Historic District, wrought iron fencing will be installed around the perimeter with matching trash containers placed throughout. Lighting will be installed inside of the gazebo roof and Historic District pole lighting will be installed throughout the park.

A new landscape plan will include moving a large oak tree and include a removable concrete or steel tube which will accommodate the holiday tree.

Vice Mayor Drucker requested a cost estimate. Mr. Frankland said although Mr. Hromco previously indicated to him it may cost approximately \$800,000, the LanDesign consultant believes that estimate is high and with the current economy, bids will be lower.

Vice Mayor Drucker said the plan requires review by the Finance Committee and the Safety and Public Properties Committee.

Councilman Russo asked the timeline for the project to be completed and Mr. Frankland said if bids are acceptable, he anticipates completion by Veterans' Day. Councilman Russo asked if the project could be completed in stages as he is uncomfortable with the expense based on the current economy and budget issues. Mr. Frankland said after bids are received, the project will be itemized and amendments can be made.

Councilman Russo asked if the proposed fencing will withstand snow load that is plowed onto the side of the street. Mr. Frankland said in conversations with the

consultant and the Service Department, it is their opinion that the fence will be located far enough away from the road to avoid damage.

Councilman Russo asked if the fence is primarily for aesthetics and questioned the necessity. Mr. Frankland said it is primarily for aesthetics and to delineate the space between the park and the Fire Department and the neighboring office building.

Councilman Pelunis supports approving the bidding process in stages to determine if future revenue will be available. He said the fundamental elements could be constructed and others could be incorporated at a later time.

Vice Mayor Drucker asked if it is possible to bid certain elements separately. Mr. Stanek said it can be included in the specifications.

Councilman Scott said the fence may also be a safety consideration to direct residents away from the various driveways used for emergency vehicles. Mr. Frankland believes the fence may be a smaller element of the plan and that the monument material may need to be modified due to the cost.

Councilman Kraus is pleased with the additional green space in the area.

Motion by Councilman Suit, seconded by Councilman Russo to approve the conceptual plan for the Veteran's Memorial Park and to refer the plan to the Safety and Public Properties Committee.

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

CONSENT:

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

11. ORDINANCE NO. 2009-51 AUTHORIZING PAYMENT TO THE SOLON BOARD OF EDUCATION FOR BUS TRANSPORTATION AND USE OF SCHOOL FACILITIES FOR RECREATION DEPARTMENT PROGRAMS, 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

12. ORDINANCE NO. 2009-52 ACCEPTING VARIOUS BIDS FOR ATHLETIC EQUIPMENT AND WARE USED BY THE RECREATION 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

13. ORDINANCE NO. 2009-53 ACCEPTING THE BID OF MONTROSE FORD FOR THE PURCHASE OF A POLICE UNDERCOVER VEHICLE, 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

14. ORDINANCE NO. 2009-54 AMENDING ORDINANCE NO. 2008-343 TO ADVERTISE FOR BIDS FOR THE COMPLETE RELOCATION OF THE FIRE STATION 2 TEMPORARY STORAGE BUILDING TO GRANTWOOD, 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

15. ORDINANCE NO. 2009-55 AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH ST. VINCENT CHARITY HOSPITAL TO PERFORM VARIOUS EMPLOYEE MEDICAL AND SCREENING PROCEDURES, 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

16. ORDINANCE NO. 2009-56 ACCEPTING A CONTRACT FOR A STORM SEWER AND DRAINAGE EASEMENT LOCATED AT 34400 COUNTRY VIEW LANE IN CONNECTION WITH THE MILES ROAD STORM SEWER 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

COMMENTS FROM THE AUDIENCE:

There were no comments from the audience.

COMMENTS FROM COUNCIL:

Councilman Pelunis asked Mr. Frankland if an irrigation plan will be bid separately from the landscape plan for the Veteran's Park. Mr. Stanek said there is a simple irrigation plan included.

Councilman Pelunis referred to maintenance issues at the Liberty Hill Apartments and said many improvements have been made by the management company. Councilman Pelunis said the Building Inspector will visit the site in spring. The Board of Health was contacted and Councilman Pelunis will meet with the residents again after a response is given by the Board of Health.

Councilman Kraus concurred with Mr. Hoffman's comments that financial reports should be made accessible to the public on a monthly basis.

COMMENTS FROM THE ADMINISTRATION

Mayor Patton reported the Administration and department heads increased the contingency fund to over \$1 million by redirecting certain funds from their budgets.

Fire Chief Shaw announced the Fire Department is collecting food donations for the Harvest for Hunger Program during the month of March. Donations may be made at the fire stations, the police station and at City Hall. An effort to fill an ambulance with food will take place at Giant Eagle on March 28th from 10:00 A.M. until 2:00 P.M. for delivery to the Cleveland Food Bank.

Mr. Weber said the Council will receive a memo regarding budget details. An overview of the present financial condition of the city will be included.

It was clarified that the Veteran's Park legislation authorized approval of the conceptual plan and bidding will be considered by the Safety and Public Properties Committee. Bidding approval will be considered by the Council at their next meeting.

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to adjourn the meeting at 10:44 P.M.

Vice Mayor

Clerk of Council