

A regular meeting of the Council of the City of Blue Ash, Ohio, was held on February 22, 2007. Mayor Robert J. Buckman, Jr. called the meeting to order in Council Chambers at 7:00 PM.

**OPENING CEREMONIES**

Mayor Buckman led those assembled in the Pledge of Allegiance.

**ROLL CALL**

MEMBERS PRESENT: Councilman Rick Bryan, Mayor Robert Buckman, Councilman Lee Czerwonka, Councilman Henry Stacey, Councilwoman Stephanie Stoller, Councilman James Sumner, and Vice Mayor Mark Weber

ALSO PRESENT: City Manager David Waltz, Solicitor Mark Vander Laan, Clerk of Council Jamie Eifert, Deputy Clerk of Council Sue Bennett, Treasurer/Administrative Services Director James Pfeffer, Parks & Recreation Director Chuck Funk, Service Director Dennis Albrinck, Fire Chief Rick Brown, Fire Captain Greg Preece, member of the press, and interested citizens

**PUBLIC HEARING – 7:00PM - Consideration of Ordinance No. 2007-14 regarding a modification to an approved large-scale residential development at the end of Myerdale**

The Clerk was asked to read Ordinance No. 2007-14 in its entirety.

THEN WAS PRESENTED AND READ IN ITS ENTIRETY:

ORDINANCE NO. 2007-14

APPROVING A CHANGE TO A LARGE SCALE RESIDENTIAL DEVELOPMENT PLAN AT 5575 MYERDALE DRIVE IN THE R-2 RESIDENTIAL DISTRICT TO CREATE TWO ADDITIONAL BUILDING LOTS

Dennis Jennings, Vice President of Development of Zicka-Walker Homes, was present to address any questions or concerns. Councilman Sumner commented that the Planning Commission approved this proposed change unanimously.

There being no questions or further comments, the hearing was declared closed at 7:07PM.

Mayor Buckman appointed Parks & Recreation Director Chuck Funk and Service Director Denny Albrinck to read the legislation in its entirety in the rear of Council Chambers.

**ACCEPTANCE OF AGENDA**

Councilman Bryan moved, Councilwoman Stoller seconded to accept the agenda. A voice vote was taken. All members present voted yes. Motion carried.

"1. MEETING CALLED TO ORDER

2. OPENING CEREMONIES

3. ROLL CALL - Clerk of Council Jamie K. Eifert

4. PUBLIC HEARING – 7:00 PM – Consideration of Ordinance No. 2007-14 regarding a modification to an approved large-scale residential development at the end of Myerdale

5. APPOINTMENT OF PERSON(S) TO READ ORDINANCES IN FULL IN REAR OF COUNCIL CHAMBERS

6. ACCEPTANCE OF AGENDA

7. APPROVAL OF MINUTES

a. Regular Meeting of February 8, 2007

8. COMMUNICATIONS

a. Communications to Council - Clerk of Council Jamie K. Eifert

b. Reports From Outside Agencies

- c. Mayor’s Report – January 2007 – Honorable Robert J. Buckman, Jr.
- d. Financial Report – Motion to accept the report for January 2007

9. HEARINGS FROM CITIZENS

10. COMMITTEE REPORTS

- a. Planning & Zoning Committee, James W. Sumner, Chairperson
  - 1. Ordinance No. 2007-14, approving a modification to an approved large-scale residential development at the end of Myerdale Drive
- b. Parks & Recreation Committee, Lee Czerwonka, Chairperson
  - 1. Ordinance No. 2007-15, awarding bid for electric golf carts
  - 2. Ordinance No. 2007-16, awarding contract for professional construction management/general construction services for the Recreation Center expansion project
- c. Public Safety Committee, Stephanie Stoller, Chairperson
  - 1. Ordinance No. 2007-17, amending Ordinance No. 2007-12 regarding video cameras for police vehicles

11. MISCELLANEOUS BUSINESS

12. ADJOURNMENT”

**APPROVAL OF MINUTES**

Councilman Sumner moved, Councilman Bryan seconded to approve the minutes of the regular meeting of February 8, 2007. A voice vote was taken. All members present voted yes. Motion carried.

**COMMUNICATIONS**

**Communications to Council**

There were no communications to Council.

**Reports From Outside Agencies**

There were no representatives from outside agencies present at the meeting.

**Mayor's Report – January 2007**

RECEIPTS:

Fines .....	\$ 11,925.00
Bonds & BMV fees carried over .....	\$ 200.00
Interest Earned.....	\$4.59
Bonds collected.....	\$300.00
 TOTAL RECEIPTS: .....	 \$12,429.59

DISBURSEMENTS:

To Blue Ash (fines/costs/interest/Expungements/forfeitures) .....	\$9,297.59
To the State of OH .....	\$2,512.00
Refund of Overpaid Fine.....	\$20.00
Bond Money applied .....	\$250.00
Bond Money returned .....	\$ 0.00
BMV .....	\$ 0.00
Payment of Restitution.....	\$ 100.00
TOTAL DISBURSEMENTS.....	\$12,179.59

BALANCE IN BONDS:..... \$250.00

Mayor’s Court traffic citations .....	102
Mayor’s Court criminal citations .....	25
Total Mayor’s Court cases .....	127

Jan. rev. from Mayor’s Ct. Cases: \$9,297.59

**Financial Report – January 2007**

Councilman Bryan moved, Councilman Stacey seconded to accept the Financial Report for January 2007 as submitted. A voice vote was taken. All members present voted yes. Motion carried.

***CITY OF BLUE ASH FINANCIAL POSITION STATEMENT - MONTH ENDING JANUARY 31, 2007***

MONTH TO DATE	2006	2007
START OF MONTH FUND BALANCE: 1-1-07	\$12,916,635.98	\$17,286,456.32
<b>Revenues:</b>		
Earnings Tax Collections:	2,461,650.03	2,140,197.37
Debt Financing (long term)	-	-
Debt Financing (short term)	-	-
Other Revenue Received:	<u>438,529.16</u>	<u>495,992.58</u>
= Total Monthly Receipts	2,900,179.19	2,636,189.95
<b>Expenditures:</b>		
Bond Retirement	-	-
Short term debt refinancing	-	-
Other Expenditures:	<u>2,677,268.85</u>	<u>3,910,104.04</u>
= Total Monthly Expenditures:	<u>-2,677,368.85</u>	<u>-3,910,104.04</u>
ENDING FUND BALANCE: 1-31-07	13,139,446.32	16,012,542.23

100% of the fund balance was invested as of 1-31-07. Interest paid to date on matured investments: \$72,104.00. Receipt and expenditure figures do not include interfund transfers.

**BLUE ASH INCOME TAX DIVISION INCOME TAX RECEIPT SUMMARY  
FOR MONTH ENDING JANUARY 31, 2007**

MONTH-TO-DATE STATUS	2006	2007
Business Net Profit	696,801.42	246,982.65
Resident Net Profit	60,946.63	75,544.96
Non-Resident Net Profit	16,274.90	25,972.32
Subcontractor Net Profit	<u>1,114.66</u>	<u>1,896.84</u>
Net Profit Total	775,137.61	350,396.77
Withholding	1,645,489.03	1,727,430.22
Subcontractor Withholding	<u>41,023.39</u>	<u>62,370.38</u>
Withholding Total	<u>1,686,512.42</u>	<u>1,789,800.60</u>
Monthly Collection Totals	2,461,650.03	2,140,197.37
YTD Collection Totals	2,461,650.03	2,140,197.37
YTD Refund Totals	<u>19,399.12</u>	<u>13,282.89</u>

**HEARINGS FROM CITIZENS**

No citizens wished to address Council.

**COMMITTEE REPORTS**

Prior to the Council meeting, Council members received the following report describing agenda items:

“The following offers a brief description of the items included on the February 22nd Council Agenda:

**4. Public Hearing and 10.a.1. Ordinance No. 2007-14 - Approving a modification to an approved large-scale residential development at the end of Myerdale Drive**

Zicka Walker Construction has requested a modification to the approved large-scale residential development currently underway at the end of Myerdale Drive. The original plan was approved in October 2004 by City Council via passage of Ordinance No. 2004-83. That plan subdivided the parcel into five separate lots. The existing residence remained on a 4.23-acre parcel. The owner now wishes to add two additional lots to the development by further subdividing the 4.23 acre parcel into three. The existing home would remain on 2.663 acres, and two new parcels of .668 and .896 acres would be created. All proposed parcels clearly satisfy the minimum requirements of the R-2 zoning district.

Please direct questions regarding this item to the Assistant Community Development Director Dan Johnson at 745-8528 or to the City Manager.

**10.b.1. Ordinance No. 2007-15 - Awarding bid for electric golf carts**

Bids were formally solicited for the purchase of 20 golf carts for the Golf Course, and the City publicly opened the only bid received on February 14th. The Golf Pro and Parks & Recreation Director

recommend awarding of the bid to E-Z-Go Textron for a total net amount not to exceed \$58,595, which includes trade-in value for five existing 1999 carts and 15 existing 2001 carts. In addition to E-Z-Go being the overall low bid, continuing with the E-Z-Go cart is favorable from a maintenance standpoint as the City's existing carts are that brand, and the City has been very satisfied with these models.

Please direct questions regarding this ordinance to the Parks & Recreation Director.

**10.b.2. Ordinance No. 2007-16 - Awarding contract for professional construction management/general construction services for the Recreation Center expansion project**

The next logical step in the Recreation Center expansion project would be to secure a construction manager/general contractor for the project. Over the past several weeks, the Design team and Administration, along with representatives from the consulting architect Michael Schuster Associates, has talked with three potential firms: Schumacher Dugan Construction, Turner SPD (Small Projects Division), and Dugan & Meyers. Although it was a difficult decision as all three were quality organizations, the Administration is recommending a contract be authorized with Schumacher Dugan Construction. One crucial reason for this suggestion is due to the fact that Schumacher Dugan was the construction manager for the most recent expansion phase of the Center in 1993/94. In addition, the project manager for that expansion (Mr. Doug Murdock) would be assigned to this current project as well. We were extremely pleased with Schumacher Dugan's, and Mr. Murdock's, performance with that project and believe that their familiarity with the building and the City's quality expectations would be beneficial.

Please direct questions regarding this ordinance to the Parks & Recreation Director.

**10.c.1. Ordinance No. 2007-17 - Amending Ordinance No. 2007-12 regarding video cameras for police vehicles**

An amendment to Ordinance No. 2007-12 is necessary due to a misinterpretation of information related to the overall cost of the video cameras for police vehicles. Ordinance No. 2007-12 authorized a contract with Camp Safety Equipment Company for the purchase of video cameras for the Police Department for an amount not to exceed \$92,024 less trade-in values of 16 existing units (\$8,000 value), resulting in a net amount of \$84,024 (including installation). The actual quote, however, stated that \$92,024 was the net amount. Therefore, Ordinance No. 2007-17 corrects Section I to reflect the purchase amount for these video cameras of \$100,024 less the \$8,000 value for trade ins, resulting in a net amount not to exceed \$92,024. This amount also includes installation of the units.

We apologize for this error and inconvenience."

**Planning & Zoning Committee, James W. Sumner, Chairperson**

Councilman Sumner asked the Clerk of Council to read Ordinance No. 2007-14 by title only (as the ordinance had already been read in its entirety during the public hearing).

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2007-14

APPROVING A CHANGE TO A LARGE SCALE RESIDENTIAL DEVELOPMENT PLAN AT 5575 MYERDALE DRIVE IN THE R-2 RESIDENTIAL DISTRICT TO CREATE TWO ADDITIONAL BUILDING LOTS

Councilman Sumner moved, Councilwoman Stoller seconded to suspend the rules of Council requiring a second reading of the ordinance. The Clerk called the roll. Councilpersons Stoller, Sumner, Weber, Stacey, Czerwonka, Bryan, and Mayor Buckman voted yes. Seven yeses. Motion carried.

Councilman Sumner moved, Councilwoman Stoller seconded to adopt Ordinance No. 2007-14. There being no discussion, the Clerk called the roll. Councilpersons Sumner, Weber, Stacey, Czerwonka, Bryan, Stoller, and Mayor Buckman voted yes. Seven yeses. Ordinance No. 2007-14 passed.

**Parks & Recreation Committee, Lee Czerwonka, Chairperson**

Councilman Czerwonka asked the Clerk to read Ordinance No. 2007-15 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2007-15

AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE PURCHASE OF ELECTRIC GOLF CARTS FOR THE BLUE ASH GOLF COURSE, INCLUDING RELATED TRADE-INS, FOR A NET AMOUNT NOT TO EXCEED \$58,595 FROM E-Z-GO TEXTRON; AND DECLARING AN EMERGENCY

Councilman Czerwonka moved, Councilman Stacey seconded to suspend the rules of Council requiring a second reading of the ordinance. The Clerk called the roll. Councilpersons Weber, Stacey, Czerwonka, Bryan, Stoller, Sumner, and Mayor Buckman voted yes. Seven yeases. Motion carried.

Councilman Czerwonka moved, Councilwoman Stoller seconded to adopt Ordinance No. 2007-15. There being no discussion, the Clerk called the roll. Councilpersons Stacey, Czerwonka, Bryan, Stoller, Sumner, Weber, and Mayor Buckman voted yes. Seven yeases. Ordinance No. 2007-15 passed.

Councilman Czerwonka asked the Clerk to read Ordinance No. 2007-16 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2007-16

AUTHORIZING A PROFESSIONAL SERVICES CONTRACT FOR CONSTRUCTION MANAGEMENT SERVICES ASSOCIATED WITH THE RECREATION CENTER EXPANSION PROJECT; AND DECLARING AN EMERGENCY

Councilman Czerwonka moved, Councilwoman Stoller seconded to suspend the rules of Council requiring a second reading of the ordinance. The Clerk called the roll. Councilpersons Czerwonka, Bryan, Stoller, Sumner, Weber, Stacey, and Mayor Buckman voted yes. Seven yeases. Motion carried.

Councilman Czerwonka moved, Councilwoman Stoller seconded to adopt Ordinance No. 2007-16. There being no discussion, the Clerk called the roll. Councilpersons Bryan, Stoller, Sumner, Weber, Stacey, Czerwonka, and Mayor Buckman voted yes. Seven yeases. Ordinance No. 2007-16 passed.

**Public Safety Committee, Stephanie Stoller, Chairperson**

Councilwoman Stoller asked the Clerk to read Ordinance No. 2007-17 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2007-17

AMENDING SECTION I OF ORDINANCE NO. 2007-12 REGARDING VIDEO CAMERAS FOR POLICE DEPARTMENT VEHICLES; AND DECLARING AN EMERGENCY

Councilwoman Stoller moved, Councilman Stacey seconded to suspend the rules of Council requiring a second reading of the ordinance. The Clerk called the roll. Councilpersons Stoller, Sumner, Weber, Stacey, Czerwonka, Bryan, and Mayor Buckman voted yes. Seven yeases. Motion carried.

Councilwoman Stoller moved, Councilman Sumner seconded to adopt Ordinance No. 2007-17. There being no discussion, the Clerk called the roll. Councilpersons Sumner, Weber, Stacey, Czerwonka, Bryan, Stoller, and Mayor Buckman voted yes. Seven yeases. Ordinance No. 2007-17 passed.

**MISCELLANEOUS BUSINESS**

**Discussion regarding noise**

The following memo was provided to Council prior to the meeting:

“DATE: February 22, 2007  
FROM: Dan Johnson, Assistant Community Development Director  
TO: City Council

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## **NOISE**

### Current Blue Ash Regulations

The City occasionally receives complaints about several different types of noise. These complaints generally fall within two categories. The first consists of noise generated by businesses operating in commercial and industrial districts at a fixed location; most of this noise is from operations (although some are noisy employees). The second group consists of noise generated by construction activity (again, some are noisy employees).

### Background and Analysis of Existing Regulations

Special Uses, Conditional Uses, Planned Developments, and other land uses that require City Council approval involve consideration of potentially problematic noise, both from proposed operations and physical arrangement of the site relative to other properties; however, the usefulness of such consideration is dubious. It is difficult to know in advance what may be problematic until a land use is in full operation. Also, once developed, an existing business can change practices or the business itself can change in ways that were previously unforeseen. It may be helpful to have such approval requirements in the Code, but they cannot solve existing problems.

Since the Blue Ash Code does not specifically regulate noise from construction activity, it must be treated as a nuisance under General Offences. There are no measurable criteria, however, so a police officer who responds to complaints about such activity has to use his or her own judgment to determine whether a violation exists. Any regulation without specific criteria is, by its very nature, subjective and subject to differing interpretations.

Commercial/industrial noise tends to be relatively constant. Several examples have revealed that the volume of the noise is not necessarily the only annoyance to others. Noise patterns, shrillness (even without volume), intermittent noises, and banging noises that disrupt an otherwise quiet environment can be problematic. The Property Performance Standards decibel criteria do not guarantee a quiet and peaceful environment. To date, none of the three noise complaints that I have investigated under this regulation have been determined to be in violation of the 60 db limit, but the sounds are clearly audible off-site. Whether they are bothersome or not depends on the listener.

The attached chart compares the Blue Ash Code with several others in the area. As you look at the chart and read the written summaries of those regulations, keep in mind that there are two distinct noise issues: industrial and construction. Also:

- Regulations for one type of noise do not necessarily apply to the other.
- Regulations that do not contain specific, objective enforcement criteria are subjective. They provide flexibility for the enforcement person, but they can also cause confusion as to when a violation exists and make prosecution of a citation difficult.
- Objective criteria, such as a 60 db limit at the property line or a volume no greater than that on the nearest adjacent street do not necessarily produce a quiet environment.
- Construction activity makes noise. Until the shell of a building is complete and the activity moves inside, it is noisy. Power tools can often be heard in operation inside of single-family residential structures because the building codes do not require sound proofing.
- Sound meters do not necessarily register every sound and may miss periodic banging noises.
- There are no objective ways to measure some “annoying” noises such as barking dogs and fingernails-on-a-chalkboard. Some may be bothersome to one individual and not to another.
- The City must attempt to apply general provisions equally across all applicable situations. Beware the tendency to try to solve an isolated problem by regulating the entire City in the same manner.

- A regulation without an effective enforcement measure is not effective. Most noise problems occur at night when residents are home from work and want to enjoy their homes. Code enforcement and zoning staff are not available outside of regular working hours. Code provisions dealing with noise must be enforceable by the Police because they are the only staff who is available at all times.

Some options to change the current regulations include:

#### Fixed Locations

- Rezone certain areas of the City to address specific problems. This will not address “grandfathered” situations.
- Prohibit outside activity in non-residential districts during certain hours to help control volumes.
- Adopt more strict volume standards that currently exist.
- Install sound walls between incompatible districts and activities.

#### Construction

- Regulate hours and days of construction activity.”

City Manager David Waltz commented that Assistant Community Development Director Dan Johnson has reviewed the noise regulation portion of the Code and has reviewed how some comparable surrounding communities address such issues.

Mr. Johnson explained that generally there are two types of regulations. The first are nuisance regulations, which apply across the board. Blue Ash does have these, and the language for these across communities was similar and generally nonspecific. The second type of regulation is typically tied to stationary, generally non-residential sources. Blue Ash’s standard as to whether a noise is objectionable is if it measures 60 decibels at all times or 10 decibels greater than the ambient noise level. There are generally two types of noise, with one being construction noise (such as may be related to infill housing). This happens in a fixed location where construction is taking place. Blue Ash regulates construction noise as a nuisance type. Mr. Johnson commented that in cases when other communities placed time period constraints upon noise, there was much variation. For the most part, the time was allowable between 7AM and 7PM, and sometimes extended to 11PM.

Mr. Johnson explained that regulation of noise is a difficult task. There are no objective ways to measure some noises which may be bothersome to some persons, but not to others. For example, barking dogs and fingers on a chalkboard. Sound meters don’t register every sound and may miss a periodic banging or intermittent beat. Objective criteria on their own may not completely be able to address a problem. Everyone who is hearing it may not perceive the noise as a problem.

If Council wanted to change the existing Code, some suggestions for fixed locations include rezoning certain areas of the City to address specific problems (however, this will not address grandfathered situations); prohibit outside activity in non-residential districts during certain hours to help control volumes; adopt more strict volume standards than currently exist; and install sound walls between incompatible districts and activities. As far as construction noise, regulating hours and days of construction activity is a potential solution.

Councilman Bryan commented that it is his opinion that the current Code is inadequate to address commercial/industrial noise that occurs outside of businesses in close proximity to residential properties. He would envision a change in the Code that would have a purpose of ensuring residents relative peace and quiet during reasonable evening and weekend hours. His intention is not meant to be anti-business; however, it would be to ensure that if you live next to a business area that such businesses are good neighbors. He would propose limiting hours of operation that would create exterior noise. In his opinion, such a regulation would affect very few businesses but would benefit a number of residents.

Noise issues in the past noted have included Trans Acc (near Hazelwood), waste companies emptying dumpsters at all hours, Grounds Masters, and Wittrock Manufacturing.

Councilman Sumner commented that he would be uncomfortable with issuing a regulation

that in his opinion would have the net affect of eliminating a business. Councilman Bryan commented, in relation to the Grounds Masters situation for example, that a change may require them to change their method of operation; however, it would not necessarily drive them out of business or out of Blue Ash.

City Manager Waltz commented that one other option is to utilize the general nuisance section of the Code, as has been suggested by Deputy Solicitor Pacheco. Mr. Pacheco commented that section 521.08(i) defines a nuisance. This could cover a noise that occurs at any time, at any place, and any where for any noise. This type of complaint would be brought to Mayor's Court by the complainant, and the Mayor would determine whether it's a nuisance. This option is available now in the Code and may be a way to handle some specific cases, including Mr. Bonta's.

Councilman Stacey commented that he would feel more comfortable starting with this approach rather than an immediate change to the Code.

In addressing a question from Councilman Stacey, Mr. Pacheco commented that there is a concern for a regulatory taking. There is not a way the City can assure quiet at all times as it is too subjective. This provision of the Code would allow for each individual case to be looked at separately.

In addressing a question from Councilwoman Stoller, City Manager Waltz commented that if the Mayor found a noise a nuisance, then a fine would be given. At that point, for the business, it becomes a cost-benefit for the company. Though there may be a customer service aspect lacking in utilizing this nuisance aspect of the code (since the person would have to file a complaint and testify in Mayor's Court), it appears to be a clean legal solution for the City.

In addressing a question from Councilman Weber as to the frequency of complaints received by the City from industrial sources, Mr. Johnson commented that there has been a handful since he started working in Community Development. Councilman Weber also commented on the factor of "who was there first," as he would have less sympathy for someone who would come to this nuisance. Mr. Johnson commented that in the case of Trans Acc (near Hazelwood), the houses were there first. In the Grounds Masters situation, the industrial area and building were there first, though Grounds Masters moved in after the neighbor. Mr. Johnson commented that every time he visited the Grounds Masters site, they have shown a desire to be good neighbors and were cooperative with the noise measuring activity; however, they also realize that they are located within an industrial district and they have a job to do and a business to run.

Councilman Bryan commented specifically on the situation experienced by the Bonta Family on Cornell Woods Drive. There are frequent times when after 7PM the family cannot enjoy their back porch nor conduct a conversation due to the noise. This has become part of their everyday life.

In addressing a comment from Councilwoman Stoller regarding requiring more buffering between these two types of properties, Mr. Johnson commented that this type of buffering (not already provided for in the Code) would have to be done in advance and would not affect ongoing situations.

Mr. Waltz commented that there appears to be a problem with the Bonta property abutting Grounds Masters. However, until we get a longer-term solution, the only option now appears to be to move forward with the nuisance complaint route. In addressing a question from Councilman Czerwonka, Mr. Waltz explained that with the Grounds Masters situation for example, a business would not generally contact the City ahead of time as to where they plan to locate. They will have entered into a contract with the property owner and would have had their attorney check as to whether it's a legal use. Then they are soon in operation. There is not a lot of opportunity for screening by the City.

Councilman Bryan commented that he is not optimistic that this nuisance regulation will be effective with cases such as the Bontas. We are evolving as a City and what businesses we might have liked to see 20 or 30 years ago might not be what we want in today's Blue Ash. He asked the Administration to think about a way we could creatively accomplish the goal without being unfriendly to businesses.

City Manager Waltz agreed that in the long term, the goal would be to attract a different type of business and to tighten up the zoning standards to limit outside types of operations of industrial companies. However, this is a five or ten year implementation and won't necessarily help with the immediate problems. Mr. Waltz also commented that he believes the City should consider restrictions related to hours of operation and to perhaps write the hours of operation to also include any other unusual noises that are infrequent or not part of the normal operation. This may give the City a tool to better regulate solutions than we are able to regulate now. Mr. Waltz also commented that though tightening up the zoning code may not help an immediate problem, it would prevent them from expanding. This introduces somewhat of a "hassle factor," but you are not eliminating their market right.

Councilman Sumner commented that he is uncomfortable in regulating hours, especially after the fact. Councilman Bryan commented that in his opinion, there is a difference between "depriving" a company and putting limitations or parameters on a company.

Councilman Stacey commented that he would not be in favor of changing the Code at this time as he has concern with subjectiveness and grandfathering.

After some Council discussion, Dan Johnson commented that if any change is to be effectively enforceable, that it should be placed in the hands of the Police since they are available at all hours to enforce the regulation.

Mr. Waltz summarized that in the long term, a potential solution may be to require a buffer in the zoning code for the M-4 district. This does not influence the short term; however, the City could help individual cases with the ordinances in place now (via the nuisance provision) to help solve immediate problems. Councilmen Stacey and Czerwonka agreed with this summarization. Councilman Bryan commented that this might be a good first step; but he would prefer to act more aggressively now. Councilwoman Stoller agreed it would be a good place to start; however, believes that limiting hours of operation, especially with tear down situations, would be effective. Mr. Waltz commented that he would not limit hours of operation to just tear downs.

Mr. Waltz commented that the Administration will propose potential changes for the M-4 District regulations for future consideration by Council.

#### **Discussion regarding temporary signs**

Mr. Johnson commented that in his opinion, the temporary sign regulations for real estate signs is extremely vague. The Code sections also require time consuming enforcement and often result in signs that are prone to damage and decay, are not well maintained and sometimes overpower the site's permanent signage. The staff recommends changes to the code to eliminate temporary real estate signs for all commercial and industrial property and instead to allow the installation of permanent signs that display owner and leasing information.

Mr. Waltz commented that what is recommended is to allow a new permanent sign or to add to an existing permanent sign to include the information included often on the plywood type signs that often overwhelm the more attractive permanent signs. Specific size and timing would have to be determined.

In addressing a comment by Councilman Sumner, Mr. Waltz commented that even if the existing regulations would be fully enforced, he believes we would still have the unattractive temporary signs. He would recommend just eliminating such temporary signs and making such signs permanent in nature and much more attractive.

Councilman Sumner suggested that we talk with the businesses again through this process. Councilman Bryan agreed that compromise would be appropriate. After brief discussion, it was the consensus of Council that Administration should move forward with such recommendations to changes to the temporary sign regulations.

#### **Other Miscellaneous Business**

City Manager Waltz provided Council a brief update regarding the hotel/motel tax matter. The Hamilton County Commissioners decided to move forward with a one-year arrangement to split up and give everyone a portion of the funds. In terms of long-term prospective, Blue Ash

is not shut out but does have a significant uphill battle. Also, the City of Cincinnati has to agree to an amendment to the overall agreement. The good news is that nothing drastic has been done this year and we have time to develop a strategy.

Service Director Denny Albrinck commented that beginning March 1<sup>st</sup>, the City will resume its curbside brush pickup service. Also, crews have been canvassing the City the last couple weeks after the most recent severe ice storm which brought down many branches.

Mr. Albrinck also stated that the City also recently received plans from the Cincinnati Water Works (CWW) for replacement of the water mains in the Arcadia subdivision. Because of the residential nature of this area, construction hours will be limited to between 8AM and 8PM. When this project will begin is unknown at this point; however, Council will be kept up-to-date as more information is available.

Councilwoman Stoller commented favorably on the snow removal efforts during this recent snow.

Councilman Sumner commented on the letter from the City of Montgomery regarding preservation of the Johnson Nature Preserve. It was the consensus of Council that a letter from Blue Ash in support of Montgomery's efforts should be sent.

Councilman Czerwonka also offered his compliments to the City's snow removal crews during this most recent storm.

Councilman Stacey commented on the drainage pipe now stored upon the Kroger parking lot area with the hopes that their expansion project will begin soon. Mr. Waltz commented that an on-site underground retention facility is a part of that project.

In addressing a question from Mayor Buckman, Mr. Albrinck commented that curbside pickup occurs from March through November. During December through February, pickup will happen; however, residents call in such pickups. From March through November, pickup is the day following their regular garbage pickup.

Mayor Buckman also commented that on Wednesday, he, Councilman Stacey, Mr. Colwell, and the City Manager met with Congresswoman Jean Schmidt in regards to the airport project. He commented that she seemed very receptive to the City's efforts.

#### **ADJOURNMENT**

All items on the agenda having been acted upon, Councilman Sumner moved, Councilwoman Stoller seconded to adjourn the meeting. A voice vote was taken. All members voted yes. The Council meeting was adjourned at approximately 8:47 PM.

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Robert J. Buckman, Jr., Mayor

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Jamie K. Eifert, Clerk of Council

MINUTES WRITTEN BY:

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Susan K. Bennett, Deputy Clerk of Council