

SOLON CITY COUNCIL
October 5, 2009 – 7:05 P.M.

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

Present: Council Members Drucker, Kraus, Pelunis, Russo, Scott, Stolarsky, Suit,
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: City Engineer Busch, Human Resource Director Cornhoff,
Planning Director Frankland, Police Chief Godzich, Public
Works Director Stanek, Finance Director Weber

PLANNING COMMISSION:

Vice Mayor Drucker advised Planning Consent Item No. 3 will be removed from the Planning Consent Agenda, therefore, all three Planning Items will be considered separately.

Mr. Frankland reviewed each item from the Planning Commission.

1. 33816 Baldwin Road – Byron Ngo: Mr. Frankland explained the Engineering Department was requested to confirm that the additional pavement would not impact storm water run off in the area. A memo from City Engineer Busch indicated the additional pavement would not have a significant effect, however, he requested the applicant agree to replace the existing 4" thick sidewalk with 6" thick pavement.

At Councilman Kraus' request, Mr. Busch confirmed the proposed plan is acceptable.

2. 6010 Kruse Drive – Le Chaperone Rouge: Mr. Frankland explained one of the conditions for the previous approval of the plan for the Le Chaperone Rouge building was that the fence and the trim on the building should match and that the fence be painted an off-white earth tone color. The applicant is now requesting approval to use a white trim color for the building. Mr. Frankland further explained a material color variance is not necessary because white is a permissible color in the Historic District. Although the Planning Commission

approved the use of the white trim on the building, approval of a modification to the site plan is necessary because conditions of the original approval are being modified. One modification is to allow the white color for the trim and fence and the other is to modify the landscape plan.

3. 5220 Ramblewood Court – Shama and V.T. Abraham: Mr. Frankland explained the applicant is proposing to add a 15.5' x 9' pad of accessory pavement. At its closest point, the additional pavement will be 2.5' from the side property line requiring a 2.5' setback variance. However, there is a 10' sanitary sewer easement on which the current driveway and the additional pavement are located. Although the applicant has provided written documentation that if maintenance on the easement is ever necessary, replacement of the pavement would be the responsibility of the property owner, Mr. Matty determined that such documentation would only be binding on the current property owner and, therefore, the easement agreement needs to be modified. Mr. Frankland said there is concern that the delay might prevent the project from being completed this construction season and advised the Council could approve the request contingent upon an easement being submitted for approval by the Engineering Department and the Law Director prior to the issuance of a permit.

Mr. Matty explained the easement was part of an approved plat which would need to be amended involving more than filing an amended easement. It would require a review of the original plat. Although various possible contingencies were discussed, the applicant was present and advised she had planned to complete the project this fall but would not object to tabling the issue for further review.

CORRESPONDENCE:

9. From Mitchell Buckley appealing the Planning Commission's denial of a number of accessory structure variance to permit two and an accessory height variance:

Mr. Buckley noted a number of properties where additional accessory structures are located and questioned why his structure, which he does not feel is unsightly, is not allowed to remain. He noted the tree house is mostly screened by trees, however, he offered to try to improve the appearance of the tree house.

Vice Mayor Drucker asked Mr. Buckley if he is willing to meet with Mr. Frankland and his neighbor to try to reach a compromise and Mr. Buckley agreed.

Councilman Suit requested Mr. Frankland advise the Council of any progress or lack of progress regarding this issue prior to the next Council meeting.

Mr. Matty said there is a need for an executive session to consider compensation of a public employee.

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

Motion by Councilman Russo, seconded by Councilman Pelunis to adjourn into executive session at 7:21 P.M. for the purpose of considering compensation of a public employee.

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

The meeting reconvened at 7:34 P.M.

Also Present: City Engineer Busch, Human Resource Director Cornhoff,
Economic Development Manager Weil-Dorfman, Planning
Director Frankland, Police Chief Godzich, Public Works Director
Stanek, Finance Director Weber

CHANGES TO THE AGENDA:

Items 2 and 3 were removed from the Planning Commission Consent Agenda and heard as Planning Commission items.

ANNOUNCEMENTS:

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

COMMENTS FROM THE AUDIENCE:

Mr. KingMan El-Jamah, 33072 Springside Lane, requested the City address a safety issue at SOM Center Road and Solon Road in which the pedestrian crosswalk signal to proceed and the right turn arrow on SOM Center to Solon Road are illuminated simultaneously. He explained his recent experience on a bicycle in which a vehicle proceeded to turn when he proceeded to cross Solon Road.

Mr. El-Jamah said he will address the sinkhole problem in his yard and thanked City officials for their consideration.

Mr. Bob Paulson, 33378 Allenbury Drive, congratulated Chief Shaw and his staff for an outstanding Fire Station Open House on Sunday, October 4th.

Mr. John Corsaro, 34400 Lakeview Drive, requested the incident last year be addressed involving vandalism on his property and to City street signs. Mr. Corsaro has attempted to contact the Assistant Law Director regarding reimbursement for his damaged mailbox, however, has been unable to speak with him. He requested the Mayor and Council provide a response.

Mr. Matty said Police Chief Godzich will contact Mr. Melling and report back to Mr. Corsaro.

MINUTES:

Motion by Councilman Stolarsky, seconded by Councilman Kraus to approve the minutes of the August 31, 2009 meeting.

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

Nay: None

Motion Carried

PLANNING COMMISSION:

1. 33816 Baldwin Road – Byron Ngo 074-2009
 - 15' accessory pavement setback variance – PC approved

Mr. Frankland displayed the plan and explained a 15' setback from the street is required for accessory pavement. Because the additional pavement will abut the street right-of-way, a 15' setback variance is required. He further explained, at the last meeting, the Council requested an opinion from the Engineering Department regarding what, if any, impact the additional pavement will have on storm water drainage in the area.

Councilman Stolarsky further explained the Commission's actions and indicated Mr. Busch's memo of September 30th indicated the additional pavement will not significantly impact the existing storm water drainage, but it was recommended the applicant be required to replace the 4" thick sidewalk with a 6" thick sidewalk.

Mr. Ngo agreed to replace the 4" thick sidewalk with a 6" thick sidewalk.

Councilman Stolarsky said the neighbor's driveway appears to be equally as wide as the applicant's driveway.

Councilman Kraus said based upon Mr. Busch's recommendations, he will support the variance. He asked Mr. Busch to continue to monitor the area for storm water drainage issues.

There were no objections to the 15' accessory pavement setback variance, therefore, it stood approved.

2. 6010 Kruse Drive – Le Chaperon Rouge 079-2009
 - Material color variance – PC approved
 - Minor modification to landscape plan – PC recommends approval

Mr. Frankland displayed the plan and explained the request to change the conditions of site plan approval for the Le Chaperon Rouge building currently under construction. Mr. Frankland explained when the site plan was originally approved, a fence variance was also approved. It was required at that time that the fence and the trim be the same off-white color. The applicant is now requesting the condition be modified to permit white trim on the building. Mr. Frankland noted it was also the Commission's intention to approve a white fence.

The landscape plan was displayed and Mr. Frankland explained the original plan showed a mounded area on the property at the corner of Kruse Drive and Bainbridge Road. However, the applicant had to place the retention pond in that area, so the amended landscape plan removes the mounded area. Placing three trees in the area was considered, although it was further decided the trees would obscure the view of the building and that substantial landscaping at the base of the building would suffice.

Councilman Stolarsky indicated the color change is not a material color variance as the white color is permitted in the Historical District. He said the applicant's reason for changing the color of the trim and fence was to match existing pre-finished trim elements for the building. He further explained the Commission's actions.

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to approve the modification of conditions for site plan approval to allow the fence and trim to be a white color (snowbound).

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

Councilman Stolarsky explained the modification of the landscape plan was due to the location of the detention basin.

Motion by Councilman Stolarsky, seconded by Councilman Pelunis to approve the minor modification to the landscape plan.

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

3. 5220 Ramblewood Court – Shama and V.T. Abraham 080-2009
 - 2.5' Driveway setback variance – PC approved contingent upon letter submitted from applicant regarding easement responsibility

Mr. Frankland displayed the plan and explained the applicant's request to extend driveway pavement. The driveway is required to be 5' from the property line and the applicant is proposing the additional paving be as close as 2.5 feet from the property line, therefore, a 2.5' variance is necessary.

Mr. Frankland said although the Planning Commission recommended approval of the variance, the driveway and proposed addition would be located within a storm water easement. The Law Director indicated he will need more time to address the easement situation to ensure driveway replacement for any future easement work performed by the City will be at the expense of the property owner.

Councilman Stolarsky said the condition of approval by the Planning Commission was to require the applicant to submit a letter indicating they will be responsible for any expenses incurred by removal and replacement of the driveway should the city need to access the property easement. However, the Law Director indicated the letter would only apply to the current property owner and would not

be binding on subsequent property owners, therefore, additional review is necessary.

Motion by Councilman Stolarsky, seconded by Councilman Scott to table Item 3.

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

Nay: None

Motion Carried

PENDING:

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

Resolution No. 2009-141 remained on third reading.

NEW:

5. ORDINANCE NO. 2009-245 AMENDING SECTION 1046.04(A) OF THE STREETS, UTILITIES AND PUBLIC SERVICES CODE TO ESTABLISH SEWER RATES, was read for first reading.

Councilman Russo explained the ordinance will clarify language in the existing ordinance to apply a minimum charge of 1 MCF per quarter. He noted it will not change existing billing.

Motion by Councilman Russo, seconded by Councilman Stolarsky to suspend the rules and place Ordinance No. 2009-245 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:

6. Liquor permit application – 33587 Aurora Road – Benvinnic LLC dba Benny's Grille (former Bistro 43) - TREX application

Councilman Scott said no objections to the application were received.

Motion by Councilman Scott, seconded by Councilman Kraus to direct the Clerk to not request a hearing.

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

Nay: None

Motion Carried

7. Liquor permit application – 33587 Aurora Road – Benvinnic LLC dba Benny's Grille – (new D3A permit)

Councilman Scott said no objections to the application were received.

Motion by Councilman Scott, seconded by Councilman Kraus to direct the Clerk to not request a hearing.

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

8. Liquor permit application – Walgreen Co. dba Walgreens – 6270 SOM Center Road

Councilman Scott said no objections to the application were received.

Motion by Councilman Scott, seconded by Councilman Kraus to direct the Clerk to not request a hearing.

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

9. From Mitchell Buckley – 38355 Pettibone Road, appealing the Planning Commission's denial of:
- Number of accessory structures variance to permit (2)
 - 4' Accessory structure height variance

Councilman Stolarsky said Vice Mayor Drucker spoke with the applicant and the neighbor and that the parties will meet to attempt to reach an agreement. Both parties were instructed to contact the Planning Director.

Motion by Councilman Stolarsky, seconded by Councilman Scott to table the request for appeal from Mitchell Buckley.

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

10. Correspondence from Planning Director regarding proposed Zoning Code amendment – "Workmanlike Manner" Provision

Mr. Frankland explained the purpose of the proposed amendment to the Zoning Code is to ensure that all structures in the City are built to minimum quality standards, not pose a health and safety threat, not diminish property values in the area, not use substandard construction methods, materials or finishes, and that the structures be generally plum, level, square, flush and in line and of quality construction.

Mr. Frankland explained the Ohio Building Code only requires structures to be safe. It does not require structures to be of quality construction. Prior to 2006, local building codes contained such requirements, however, since the adoption of the state-wide 2006 Ohio Building Code, such protections were eliminated. Mr. Frankland requests the provision be added to the Zoning Code to be enforced by the Chief Building Official.

Mr. Frankland said if the Council chooses to pursue the proposed zoning amendment, it should be referred to the Planning Commission for further consideration.

Councilman Stolarsky thanked Mr. Frankland for his efforts and noted that the amendment stems from a fence erected in his ward that has been an issue in the neighborhood. He said certain minimum standards are expected in the City and this ordinance will offer a consensus of the definition of workmanlike manner.

Motion by Councilman Stolarsky, seconded by Councilman Suit to refer the Zoning Code amendment to the Planning Commission for consideration.

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

CONSENT:

Motion by Councilman Stolarsky, 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.

11. ORDINANCE NO. 2009-246 AUTHORIZING BRITTON GALLAGHER AND ASSOCIATES TO REQUEST PROPOSALS FOR EMPLOYEE HEALTH CARE BENEFITS, 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. 2009-247 ACCEPTING A MUTUAL RELEASE AND SEPARATION AGREEMENT WITH JEFFERY BLUBAUGH, 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. RESOLUTION NO. 2009-248 AUTHORIZING THE MAYOR TO ENTER INTO A CONTRACT FOR A STORM SEWER AND DRAINAGE EASEMENT WITH RUTH ANN KLOTZMAN 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

14. ORDINANCE NO. 2009-249 ACCEPTING THE FINAL CONTRACT ADJUSTMENT WITH KENMORE CONSTRUCTION FOR THE AURORA EAST INFRASTRUCTURE IMPROVEMENT PROJECT (CONTRACT NO. 2004.22), 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

15. ORDINANCE NO. 2009-250 AUTHORIZING THE MAYOR TO ENTER INTO A COST SHARING AGREEMENT WITH FOREST CITY ENTERPRISES FOR THE THORNBURY DETENTION BASIN, PHASE 3 PROJECT AND DECLARING AN EMERGENCY, was read for first reading.

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

16. ORDINANCE NO. 2009-251 ACCEPTING THE FINAL CONTRACT ADJUSTMENT WITH PHIL MILLER CONSTRUCTION, INC. FOR THE 2008 ANNUAL SIDEWALK REPAIR PROGRAM (CONTRACT NO. 2008.02), 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

17. ORDINANCE NO. 2009-252 ACCEPTING THE FINAL CONTRACT ADJUSTMENT WITH OH-MAN ENTERPRISES FOR THE PAINTING OF MISCELLANEOUS TRAFFIC POLES (CONTRACT NO. 2008.21), 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. 2009-253 AUTHORIZING THE SALE OF SURPLUS SERVICE DEPARTMENT EQUIPMENT THROUGH INTERNET AUCTION WITH GOVDEALS.COM, was read for first reading.

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

COMMENTS FROM THE AUDIENCE:

Mr. El-Jamah objects to the liquor permit application for Walgreen's since a liquor establishment is located adjacent to Walgreen's. He believes liquor sales should be limited in the City.

Mr. El-Jamah asked the Police Chief the purpose of speed monitor trailers if there is no enforcement.

Chief Godzich explained the speed monitors are the initial step to advise motorists that they are speeding and need to slow down. Corrective action is taken after two weeks. Chief Godzich further explained complaints are received resulting in the use of the monitor, however, in some cases the monitor indicates enforcement action is not warranted.

COMMENTS FROM COUNCIL:

Councilman Pelunis said Mr. Busch and Mr. Stanek will hold a meeting at City Hall on Wednesday, October 7th at 7:00 P.M. for residents to discuss the Pettibone Road Construction Project. The meeting will be made available on the city website and on a DVD for those who cannot attend.

Councilman Scott said communication has been improved between the City and residents of Bainbridge Road regarding the construction project. Notification was sent to the residents and a telephone hotline was established to answer questions.

Councilman Kraus said information from residents was forwarded to Mr. Stanek and Mr. Busch in an effort to resolve various issues regarding the Bainbridge Road Project.

Councilman Kraus thanked the newspapers for their coverage and the Finance Committee for allowing a presentation regarding vacant and foreclosed homes. He stated such properties negatively effect neighborhoods and noted that the process is proceeding.

In regard to Mr. El-Jamah's comments regarding the SOM Center Road and Solon Road traffic signal, Councilman Suit said the Safety and Public Properties Committee reviewed the signal in the past to address problems with the southbound SOM Center Road turn arrow. He requested the Clerk forward a memo to the Safety and Public Properties Committee to place the issue on the Committee's agenda for the October 14th meeting.

Councilman Suit referred to an email received from a resident regarding a newspaper article questioning Mayoral Candidate Paulson's ability to serve as safety director, which is a required duty of the Mayor. The resident requested the Law Director research the issue and render an opinion. The resident stated in an ensuing email that city officials should provide clear information for the

electors to avoid tainting an election and noted the importance of addressing this issue in a timely manner. Councilman Suit questioned how the issue should be addressed.

Mayor Patton said he discussed the issue with Mr. Matty and requested he and the Clerk of Council send correspondence to the Ohio Elections Commission, the Ohio Ethics Commission, the Ohio Attorney General, the Ohio Secretary of State and the U.S. Attorney's office and request a response and opinion as soon as possible.

Councilman Suit requested the letter express the urgency in light of the upcoming election.

Councilman Stolarsky invited residents to attend a meeting scheduled for Thursday, October 8th at 6:30 P.M. with Reit Management regarding a proposed rezoning in the Naiman Parkway area.

Councilman Stolarsky announced that the Community Center pool will be closed for upgrades on Tuesday, October 13th at 7:00 P.M. and will reopen on Monday, October 19th at 3:30 P.M.

Vice Mayor Drucker said on Tuesday, October 6th from 7:00 P.M. to 9:00 P.M., Healthy Solon will offer an event for men and encouraged residents to attend.

Vice Mayor Drucker announced Solon was one of three cities to receive a gold medal from the Ohio Department of Health for promoting health for employees and constituents.

COMMENTS FROM THE ADMINISTRATION:

Mayor Patton said he objects to inappropriate remarks and innuendos from candidates toward other candidates during an election, which has recently occurred. He said all those running for an elected office should uphold the qualities required for public office including honesty and integrity. He is disappointed this is not currently happening and is prepared to share a communication he recently received.

Mr. Matty said he will work with Mrs. McConoughey in regard to Mayor Patton's request and asked that Council members forward any information regarding this request to the Clerk.

Chief Godzich reported all suspects have been apprehended in the recent incident involving a poker game.

Mr. Stanek said a telephone hotline was developed for Bainbridge Road residents. Updates will be relayed to residents as they are received. He noted the end of the telephone message allows an opportunity for residents to leave a message.

Motion by Councilman Russo, seconded by Councilman Scott to adjourn into executive session at 8:20 P.M. for consideration of property acquisition and collective bargaining matters.

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

Nay: None

Motion Carried

The meeting reconvened at 8:35 P.M.

Motion by Councilman Russo, seconded by Councilman Kraus to adjourn the meeting at 8:35 P.M.

Vice Mayor

Clerk of Council