

President Dan Kaman called the meeting to order at 5 p.m. Brett Fuqua gave the **Invocation**, followed by the **Pledge of Allegiance**.

The Clerk **called the roll** and the following Commissioners responded: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7.

Upon motion of Pervis Brown and second of Brett Fuqua, the Commissioners **approved the minutes of the January 11, 2010 meeting and dispensed with the oral reading of the minutes. All Ayes. The President declared the motion passed.**

A Proclamation was read by Dan Kaman declaring January 31 through February 6, 2010 as "Catholic Schools Week" in the City of Sandusky, and urged all citizens to pay tribute to honoring this outstanding school.

A Presentation was made by Carrie Handy for the winning projects in the 2009 Land Use Debate project. The City and the County Planning Departments work with the Erie County Board of Education, Erie MetroParks and ODNR's Coastal Management Office to help eighth grade students learn about land use and development. This year, the Apex property was used for the project which has many challenges. The students must look at the surrounding land uses, zoning issues and permitting and approval processes and they have done a phenomenal job. This year, the two "Best Plan" winners were invited to show their proposed development for this property and they are from Perkins High School and St. Mary Central Catholic High School. Other participating schools included Adams Jr. High (the Sandusky Sports Complex), Margaretta Schools (the Job & Science Center) and Sandusky Central Catholic (Lakeview Community Center). Students from the Berlin-Milan School District also participated.

The students from Perkins High School then made a presentation for "Sweet Temptations Factory & Shoppe" which would include a storefront, warehouse, parking area and loading zone. They plan to construct windmills and recycle to use green energy, but kept some of the wooded area so that neighboring boathouse residents would not be disturbed. The project would generate 150 stable and dependable jobs to help decrease the current unemployment rates in Erie County and would garner financial backing from private investors, banks and stimulus grant monies available for start-up businesses. Most of the current building would be demolished, although the middle structure would be retained and asbestos removal would have to be performed. Their revenues for the first year are projected at \$750,000 for retail, \$5 million for online sales, and \$7,500 for wholesale totaling \$13,000,250 in profits. Their expenditures are projected at \$8 million for a net profit of \$4 million their first year. They would allow bulk orders, walk-in customers and would hope to sell to Cedar Point at a discounted rate. They would purchase products from local vendors like GFS and Toft Dairy and construction would come from local contractors. The students talked with the owners of Tre Sorelle Cioccolato of Sandusky who were most helpful in performing their research.

The second group of students from St. Mary Central Catholic High School presented the "Sandusky Bay Aquarium" project. The aquarium will hopefully give tourists and visitors the incentive to stay an extra night in the area generating more overnight stays in hotels and provide more business to local eateries and help strengthen the economy. Currently, the closest aquarium is in Cincinnati. They have done research and have 30 fishermen who will help to get rare and exotic animals and will feature over 13 exhibits including a shark tank. They will purchase a water purification system 20' tall and 50' in diameter for the seven stages needed for purification. The Aquarium will have an aquatorium, touch pool, educational center and IMAX 4D Theatre for a mind-blowing experience. They will offer tours for schools and have interactive exhibits. Advertising will be in the form of billboards, television, newspaper and the local tourism bureau and they expect to create 100+ jobs. A food court will also be in the facility with five different ethnic cuisines, including organic alternatives. They have researched the land use and looked into the rezoning, plumbing and engineering of the project and prepared a site plan accordingly. They plan to use local contractors and will be a not-for-profit organization obtaining start-up monies via loans, private investors and grant dollars.

Carrie Handy thanked both groups of students and acknowledged all of the teachers who were in attendance to help with the projects from SMCC and Perkins. Dan Kaman thanked the students and teachers.

A Public Hearing was then held for a proposed Replacement Submerged Lands Lease (SLL) for Battery Park Marina and the Sandusky Bay Development Corporation. Don Icsman said representatives were here to speak about this including John Hancock (point person representing the city), Bob and Ruth Haag

(Haag Environmental), Patrick Ernst (Ohio Department of Natural Resources - ODNR) and John Pheiffer & Carl Wolf (Battery Park Marina – BPM). Don Icsman stated the Commissioners had authorized him to submit an application for a replacement SLL for evaluation by the ODNR and the Public Hearing is a part of the process of entering into a replacement SLL. Bob Haag then presented drawings, using a power point projector, which showed the designation of which portions of the lease area are public vs. private and which areas were being considered to be made public with the new SLL. The Lease Agreement between the City of Sandusky and the Sandusky Bay Development Corporation is not part of tonight's discussion.

John Hancock stated the current SLL incorporates 32.9 acres of land which are currently up for renewal, as they are every five years. There are very few of the "old" leases in existence yet in the State of Ohio but this is one of them and as they come up for renewal, the new rules and regulations are incorporated within them. Because of a lack of response last fall, the ODNR prepared an appraisal on the property and arrived at a new lease figure which was submitted to the city in September, 2009, and is substantially more than it was previously. The city then made the decision to have a replacement SLL drawn up to bring more in line with the current rules. There are two areas for consideration, one that is public (government, non-income producing) and one which is zoned large facility commercial; all are within the leased area. The public areas include the tennis courts, the area around the Sandusky Bay Pavilion, the parking area, the Meigs Street Pier and the outer wall (North from the Sailing Club) and are subject to a lease amount of \$1/year. Patrick Ernst said they are about 30 days into the process which will include an approximately 90-day internal review of the application and will be moving forward with preparation of a Resolution. He stated they are very early in the process and would hope to have a response to the city by March 2, 2010, the date when the current SLL expires.

Dan Kaman asked John Pheiffer whose responsibility it is to maintain the outside of the walls at the marina. John Pheiffer said a dedicated portion of the funds from the SLL are set aside annually with the city, in a joint account, for structural maintenance of the facilities. If there were to be a major failure, this would be a joint problem to be resolved between the city and BPM. Dan Kaman asked if it would stay this way under the new SLL and John Pheiffer said it would. John Hancock said there are no proposed changes to the overall lease with BPM. Kim Nuesse asked what the monetary impact of the new SLL would be to the city and to Battery Park Marina. John Hancock said the new lease amount is \$17,600/year, half of which goes to the city. He said under the new lease, the city will have to pay the entire amount of the lease to the state; the State will then refund the city's half by the end of the State's fiscal year, or after June 30 each year, according to the Ohio Revised Code.

John Pheiffer said currently, the city invoices BPM on an annual basis. Payment is then remitted to the city by BPM and the city, in turn, pays the state. He said this should not have any budgetary impact to the city. Don Icsman said what John Pheiffer has described is different than the normal way SLL's work in the State of Ohio and that our Lease Agreement for the property - with the city as the Lessor – requires ours to be handled differently; under the new regulations, this payment arrangement would change. Ed Widman said the city never kept any of the monies from the SLL and normally 100% of the lease amount is billed to the city, the city collects the entire amount from BPM and then pays 50% to the State of Ohio. He said this has no net impact on the city's budget and the new lease will work like others in the State.

Dave Waddington said he understands Patrick Ernst has consulted Ohio's legal counsel about potential conflicts with the 1986 Agreement and he (Dave) does not believe there are any violations associated with this Agreement and Don Icsman concurred. Don Icsman also said if we were to enter into a new Lease Agreement with BPM at any time in the future, the State would not approve it as currently written as it does not conform to the state code. Patrick Ernst said this question has been posed to the Attorney General's Office and if there is a conflict between the 1986 Agreement and new regulations, it will be identified and resolved.

PUBLIC HEARING AUDIENCE PARTICIPATION

Tim Schwanger, Save Our Shoreline Parks, 362 Sheffield Way, asked for clarification of the rental rates. He does not believe the old SLL was very strict about marina-related activities on the properties and hopes the new SLL will have stricter language so that private, non-marina development cannot happen here, especially in light of the recent battle over a private development. He asked if the property that is to be determined as government, non-income producing would be turned over to the city to be maintained. He asked if the rental rates for dockage could be set aside for improvements to the public/green areas. He asked if the public restrooms near the pool were to be considered commercial

property and closed off to the public. He stated that since 2000, he understands Sandusky Bay Development has paid in excess of \$510,000 in fees, but little appears to have been put back into public facilities. He asked if the city has records prior to the year 2000 to get a grasp on what has actually been paid to the city by BPM.

Wesley Poole, 1939 E. Oldgate, asked who is responsible to determine the reimbursement scheme. Patrick Ernst stated the reimbursement is based upon the Ohio Revised Code, Section 1506.11 C2 and all rentals are paid by Leaseholders, placed into a separate fund, and 50% is then distributed back to the local communities. Wesley Poole then asked what we are doing currently and if the money is collected the same way each year. Ed Widman said the SLL is modified every five years and recent payments of just over \$13,000 have not been kept by the city under the provisions of the existing Lease Agreement. Ed Widman said the city does have a Records Retention Schedule for SLL payments. The new interpretation of the revised SLL will call for the Lessee (Sandusky Bay Development Corporation) to pay the state directly for the cost of the SLL and the state will then distribute half of this money back to the city each year. Ed Widman said the current SLL is unique and the state is trying to get us back to the traditional way of doing things. He also stated the city does not keep audit trails forever, but meets its current records retention schedule. Wesley Pool stated he is not clear about who owns what, how the lease is paid, etc. and would just like this explained simplistically.

Patrick Ernst stated there are currently approximately 830 SLL's in the State of Ohio and three are unique including Sandusky, Conneaut and Lorain as they are with the public agency. The way these were written prior to the current rules being implemented, the rent is set at a certain dollar amount, the leaseholder or public agency only remits 50% of the SLL amount to the state and keeps the other 50% rather than the state receiving 100% of the monies only to return it to the Lessor. ODNR is working to change these three Leases to follow the current administrative rules which call for the state to collect 100% of the SLL amount and then disburse 50% back to the municipality. Wesley Poole asked if there were any obstructions to convert some of the green areas, such as the tennis courts, to another use. Patrick Ernst said this is one reason why the Attorney General is looking at the 1986 Agreement as they want to be certain if there are conflicts with the governmental, non-income providing properties, they are resolved. These areas should not be generating any type of revenue for the city. If any changes of use are requested in the future, these must be approved by the ODNR.

John Ginty, 5055 Providence Drive, asked why the State is putting emphasis on this now and if it is being prompted due to the value of the land increasing so much. Patrick Ernst said an Application to Modify was sent to the ODNR by the city in late December, 2009, and the state is now moving forward to review all criteria and act upon the city's request to modify provisions of the SLL to eliminate the portion which should not have been included in the original SLL. All other provisions will be modified to meet the current ORC. John Pheiffer stated the renewal process is performed each five years. Patrick Ernst said the cost of the SLL is set according to a market appraisal performed by a certified appraiser and the cost for this particular SLL has increased in value. He said there is a 90-day period for the submission process and expects this to be finalized by the week of March 2, 2010. The application process is complete with the exception of the Resolution. The appraised value of the property was increased from \$27,000 to \$200,000 after the market appraisal was performed in March, 2009. In September, the city asked to move forward with modifying the SLL accordingly.

Sharon Johnson, 1139 Fifth Street asked for the section number of the ORC cited earlier and Patrick Ernst said it is Section 1506.11 C2. Sharon Johnson asked if half of the \$17,600 collected has gone back to the city, what has been done with these monies. Ed Widman stated the new amount is being quoted at \$17,600; the old amount was \$13,068. According to the Lease Agreement with Battery Park, the city did not keep these monies, rather, we collected the full amount owed for the SLL from Battery Park Marina, we were obligated to give that half back and rather than sending all of the money around, we disbursed to the state the net amount the state was due to receive.

Diedre Cole, 807 Hancock Street, said it occurs to her that this would be an excellent opportunity to ask John Pheiffer or Carl Wolf what the possibility would be of redoing the SLL and completely removing the public portions. John Pheiffer said this has not yet been discussed and thus he was not prepared to provide an answer to the question.

Tim Schwanger, Save Our Shoreline Parks, 362 Sheffield Way, said he is opposed to removing the Sandusky Bay Pavilion and public restroom portion from the area currently designated as commercial and believes it should be classified as property which is governmental and non-revenue producing. John Hancock said originally, this area was designated as governmental, non-revenue producing but the

ODNR did not agree and asked that this be removed as such and made commercial. Patrick Ernst stated according to provisions in the 1986 Lease Agreement, this was excluded from the public portion. All of the maintenance and usage is for the marina and commercial areas. The determination of the rental category for this small portion has not yet been determined. Tim Schwanger said the pool area (within Battery Park) is for member use only while the Pavilion and restrooms are open to the public. He said he believes the new SLL could be written so as to prohibit any future public development projects if the city were to apply to the state for a change of use.

There were no other comments and Dan Kaman declared the Public Hearing closed at 5:59 p.m.

A Public Hearing was held regarding the Job Access & Reverse Commute (JARC) Funding for the Sandusky Transit System. Carrie Handy said the JARC grant provides funding for the Sandusky-Perkins Area Ride Connection (SPARC) route and the city first received this grant in 2009. The city is slated to receive funding for 2010 which is \$10,032 higher than last year's funding and the grant covers costs for operating assistance (\$36,613) and capital costs (\$73,419) for contracting out the service. The city will use all of the funding to operate the SPARC route. Last year was the first year for the SPARC route and the system transported almost 20,000 persons with the highest month at 3,000 persons. Carrie Handy said she is hopeful the 2010 summer season will be even more successful. The system is used by many Cedar Point employees and averages 20 – 30 persons per stop which is great for a service of this size. Carrie Handy explained the longer we have the service, the more efficient it will become. The SPARC route is used to provide transportation services for a lot of people to and from night jobs as it operates until 10 p.m. and a lot of our tourist related jobs require working evening hours. There are brochures throughout the county noting the stops and the cost is \$1 per ride. The SPARC route operates between 6 a.m. – 10 p.m. Monday through Saturday in a continuous one-hour loop and no changes are currently proposed, although there have been some discussions about adding stops along the route or creating a second route. If this happens, the city will hold another public hearing to notify the public.

Pervis Brown asked if there was any carryover money from the 2009 grant and Carrie Handy said there was not and that the funding was spent down to \$3,000. Dan Kaman said this is a good system and hopes it can be expanded to local nursing homes, city parks and persons who live on the west end of town.

Sharon Johnson, 1139 Fifth Street, asked if it were possible to add benches or shelter areas at the stops and Carrie Handy said they are working on this as there is funding available for that purpose.

Dennis Timple, 553 Bimini Drive, asked what the system does to serve the persons who live in Sandusky and West of Camp Street - which is about 25% of the population. –He stated these residents are paying taxes but not being provided transit services. Carrie Handy stated that although the SPARC route does not serve the west side of town, the STS does and rides can be scheduled at any location in town. She also said changes are being considered for additional stops in the future including Firelands College/BGSU and possibly a second route. These routes cannot be made too long and 1 hour is considered the maximum timeframe. Dan Kaman asked if a second route could be drawn up with a connector and Carrie Handy said that this could be considered.

John Ginty, 5055 Providence Drive, asked if it was possible for persons on the west end to get or use the regular STS service for rides and Carrie Handy said it is possible. John Ginty said this is a good temporary solution.

There were no other comments and Dan Kaman declared the Public Hearing closed at 6:06 p.m.

Under **Audience Participation on Agenda Items**, the following gave their comments:

Diedre Cole, 807 Hancock Street, asked the City Commissioners to consider tabling Item #7 until the next meeting as she has requested information from the Sandusky Police Department specific to this request. She has spoken with the owner and said if this is tabled until the next meeting, the city will still be able to meet the Ohio Department of Liquor Control's deadline for comments from the city. She also said she is evaluating some complaints she has received from the neighbors about this drive-thru.

John Ginty, 5055 Providence Drive, asked about Item #2 and the amount of the contract for Greg Sherman. He asked if the new play equipment proposed for Lions Park will be available for handicapped children. He asked if a fair market value was used to determine the selling price of the property on Wilbert Street which the city is considering in Item #6.

Sharon Johnson, 1139 Fifth Street, said she thought the city recently put in new play equipment at Lions Park. Carrie Handy said a splash pad and upgrades to the restrooms are being proposed in addition to the replacement of the play equipment which is 15 – 20 years old. Carrie stated there currently is nothing in the southwest corner of Lions Park and the plan for this CDBG money is to replace the restrooms, install a splash pad and make the park a family destination. She said the new play equipment will be included in the next phase and none of the current work proposed will affect the current park or parking area. Sharon Johnson said the installation of a splash pad would be a waste of water as it is not recycled. Carrie Handy said they will be designing this one with a filtering system or some type of irrigation so that water is recycled. Sharon Johnson said she did not want her water rates to go up because of this waste.

Upon motion of Pervis Brown and second of Brett Fuqua, the Commissioners moved to accept all communications. All Ayes. The President declared the motion passed.

ITEM #1 – Submitted by Donald C. Icsman, Acting City Manager

Budgetary Information: Proceeds from the sale of the items from the Police Department will be placed into the Police Department's General Trust Account, with the exceptions of the proceeds for the bicycles which will be placed into the city's General Fund. The proceeds from the Sewer Maintenance Division sales will go back into the Sewer Fund. The proceeds from the sale of items from the Municipal Court will go back into the court's computer fund. Some proceeds from the sale of equipment from the Fire Department will be placed into the General Fund while others will be placed into the Fire Department's Capital Account according to how they were purchased originally.

ORDINANCE NO. 10-006: It is requested an Ordinance be passed authorizing and directing the City Manager to **dispose of surplus personal property and equipment as having become unnecessary and unfit for city use pursuant to Section 25 of the City Charter;** and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

Upon motion of Dave Waddington and second of Julie Farrar, the Commission authorized the passage of this Ordinance under suspension of the rules and in full accordance with Section 14 of the City Charter. Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed. Roll Call on the Ordinance: Yeas: Julie Farrar, Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington and Pervis Brown, 7. The President declared the Ordinance passed.

ITEM #2 – Submitted by Carrie R. Handy, Chief Planner

Budgetary Information: The cost of this contract is covered by administrative dollars allocated in the Revolving Loan Fund Program and monitoring fees collected by the Enterprise Zone Program. A portion of the cost of the contract is also covered by administrative dollars received in conjunction with the Community Development Block Grant (CDBG). There will be no impact on the General Fund.

ORDINANCE NO. 10-007: It is requested an Ordinance be passed authorizing and directing the City Manager to **enter into a Consulting Contract with Gregory E. Sherman for CY 2010, a copy of which is attached to this Ordinance;** and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

Upon motion of Pervis Brown and second of Dave Waddington, the Commission authorized the passage of this Ordinance under suspension of the rules and in full accordance with Section 14 of the City Charter.

Discussion: Julie Farrar stated Greg Sherman will be paid at a rate of \$40/hour. She said the documentation for items which are on the Agenda is available prior to the meetings in the Clerk's Office. She also stated the reason this was being requested for passage under Section 14 is because Greg Sherman's current contract has expired. Dan Kaman said he hopes Greg Sherman is so busy we have to hire a second person as he gets paid by how many businesses use his services and when he is busy, it is good for the city.

Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed. Roll Call on the Ordinance: Yeas: Julie Farrar, Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington and Pervis Brown, 7. The President declared the Ordinance passed.

ITEM #3 – Submitted by Carrie R. Handy, Chief Planner

Budgetary Information: This grant project will not require the city to expend any additional monies from the city's General Fund for matching funds. The local match will be comprised of CDBG funds and in-kind services and labor by City of Sandusky staff.

RESOLUTION NO. 003-10R: It is requested a Resolution be passed **approving the submission of a Grant Application to the Ohio Department of Natural Resources for the FY 2010 Land and Water Conservation Fund Grant for financial assistance for improvements to Lions Park and**, if awarded, authorizing the City Manager to execute any required agreements; and declaring that this Resolution shall take immediate effect in accordance with Section 14 of the City Charter.

Upon motion of Kim Nuesse and second of Julie Farrar, the Commission authorized the passage of this Resolution under suspension of the rules and in full accordance with Section 14 of the City Charter.

Discussion: Kim Nuesse said the Lions Park Master Plan calls for the construction of a splash pad and from her observations, families with children are very excited about the possibility of this attraction.

Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed. Roll Call on the Resolution: Yeas: Julie Farrar, Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington and Pervis Brown, 7. The President declared the Resolution passed.

ITEM #4 – Submitted by Carrie R. Handy, Chief Planner

Budgetary Information: There is no impact to the city's General Fund with the execution of this agreement.

RESOLUTION NO. 004-10R: It is requested a Resolution be passed authorizing and directing the City Manager to **enter into a Housing Revolving Loan Fund Administration Agreement, substantially in the same form attached, with the State of Ohio Department of Development;** and declaring that this Resolution shall take immediate effect in accordance with Section 14 of the City Charter.

Upon motion of Dave Waddington and second of Julie Farrar, the Commission authorized the passage of this Resolution under suspension of the rules and in full accordance with Section 14 of the City Charter.

Discussion: Julie Farrar discussed this item with Carrie Handy and it is being requested for passage under Section 14 because the paperwork is due to the state prior to the next Commission meeting and was only received at the end of December.

Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed. Roll Call on the Resolution: Yeas: Julie Farrar, Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington and Pervis Brown, 7. The President declared the Resolution passed.

ITEM #5 – Submitted by Sharon Evanich & Carrie Handy, Chief Planner

Budgetary Information: The City of Sandusky will amend the CDBG Public Services Sub-Recipient Agreement with Volunteers of America to increase the original award amount from \$55,000 to \$60,000, an increase of \$5,000 to provide homeless prevention services including emergency rental, mortgage and utility assistance to low and moderate income residents in Sandusky under the rules and regulations of the Community Development Block Grant Program. (Additional funds are being provided to Volunteers of America Northwest Ohio because they have already expended 75 percent of their funds and the need continues to be great in the community for the services they provide). Emergency rental, mortgage and/or utility (gas, water and electric) assistance will be provided for a maximum of three (3) months. The maximum level of assistance is \$1,500 per family. Volunteers of America Northwest Ohio is providing \$182,000 from other local and government program funding sources and \$180,000 of in-kind match. There is no impact to the city's General Fund.

ORDINANCE NO. 10-008: It is requested an Ordinance be passed authorizing and directing the City Manager to **enter into an Amendment to the Subrecipient Agreement with the Volunteers of America Northwest Ohio, substantially in the same form as attached hereto, and to expend an additional amount not to exceed \$5,000 from the FY 2009 Community Development Block Grant Funds;** and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

Upon motion Pervis Brown of and second of Brett Fuqua, the Commission authorized the passage of this Ordinance under suspension of the rules and in full accordance with Section 14 of the City Charter.

Discussion: Dave Waddington said CDBG funds are proposed to be used for assistance to residents in Sandusky for homelessness.

Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed. Roll Call on the Ordinance: Yeas: Julie Farrar, Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington and Pervis Brown, 7. The President declared the Ordinance passed.

ITEM #6 – Submitted by Kathryn K. McKillips, P.E., Engineer

Budgetary Information: There will be minimal closing costs associated with this sale of property which will be paid with Water Funds.

ORDINANCE NO. 10-009: It is requested an Ordinance be passed declaring that **a certain portion of real property owned by the City located at Lot #134 on Wilbert Street, Parcel No. 58-64005.000 is no longer needed for any municipal purpose and authorizing and directing the City Manager to enter into an Agreement to sell the designated portion to David and Shelley D. Veverka;** and declaring that this Ordinance shall take immediate effect in accordance with Section 14 of the City Charter.

Upon motion of Julie Farrar and second of Dave Waddington, the Commission authorized the passage of this Ordinance under suspension of the rules and in full accordance with Section 14 of the City Charter.

Discussion: Julie Farrar asked if this purchase price was arrived at as it is considered the fair market value. Carrie Handy said the fair market value was determined through an appraisal.

Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed. Roll Call on the Ordinance: Yeas: Julie Farrar, Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington and Pervis Brown, 7. The President declared the Ordinance passed.

ITEM #7 – Submitted by Kelly L. Kresser, Clerk of the City Commission

A Notice has been submitted to the City of Sandusky from the Ohio Department of Liquor Control, **requesting a transfer request of C1, C2 and D6 Liquor Permits from Flash Enterprises, Inc. to North Coast Oasis Cleaning Service, LLC, 802 Hancock Street, Sandusky.** It is requested the Clerk notify the Ohio Department of Liquor Control that the city has no objections to this request.

Upon motion of Kim Nuesse and second of Julie Farrar, the Commissioners voted to table this item until the next City Commission meeting.

Discussion: Brett Fuqua asked Diedre Cole if there were specific reasons for her request to table this item. Diedre Cole asked to be able to obtain the document she has requested from the SPD and present it to the City Commission prior to their voting upon this transfer. Kim Nuesse asked if any of the other nearby residents were here tonight to speak to the issue. Bonita Lofties, 2105 Sherman Street, said she thought it peculiar a liquor license was being requested by a cleaning service.

All Ayes. The President declared the Motion passed.

CITY MANAGER'S REPORT

Don Icsman asked for the City Commissioners **to accept a donation in the amount of \$100 from the Garden Club of Sandusky to the Friends of the Greenhouse Endowment Fund.** Upon motion of Pervis Brown and second of John Hamilton, the Commissioners voted to accept this donation. All Ayes. The President declared the motion passed.

Don Icsman asked for the City Commissioners **to accept a donation in the amount of \$100 from Robert J. Englehorn for the Friends of the Greenhouse Endowment Fund.** Upon motion of Pervis Brown and second of Dave Waddington, the Commissioners voted to accept this donation. All Ayes. The President declared the motion passed.

Don Icsman said the Sandusky Police Department had received a **grant from the Wightman-Wieber Foundation in the amount of \$5,000 which was to be utilized to help fund the building of a regional training and safety center.** Due to budget constraints, this project was put on hold as a matching amount of \$15,000 would be needed to complete the project. Don Icsman asked the Commissioners to approve acknowledgement of the check and permission to return it to the WW Foundation as the city cannot provide the matching funds at this time. Charlie Sams said he had talked with staff at the WW Foundation; they are aware of our situation and asked us to do this. **Upon motion of Brett Fuqua and second of Pervis Brown, the Commissioners voted to acknowledge receipt of these monies but return them with an explanation about the lack of matching funds. All Ayes. The President declared the motion passed.**

Don Icsman said he wished to publicly announce an **auction of surplus property and equipment is scheduled for this Thursday, January 28 at the City Service Center, 1024 Cement Avenue.** Doors will open at 5 p.m. and the auction begins at 6 p.m.

Don Icsman said **requests for waiving certain fees have been made in the recent past by Habitat for Humanity and by Care and Share.** He told the Commissioners he would provide additional information about these costs and still recommends they consider not waiving fees for any entity; he has checked with other local jurisdictions and none of the area municipalities waive fees. These can be decided on a case by case basis, dependent upon the type and/or amount of the fees. Don Icsman said it is a slippery slope to go down and if you start, where do you stop. He cited Firelands Regional Medical Center as a recent example of a not-for-profit corporation obtaining building permits which, if waived, would have resulted in the loss of \$400,000 - \$500,000 for the city.

Don Icsman said he was asked recently about **the Change Order for the Hayes Avenue underpass project.** He stated this Change Order was inclusive of both sides of the underpass, not just one side, so no further Change Orders should be necessary for this project.

Don Icsman asked the Commissioners for their approval to **transfer a vehicle title confiscated through the Sandusky Police Department to the Dale's Towing Service.** This vehicle was recently titled to the City of Sandusky after the closure of the case involving the owner and the current towing and storage fees exceed the cost of the vehicle. **Upon motion of Pervis Brown and second of Dave Waddington, the Commissioners voted to assign the title for a 1996 Ford to Dale's Towing Service. All Ayes. The President declared the motion passed.**

Don Icsman stated he wished to provide an update **on the status of some current projects and environmental clean-up grants.** He said John Hancock provided a summary for a number of projects prior to the expiration of his contract in December and some of the Brownfields issues have since been addressed by Bob and Ruth Haag from Haag Environmental. Don Icsman said some of these issues are more important than others and it is prudent to all work together to meet deadlines and accomplishments. He said the city does not currently have the staffing to do much of this work in the timely fashion required and recently held a very productive meeting with John Hancock and Bob and Ruth Haag. Carrie Handy and Kathy McKillips will continue to perform the paperwork associated with draw downs. Don Icsman is asking for the City Commissioners approval to use other resources to help with issues including:

- 1) FEMA mapping issues – John Hancock has expertise in this area
- 2) Keller Building repairs – Haag Environmental is working with the contractor's guarantee to perform roof repair work and are bidding other work out next week to be certain we are fulfilling our responsibilities for this building
- 3) Area Potential Effect (A.P.E.) Reports – Haag Environmental
- 4) Paper District Marina project – John Hancock has established a good working relationship with the Hoty's and can help the city to bring this project to fruition
- 5) Great Lakes Restoration Initiative – Haag Environmental employees have had training on how to apply for this stimulus money (\$475 million in 2010) which is being offered through the federal government to help clean up the Great Lakes and it is not tied to Brownfields or Superfund grants
- 6) TCE Plume & Coal Tar Plume – Haag Environmental is looking into grant funds which could be awarded and would not require matching funds

Upon motion of Kim Nuesse and second of John Hamilton, the Commissioners authorized Haag Environmental to work on submitting a Grant Application for Item #5 above.

Discussion: John Hamilton asked what the timeframe would be to use these monies if the grant was awarded. Bob Haag said it would be a one year time period. The grant for the TCE Plume is a \$300,000 - \$500,000 award and the grant award for the Coal Tar Plume has a maximum of \$1 million to install a well and draw out the coal tar. He would expect a complete effort could remedy these issues in a one year period.

All Ayes. The President declared this motion passed.

Don Icsman said there are numerous deadlines and this group plans to meet on a weekly or bi-weekly basis, as necessary, and report their activities back to the City Commission. Kim Nuesse asked Don Icsman if he wished for a motion to be made to utilize John Hancock's services and Don Icsman indicated he was only looking for a vote for the Federal Grant application at this time and will present a Resolution at the next meeting to ratify this application.

Don Icsman said a conference call was made today with Tom Whitted, Kathy McKillips and Ed Widman regarding **an automated meter reading system for the city and the possibility of combining this with the city building changes**. He stated we are still gathering information with Bond Counsel and no decisions have been made as yet.

Don Icsman said a **Weed & Seed Conference** is scheduled in Baltimore, Maryland at the end of February and attendance is required for all grant recipients. The expenses associated with the travel and training are covered by the grant funding. Carrie Handy said she is estimating the travel costs for five persons to be \$2,200 - \$2,400 covers the costs for hotel rooms, flights, meals and travel expenses while in Baltimore. She stated the Weed & Seed travel budget included these expenses.

Upon motion of Pervis Brown and second of Julie Farrar, the Commissioners voted to deviate from the city's current policy, which does not allow for out of state travel, for this particular conference.

Discussion: Dan Kaman asked who would attend the conference and Carrie Handy said in addition to herself, Charlene Adams and Kathy Caughell, both of whom work for the Center for Cultural Awareness, the lead agency for the grant, Lt. Phil Frost from the Sandusky Police Department and Dr. Kirk Halliday from the Erie Ottawa Mental Health & Recovery Board would attend. Brett Fuqua asked that a report be provided to the City Commissioners with the final expenditures after the conference and Carrie Handy said she would provide this.

Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed.

Don Icsman said **Sections 13 and 14 of the City Charter which provide for emergency passage of legislation have been a recent area of concern and he will be providing in-house training for staff within the next 30 days for those who provide communications requiring legislation to clarify what this means and to reinforce the need for proper planning**. He also stated that sometimes it cannot be helped as we are doing so much work with so little resources.

Don Icsman said he was also **requesting approval for training costs for Fire Marshal Rudy Ruiz to attend training to obtain a State certification to conduct inspections of permitted work on underground storage tanks**. Mike Meinzer said there is currently only one employee from the SFD who is certified to perform these inspections and it would be good for us to have one more. Don Icsman is also asking for **permission for Rudy Ruiz to attend a Recovery from Disaster course to be held in Columbus and the only cost associated with this will be the use of a city vehicle for travel purposes**. Don Icsman said Mike Meinzer has also asked for **authorization to hold a State Certified Fire and EMS Instructor class at the Central Fire Station** and once certified, employees can provide future training. The cost is \$4,725 for the program and the Firefighters have agreed to attend while off-duty so no overtime costs will be incurred; they are also buying their own books. Dan Kaman asked if the BUSTR training is also in the State of Ohio and Mike Meinzer said that is correct; one other training session, free of charge, is being attended by a member of the SFD is through the U.S. Fire Administration and he is using vacation time to attend this training and paying his own expenses. Don Icsman said he thought it was important for the City Commissioners to know about these things up front and now rather than later. Dan Kaman said he would prefer to hear about this at the table rather than someplace else. Julie Farrar said she understands the total expenses amount to \$5,635 for these proposed training opportunities.

Don Icsman said he had a recent meeting with Tom Whitted and two City Commissioners regarding **concerns with the property agreements for the wind turbines**. He said the city has a number of things going on which require more due diligence and while he has respect for this project, there are a lot of other things to do. He said trying to push this project forward is a dangerous way to do business and he does not want to repeat past mistakes with such a serious matter and due diligence should have been done before. He said we should continue discussing this project on our own timetable and do our homework first and it seems Tom Whitted is the person to do this for the city. Dave Waddington asked if they would continue to have meetings about this project and Don Icsman said the staff will continue to meet and we should have expert analysis as the provider is in the business to make money and the city needs to protect itself. Kim Nuesse said she appreciated this report tonight and that it answered a lot of questions she had, but knows there are additional issues about this potential agreement. She thanked Tom Whitted for his efforts and hopes a number of issues, including ownership vs. leasing and costs associated with this are addressed based upon what we need vs. what is proposed. She did not feel the city should move forward without getting answers to our questions first and if we are to do business of this magnitude, that we should put this out for bid first. Don Icsman said this could be done and we do not have a contractual obligation to anyone for construction; our options are open from a legal standpoint. We fulfilled our obligation to pay for the site studies. John Hamilton said he felt there is a lot to look at with this project including the size and the location/placement of the wind turbines. He said we may want to take a look at a wind farm on the city property on Old Railroad rather than at the Sewer or Water Plants. He said we may even want to look at the performance history of windmills in Europe (.5 megawatts rather than a kilowatt hour rate) and the formation of a committee to review what we want to do. Julie Farrar said it always has been her understanding that even though NexGen provided the study for the city, that did not mean they were putting the wind turbines up for us. She recently watched a documentary which suggested green energy may be a big hoax and there are still a lot of things to consider.

Don Icsman said he wished to publicly address **a recent situation with the SPD which happened before Christmas involving Diedre Cole**. He stated Charlie Sams was gone when the situation occurred and the day he returned, he (Don) contacted Charlie Sams to meet with him and Diedre Cole to look into the situation. Within one hour, Charlie Sams was able to learn that a mistake was indeed made and apologized to Diedre Cole. Charlie Sams said he was sorry and the officer involved was disciplined for his mistake and has since been re-trained and he hopes this will help prevent such a situation from happening again. Don Icsman said he felt it was important to do this in public.

Don Icsman said he had asked John Hamilton to attend tonight's meeting to provide the Commissioners with an update on the **Paper District Marina Project; he stated Angelo Hoty was in attendance as well**. John Hancock said the city received proposals in July, 2009 for either a 92-slip marina or other alternate proposals and subsequent to that, the city chose a \$3 million proposal submitted by Hoty Enterprises. The alternate proposal was eventually selected which included a marina with 47 docks and 16 transient docks, a bathhouse and a marina office. This proposal also included an amphitheatre for public events to be operated by the city and the drafting of a Management Agreement with Hoty's for the operation of a marina. The development scheme provided an expanded area for buildings along Shoreline Drive for commercial and retail spaces. John Hancock said the staff has been working diligently, but progress has slowed in the past couple of months due to staffing changes and an unwillingness to make decisions to proceed with certain aspects of this project. Once the preliminary proposal was voted upon, city began to evaluate the alternate design plan with respect to the existing Corps of Engineers permit and other permitting with the ODNR and the EPA. There were also Chesapeake/Keller Clean Ohio Revitalization Funds (CORF) grant implementations to be considered, environmental issues to address because of changes made from the original plan, geotechnical issues, funding and tax implication issues. Since this time, complete drawings and specifications have been prepared for the City Commission's final approval and a Management Agreement is being prepared. In order for the project to be scheduled, the permits must be secured and then the project can come to the City Commissioners. Much work has been done to obtain the necessary permits to bring the city closer to making a final decision at this table. A geotechnical analysis has been scheduled and some additional CORF reporting and submissions to ODOD has been done by Hull & Associates on the city's behalf and a tentative meeting has been scheduled for February 4 to go over these prior to their submission. There is additional environmental work to be done because the alternate marina design is a different method/configuration for construction. There needs to be some additional plans for stockpiling the water and the final placement of soils. Some additional risk analysis, over and above the preliminary risk analysis has been started. John Hancock stated we need to go ahead with permit modifications to the U.S. Army Corps of Engineers and the ODNR; follow-up work must be done pertaining to revisions for the Submerged Lands Lease with ODNR and we must finish securing the funding for the dock facilities which is a vital component of the project. Work is being performed to finalize the plans and

specifications, the contracts (currently in draft form) and the funding for the project if the City Commission desires to move forward with the project. John Hancock noted the great efforts that have been made by Hoty Enterprises and said Angelo Hoty was also here tonight to speak to the project.

Angelo Hoty, representing Hoty Enterprises, said a lot of progress has been made but this is a slow, slow walk and changes in Sandusky's administration have slowed the progress. The City Commission did give the "go ahead" to move forward with a contract on August 10, 2009, and a preliminary contract has not yet been put together for a final contract. Those working with this project have realized a lot more work needs to be done than first anticipated. Angelo Hoty believes someone from the city should be appointed to aggressively spearhead this project although he understands the city has other priorities. This project has the potential to place \$3 million back into the local economy through the use of Grant funds, TIF funds and matching funds. He stated there are many people in this community waiting to go to work and this project will create employment with salaries at a top level using Davis Bacon wage charts. The average carpenter wages are approximately \$33/hr. and electricians' approximate average wages would be \$45/hr., including benefits, and these are real dollars for our community, not minimum wage dollars. Angelo Hoty urged the City Commission to put someone in charge of this project in an aggressive way for the city to allow for the project to move forward and have its affect on the downtown area and local tradesmen. He said his company is ready and willing to do what it takes to make this a reality. Dan Kaman asked what has changed from the original plan and Angelo Hoty stated nothing has been changed but they did have to look at bringing back a 6' hill because of the impact on neighboring property. He said there are 62 slips and an outdoor amphitheatre proposed all according to the project design presented to the City Commissions, including some small modifications to the Corps permit. The engineering work for these modifications has been completed and the permit has been filled out, it just has not been submitted. Dan Kaman asked again if the current design is different and if someone could say this is different than what was first proposed and Angelo Hoty stated it is the same project and John Hancock concurred it is the same concept as presented initially. Angelo Hoty said his company and the city have both made a commitment to this project and it should be made a priority as if this does not happen, it will hurt the local community. Dan Kaman stated he wants to be sure the money is available through grants, TIF funding, etc. and that there will be no cost to the city. He has heard this before and wants to be sure the money stream is there first. Angelo Hoty said and John Hancock and Hull & Associates are working on the matching grant funding and the line items have been adjusted by persons from his company to accommodate the city's requirements. This is something the city (through Hull & Associates) does, not the construction company which is Hoty's end of the project. John Hancock said the staff at Hoty Enterprises has been more than flexible to accommodate what the city requires. Dan Kaman asked Don Icsman if his intent was to have John Hancock manage this project for us and Don said "yes"; Dan then said he wanted to be sure the grants were there and the financial stream was set up and in place before they go ahead and start construction. John Hancock said this has been the assumption all along – there would be no cost to the city using available funding. It is a question of what funding is available and what match monies are available and a final budget is prepared to cover the costs of the project prior to construction. Julie Farrar asked how soon this could be done to be shown to the City Commissioners for their approval. John Hancock stated in one month to six weeks, the financial package should be finalized and we would then be waiting for final permits to be secured. We would then only be waiting to be certain of our budget. Angelo Hoty prepared a one page form which shows the accomplishments made to this point and what else needs to be done to get a better handle on the project. He said currently we are in the red zone with this project and we all need to pay attention and stay focused and do the right things as he wants to see this manifested for the community. Dan Kaman said he believes this new commission would also like to see this project get going and stay on track. Dan Kaman said he did not know who gave him (Angelo) the promises, but it was not him (Dan). Angelo Hoty said sometimes these projects take on a life of their own and understands there is a fiscal responsibility but he also wanted the Commissioners to know where they are with the project so that they can move forward with it. Kim Nuesse said she understands we are working on the funding streams before moving forward and asked what the anticipated timeline would be to have all of the information back and ready for the project to begin. John Hancock said in another month to six weeks they will have a pretty good idea on the funding. He said the approvals for the Corps permit modifications and a final permit from ODNR must be secured and he is not sure of that timeframe. He said the changes in the alternate proposal are modifications which are not radical nor are they significant, but they must be approved. Pervis Brown asked what he (John) needs from the City Commission at this time. John Hancock said he was only looking for reassurance that this Commission wants the project to move forward.

Upon motion of Pervis Brown and second of John Hamilton, the City Commissioners voted to authorize the continuation of this project and note its blessing of the city's commitment to it.

Discussion: Don Icsman said he has utmost respect for Mr. Hoty and all he has done in this community but asked what it means to a project when you do not have the necessary permit(s). He said the city needs the agencies which approve the permit modifications to act first. He said the permitting and funding are all governmental issues we have had. He said the permit for a 92-slip marina has been changed and needs to be submitted for approval as early talks changed this to a 62-slip marina. He said there was talk by Commissioners about whether this was a fair and/or reasonable change. He said although not significant, we must consider what has changed and obtaining the funding and permits are absolutely essential. He said the grants involved in the funding are complicated, and reports and permission to spend monies must be processed. He is getting the feeling we are being told there is something that the city did or did not do and he takes offense to this and does not believe it. He appreciates what they (Hoty Enterprises) have done too much and as the city's attorney, he does not like this accusation. Angelo Hoty responded by saying he has had five months to attend many meetings and think about the issues. He has written correspondence to the Corps of Engineers and said they are on top of what is going on with this project and are not in a hidden closet on this issue. He said the Corps has responded to his company and Hoty's have responded back to John Hancock and this has not been done in the dark. Angelo Hoty said his company contacted the Corps about a minor modification to the permit and they have assured him in writing that once on their desk, they will get back with him. He said he has passed this information on and issues have not gone unnoticed. He said he knows what it takes to get permits and has done this before; he is strictly talking about the community and putting people to work and doing something positive. He is not here to take anyone on individually nor place blame.

Don Icsman we do not disagree with any of that but with the first permit, plans and specifications had to be submitted which Hoty's did not have for the modification. Don Icsman said we have to follow the law because we are spending taxpayer dollars and this is part of the reason it took so long. Angelo Hoty asked Don Icsman how many meetings he has been in regarding this project and Don Icsman said he did not have to be at the meetings to know, he has been the lawyer here for a dozen years. Angelo Hoty said he understands that, but they have written to the city to get some kind of a response about who is in charge and who is moving this project forward and they have gotten zero response. Dan Kaman said if he (Angelo) has seen the newspapers recently, he would see why the city has been struggling for the last few months and that we are going to be struggling for the next three months to clean up a lot of these messes from the past year.

Kim Nuesse stated she wished to point out she understands what Angelo Hoty is saying and that he is looking for the city's commitment to this project. She said she believes all of the Commissioners are comfortable with moving this project forward, whatever it takes, and will be able to complete it with John Hancock's assistance. She said Don Icsman has done a fine job working on all of these things since being appointed Acting City Manager and this has taken some time with all of the current issues with the city. She said she appreciates Angelo Hoty's patience and looks forward to working on very important project for the community.

Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed.

Julie Farrar said at the last meeting, the question of entering into **Project Labor Agreements (PLA's) with private developers for private jobs was discussed and she asked Don Icsman if he had discussed this yet with Stan Dubrowski.** Don Icsman said they had indeed talked and there was a gentleman at the last meeting regarding PLA's and this is what we had for the Marina District. He said we could absolutely do these but looking at the form he was given, he saw that one of the provisions called for health insurance to be provided for all employees and he believes this would hurt some of the smaller companies and/or prevent their participation. He said he will continue to look at this and work on providing PLA's for projects and believes the Marina District would have provided for a very labor-friendly PLA agreement. Kim Nuesse said she had taken ill at the last meeting had to step out while this was being discussed and would like to weigh in on her perspective. She stated there are many smaller businesses in the community. She said the city pays prevailing wages on public improvements and Ohio is a right-to-work state and she did not feel, in her opinion, that we should be so restrictive as to exclude non-union, small companies. She said we do have responsible contractor language in these documents when they are performing projects and she does not believe we should place further restrictions, rather we should try to include smaller, local businesses. She said she has a healthy respect for the unions, but the reality is that 85% of new businesses created nationally are smaller businesses and this is a hard reality in our community and the companies are providing jobs for the community. She said she did not want to put any language in the contract to make it restrictive. She stated we need to have competition and this is healthy and have inclusive language, not restrictive.

OLD BUSINESS

Kim Nuesse said she was not present at the last meeting when the vote took place for the **City Commission Clerk position** which has since been brought out in the public and stated she would like to address this publicly, yet respectfully, with regard to her fellow Commissioners. She said she had questions about this and Don Icsman addressed the legal issue regarding whether the vote could stand; she heard today the vote was legal. She has since come across information that does not conform to city policy. Kim Nuesse said she would like to say that this is not personal and it is not about Kelly Kresser who she feels is a fine city employee and she (Kim) has shared this with her (Kelly) directly that the problem is with the process and how it took place. She understands her fellow commissioners did not have this information at the time the vote was taken and she felt it was important to bring it forward tonight. She said when a position becomes vacant in the city, for any Charter positions, typically these positions have been filled with a process involving a job description to make sure the person is qualified and meets the minimum qualifications before they are placed into the position. In the City Clerk's job description, one of the minimum job qualifications, certifications or licenses before being hired is a requirement to be a Certified Municipal Clerk. She did check to make sure this was a city policy that was in effect and she was assured that it is. While the vote taken may have been legal, it did not take into account that someone was placed into a position for which the employee did not meet the minimum qualifications. She said this vote was the only position that has been filled without a posting. The other part is, she had asked the cost to the city to advertise if posted outside and understands it would have been approximately \$200. She said we also would have had a review internally to make sure the job description was up to date and that the city employee would have had the necessary qualifications to do the job, and that it was offered to any city employee who may have been interested in the position. She is proposing, at a minimum, that the Commissioners allow for an interim competitive process to see if there are any employees who have this certification. She said her recommendation would be, out of fairness to Kelly Kresser, that the Commissioners take a re-vote and leave her as Interim while the position is being posted for qualified applicants. If she (Kelly) is interested, she can apply for this and work to obtain this certification which she understands takes a period of time to accomplish. She has brought this forward to be considered out of fairness to the other employees and a fair hiring process.

Upon motion of Kim Nuesse and second of Dave Waddington, the Commissioners voted to place Kelly Kresser back as Interim City Clerk while we do the internal process and she can be certified.

Discussion: Dave Waddington asked Don Icsman if Kim Nuesse was correct about having this certification to hold the position and Don Icsman said he did see the job description and although he does not know what this means, it does say "Certified Municipal Clerk". Kim Nuesse said Joyce Brown did have this certification and had to have it in order to apply. Ed Widman stated they may wish to check when Joyce Brown obtained that certification as he believes she may have obtained it after her appointment rather than having it at the time of her appointment. Kim Nuesse said she did check and Joyce Brown did have her certification at the time she was appointed and there was a competitive internal process which she went through before the appointment was made. Ed Widman remembers two persons who were considered at the time, one of whom worked in his office, and he did not know if that person had the certification; sometimes incumbents tweak their job descriptions based upon what they are doing and these are not approved by the City Commission. Kim Nuesse said she checked into this and at some point in time, these job descriptions were approved by the City Commissioners and they are in effect now. Ed Widman said he would assume then that when his job description was approved it would be in the City Commission minutes and Kim Nuesse said she was sure it was.

John Hamilton said he assumed when Kelly Kresser was appointed six months ago she was the best qualified for the job. She has been doing the job, knows the job and has been an asset to him. It may only cost \$200 to post the job, but would perhaps be a 3 month process to fill the job and this does not make any sense to him. He said this may be a policy, but the city does not really even have an employee manual and this would not be time spent wisely. He said Kelly Kresser has on-the-job training and is in the position and it makes no sense to do this now. Brett Fuqua said with all due respect to people who have certifications and degrees (and he is one of them) he is a firm believer that practical experience trumps degrees and certifications and sometimes people without masters' and/or PhD's do better work and this means something to him. He said certifications and degrees do mean something but so does practical work experience and he would say this for anyone who was doing the job. He said he wishes to leave her (Kelly) in the position and get the necessary training while doing the job. Kim Nuesse said the point is there are processes in place and we should not make a special exception for one person and not go through a fair, competitive process including overlooking a job qualification. She said if it were any other position, including the City Manager or Finance Director, the Commissioners would look at the job

description if they were going to post it or have a process for it to determine whether this was in effect or if anything needed to be added if there were something more current in the profession. What she is hearing her fellow Commissioners say is they want to go ahead and appoint someone without knowing if they met the minimum qualifications of the job description and we are doing this for only one employee, not all of the city employees. Brett Fuqua said he never made the statement that he would not take someone else into consideration if they were interested. He said this is not about Kelly Kresser, this is about the particular position. If it happens with another position, they could consider it and it is not written in stone. John Hamilton stated when the person was selected to fill this particular position as Interim, the job was not posted so that persons could apply for the job. John Hamilton said he feels the best qualified person for the job has been doing it. Pervis Brown stated he comes from a business world where if someone is placed into a job as an "Interim" or "Acting" Department Head, and the person then showed they could do the job, they were rewarded by being given the job permanently. He said Kelly Kresser was given the job; she tried and has shown the Commissioners she can do the job. Pervis Brown said this has been done before with a Police Chief who was appointed as Acting City Manager and then rolled over to the position of City Manager without a job posting as he was doing the job and rewarded for that. He said this is a practice we have done before and it is the Commissioners' prerogative to make these decisions. He said there are guidelines and recommendations and processes but if a person has shown they can do the job by actually doing it, then it should be a done deal. We should reward people for doing a good job and not chastise them or throw the job out for bid; rather we should support and promote good employees as good business. Julie Farrar said in August when Kelly Kresser was appointed as Interim, not all of the current Commissioners were at the table. Of those who were, Dan Kaman even mentioned putting her (Kelly) there permanently and the Commissioners did not think that was a good idea at the time as they were not certain how she would perform. Julie Farrar stated Dan Kaman said he would just rather bump a person down, which was done, and Kelly Kresser was not given a raise. She said previously, we were paying two persons \$80,204/yr., plus benefits, to do the same job. She stated now a person is making \$49,000/yr., plus benefits, and saving \$31,204/yr. and we already know what we are getting as she (Kelly) has proven she can handle the job and they have watched her for six months. Dan Kaman said he agreed that Kelly Kresser was and is the perfect person for this job. He stated Joyce Brown's biggest problem was everyone coming into the office asking where different offices and/or people were and that Kelly Kresser knows more about what is going on in the city and whose offices are where and wanted to move her downstairs as she was the best person for the job. When the Commissioners did this, he heard they made a "closed" position, but Dan Kaman said that is why the position was made Interim. He believes there should be a process and wanted to make her full-time then, she would still get the job now, but after doing this as an Interim, we as a government, funded by the people, and are not a union and we should have an open process. Kim Nuesse said we are a governmental entity, not a private employer, and can do things through a vote. She stated they are here to look at what is in the best interests the community, and that does not mean sacrificing a fair and open process for other people to apply with an equal chance rather than just giving people a position. As a government, we have a responsibility to have a fair and competitive process – not just give person a position because they have been doing it and overlook our job descriptions and how we go about posting positions and using the best process to get the best candidate. She said she has only been sitting at this table for one month and she was not present when Kelly Kresser was named as Interim. She does not feel being Interim in a position entitles a person to get the job permanently; rather, this gives the person the opportunity to apply and make a case as to why they are the person for the position. She said we have a job description and why have it if we are going to throw it out the window and appoint a person because we have four votes. She said we are forgetting the just and equal process to allow other city employees or members of the public to apply. Kelly Kresser stated she provided written information to each of the City Commissioners during the first week of January knowing that this was going to be discussed after the new Commission came in. She said one of the things on her list of things she would like to accomplish was to obtain the certification from the Ohio Municipal Clerks Association even though she was not given the job description until last Thursday. She was not aware it was on the list of requirements, but did know that there had been others who had obtained certain qualifications and that she would work to meet the criteria. Kelly Kresser said she has had some conversations with OMCA and understands the training is offered only once each October at Kent State University and did want to talk with the Commissioners further about it.

Roll Call on the motion: Yeas: Dan Kaman, Kim Nuesse and Dave Waddington, 3. Nays: Brett Fuqua, John Hamilton, Pervis Brown and Julie Farrar, 4. The President declared the Motion failed.

Dan Kaman said at the last meeting the Commissioners had talked about the **Solid Waste Committee** and asked Pervis Brown and Dave Waddington if they had anything to say about this. Pervis Brown said he would present some names for consideration at the next meeting. Carrie Handy said she would like to provide an update on county-wide recycling. She attended the Solid Waste District meeting this

afternoon and said the biggest priority for the city at this point is to develop a timeline to comply with the EPA requirements and develop a plan to increase recycling in the City of Sandusky. She said Erie County has already removed the recycle centers in the city and will be pulling the ones at their Services Center and Osborne Park in August or September and there will be no recycling centers closeby for city residents. Dave Waddington said he had a meeting scheduled with Carrie Handy this Thursday at 8:30 a.m. He said Lisa Beurksen is also working on a grant for a local recycling center. Carrie Handy said there are two different grants available for the city through the ODNR, one to place drop locations (which would cost money to empty) and one help the city or a private entity to develop a recycling center. There is someone on the board of the MRDD who is interested in doing this. The question is whether there are enough recyclables in the city to make this work and how to fund them. Dan Kaman said it is a tough thing and as a small business owner, he uses the recycle center which saves a lot of money. He stated the county does not know which way they want to go as they want to fill their landfill yet they want to comply with the EPA for recycling and force curbside recycling. He said they are stuck behind a rock and a hard spot and are pushing this on us and this will hurt some of our small businesses.

NEW BUSINESS

Dan Kaman said he would like to begin with the **appointments and/or reappointments to the city's Boards and Commissions.**

Upon motion of Julie Farrar and second of Pervis Brown, the Commissioners voted to appoint Don Roesch, Carol Steele, Dr. Anthony Linz and Hugo Schaufelberger to the ADA Advisory Committee for terms ending December 31, 2011. All Ayes. The President declared the Motion passed.

Upon motion of Kim Nuesse and second of John Hamilton, the Commissioners voted to appoint Brian Allen to the Audit/Finance Committee for terms ending December 31, 2010. All Ayes. The President declared the Motion passed.

Upon motion of Julie Farrar and second of Dave Waddington, the Commissioners voted to appoint Dr. William Semans to the Board of Zoning Appeals for a term ending December 31, 2014. All Ayes. The President declared the Motion passed.

Upon motion of Kim Nuesse and second of John Hamilton, the Commissioners voted to appoint Ruth DeHenning, Ted Kastor and Harrison Smith to the Cemetery Board for terms ending January 31, 2013. All Ayes. The President declared the Motion passed.

Upon motion of Pervis Brown and second of Dave Waddington, the Commissioners voted to appoint Mark Bertsch, Ned Bromm and Suanne Brown to the Downtown Design Review Board for terms ending December 31, 2012. All Ayes. The President declared the Motion passed.

Upon motion of Pervis Brown and second of Kim Nuesse, the Commissioners voted to appoint Dan Fresch, Dan Hartleib, Kenneth Tunnell and Battalion Chief Mike Yost to the Electrician Examining Board for terms ending December 31, 2010. All Ayes. The President declared the Motion passed.

Upon motion of Pervis Brown and second of Dave Waddington, the Commissioners voted to appoint George Steinemann to the Erie County General Health District Board for a term ending December 31, 2014. All Ayes. The President declared the Motion passed.

Upon motion of John Hamilton and second of Kim Nuesse, the Commissioners voted to appoint David Miller as a regular member and John Panzer as an alternate member to the Erie Regional Planning Commission for terms ending December 31, 2010. All Ayes. The President declared the Motion passed.

Upon motion of Pervis Brown and second of John Hamilton, the Commissioners voted to appoint Janice Warner (term through 12.31.12), Dana Gamblin (term through 12.31.12), Kenneth Lilje as an alternate member (term through 12.31.11), Frank Valli (term through 12.31.12), Carolyn Thomsen as an alternate member (term through 12.31.10), Walt Matthews (term through 12.31.10) and Daniel Dix (term through 12.31.11) to the Housing Appeals Board. All Ayes. The President declared the Motion passed.

Upon motion of Kim Nuesse and second of Pervis Brown, the Commissioners voted to appoint Rev. Daniel Miller to the Human Relations Commission for a term ending October 10, 2014. All Ayes. The President declared the Motion passed.

Upon motion of Dave Waddington and second of John Hamilton, the Commissioners voted to appoint Ned Bromm to the Planning Commission for a term ending January 18, 2016. All Ayes. The President declared the Motion passed.

Upon motion of Kim Nuesse and second of Pervis Brown, the Commissioners voted to appoint Jim Ferguson, Tom Sharrah and Joel Sehlmeier to the Recreation Board for terms ending December 31, 2012. All Ayes. The President declared the Motion passed.

Upon motion of John Hamilton and second of Kim Nuesse, the Commissioners voted to appoint Jim Arthur and Breann Hohman to the Sandusky Tree Commission for terms ending December 31, 2012. All Ayes. The President declared the Motion passed.

Upon motion of Dave Waddington and second of Brett Fuqua, the Commissioners voted to enter into an Employment Agreement with Donald Icsman to continue his contract as the city's Law Director and Interim City Manager until July 1, 2010 which can be canceled by either party prior to July 1, 2010.

Discussion: Julie Farrar asked to clarify if **the Labor Agreement which Don Icsman gave them at the last meeting** is what he was asking for them to commit to and Dave Waddington said it is. She asked if the Commissioners were going to discuss this in Executive Session first. Dave Waddington said that is why it was distributed two weeks ago so that everyone had time to review it and it should be done in public and Julie Farrar said she agreed, she just thought it was going to be discussed as a group prior to approval if there are some things that they may have questions about. Dave Waddington said with everything going on at City Hall, Don is currently doing both jobs; he is here on Saturday and Sunday and puts in a lot of extra time. He feels what is being proposed and the amount for a car allowance is the best course of action. He said Don has done a good job for the city. He said Dan Kaman and Brett Fuqua have been on the Commission when filling the City Manager's position and the last time they met 6 – 8 times before making a hiring decision. He said Don Icsman is providing stability right now and he is fine with the contract and it provides the opportunity for Don, at any time, to go back to the position of Law Director. Brett Fuqua said he has no issues with the contract. Kim Nuesse said she has had an opportunity to review the contract and feels it is fair. She stated Don Icsman has had tough obstacles and challenges and it is only fair for him to receive protection of this nature and it is not unreasonable. Julie Farrar asked about the possibility of providing a mileage allowance rather than a lump sum payment. Dave Waddington said the amount (\$400) is not that big and is a heck of a bargain. Don Icsman said he is only looking for protection to go back to the job of Law Director and there are some tough things to be done and it is not about a car allowance. He said if the Commissioners did not wish to provide this, he does not mind. He wants the public to know he is helping the City Commissioners and is not trying to connive or manipulate for a job because he really does not want it on a permanent basis. Don Icsman also stated that he has not missed any Commission meetings since his original appointment and he gives 100% to fight and defend the city. Dave Waddington said he appreciates the Saturday and evening hours and does not wish to cut any coupons with Don. Pervis Brown stated he has some concerns about Don Icsman being placed in both positions and would like for the Commissioners to immediately hire a part-time lawyer to assist Don Icsman and take some of the load off. He stated with all of the things going on right now he felt we needed a full-time Law Director and it would be unfair to ask all of this of him (Don) and he does not want to see Don burn out. He only wishes to protect our investment and provide some part-time assistance. John Hamilton asked the Commissioners to consider setting up a timeline to hire a new City Manager and not to wait six months to do so.

Roll Call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed.

Dan Kaman said he wished to state when the time comes, he hopes this will be an open process and the city will advertise for the position of City Manager.

Upon motion of John Hamilton and second of Pervis Brown, the Commissioners voted to have an Executive Session regarding a Charter Officer position. Roll call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed.

Upon motion of John Hamilton and second of Kim Nuesse, the Commissioners voted to have an Executive Session regarding pending litigation. Roll call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed.

Upon motion of John Hamilton and second of Pervis Brown, the Commissioners voted to have an Executive Session regarding Civil Service. Roll call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Dave Waddington, Pervis Brown and Julie Farrar, 6. Abstain: Kim Nuesse, 1. The President declared the Motion passed.

Upon motion of Kim Nuesse and second of Pervis Brown, the Commissioners voted to adopt the City Commission Rules as distributed at the last meeting. Roll call on the motion: Yeas: Brett Fuqua, John Hamilton, Dan Kaman, Kim Nuesse, Dave Waddington, Pervis Brown and Julie Farrar, 7. The President declared the Motion passed.

Kim Nuesse asked the Commissioners if they had the opportunity to review the proposed **evaluation forms and Handbook for the Charter Officers**. Upon motion of Kim Nuesse and second of Pervis Brown, the Commissioners voted to table this item until the next meeting. All Ayes.

Dave Waddington said there will be a meeting on Saturday at 8 a.m. at Mr. Smith's Coffee House and at they will go to the Sandusky Bay Pavilion to discuss the adoption of this area as there are a lot of events held here. He asked Scott Miller if he had discussed using volunteers to do some of this work and Scott said it is not a problem with the AFSCME union representatives and agrees that the area needs attention.

Under **Audience Participation**, the following offered their comments:

Sharon Johnson, 1139 Fifth Street, asked if there would be a contract for work being performed by John Hancock and the Haag's or if this was going to be under \$10,000. Don Icsman said he does not believe this will require a contract and the work will be performed on a case by case basis, as done previously with John Hancock and Haag Environmental, and he would keep the Commissioners apprised as the work progresses. If any one task or billing is over \$10,000, the Commission will be provided with legislation to approve payment and all information is public record and nothing is hidden. Dan Kaman said work that Kathy McKillips or other staff members cannot do, that task will be given to someone else and the public will know through bi-weekly reports. Sharon Johnson asked how we were paying for this when we were \$1.7 million in the hole. Dan Kaman said grant dollars can be used to pay for some of the administrative salaries and the Haag's got the \$300,000 grant to do all of the work which they did last year. Sharon Johnson said she heard the marina project by Hoty Enterprises would be at no cost to the city, but she wonders how the city will handle the overruns. She also stated the Commission Clerk job should have been posted so that employees could have applied and hopes the city does not get into big trouble for this as it could be considered discrimination.

John Ginty, 5055 Providence Drive, asked what time the meeting is with Mr. Hoty scheduled for February 4, 2010 and if it is open to the public. Ruth Haag said it is tentatively set at 10 a.m. Don Icsman said this is what Angelo Hoty was asking for and John Hancock is the person to spearhead the project and work through the issues. He does not believe it will be a public meeting. John Ginty asked who the Commission liaison would be for the ADA Advisory Committee and Dan Kaman advised Julie Farrar has been made the liaison for this Committee. John Ginty said there are still signs posted about the Marina District and Dan Kaman said they are scheduled to come down tomorrow. He asked about the \$100,000 for this project and Dan Kaman said this is being negotiated and the city still has it.

Wendell Mulvane, 810 Dorn Drive, stated he had gotten wind of possible layoffs in the SFD and the SPD. He said he has called for an ambulance five times since June and does not want people to be out on the west end dying because of this and said he is against any layoffs in these departments.

Diedre Cole, 807 Hancock Street, thanked the Commissioners and Charlie Sams for their efforts to resolve the issue regarding her. She stated at the beginning of every meeting the Commissioners pray to God and then act like he is not in the room and are disrespectful to each other. She said with regard to the City Clerk position, she wished they had done something different and are not presenting a united front which is a serious problem. She urged the Commissioners to consider how they talk to one another and what they do and what they say.

Tim Schwanger, Save our Shoreline Parks, 362 Sheffield Way, said the marina project in the Paper District is a private investment. If any portion of the marina development is private, public dollars cannot be used for this. TIF and grant funding is for public, not private developments. He stated he had the same question as John Ginty about the signs for the Marina District project and offered the sum of \$250 to purchase one of the signs. Dan Kaman said they are not sure whose signs they are and Don Icsman said he is trying to find this out and will let him know in the next couple of weeks.

Dennis Timple, 553 Bimini Drive, said he has heard senior citizens repeatedly express fear for their safety in the downtown area since the wattage of the lights has been dropped. He also asked for the city to look at the intersection of Wayne and Water Streets as he still sees people running through this intersection and feels these should be the same as in the rest of the downtown. Dan Kaman said the city is looking at this light and also looking at the one by Holy Angels Church.

Wesley Poole, 1939 East Oldgate, asked Kim Nuesse what impact the certification as Certified Clerk will have on doing the job as Commission Clerk and said that although it may be a requirement of the job description, he questioned its importance. Kim Nuesse stated it was a job requirement for the position and is important. He said if he is not mistaken, Kelly Kresser is probably close to being certified right now. Wesley Poole said the certification is a point system based upon years in service, level of education and other educational requirements met through continuing education and he believes a total of 60 points are required. Wesley Pool stated that once Kelly Kresser pulls together her resume and the things that she has done, she is probably very close to already being certified with her 23 years of service, if not already certified. This is not necessarily a lot to consider for someone working for a municipality for a length of time. Wesley Poole asked who the Finance Director works for and Dan Kaman stated the Finance Director works for the City Commissioners. Wesley Poole said he would like to point out in reading this job description, it states the Finance Director works for the City Manager. He said Pervis Brown is correct in that the City Commissioners make decisions based upon what is best for the city and he did not feel there were any infractions made. In Minutes from last year, it was stated the Commissioners considered who was available for this position and they ended up deciding to make Kelly Kresser the Interim Clerk. They did not make the position permanent at that time as she may not have wanted the job. He believes the intent was that she would have likely been the person put into the position permanently from the beginning. Wesley Poole said he wished to point out that on November 24, 1997 when Duffy Milkie resigned as Law Director, the following week Don Icsman was appointed to the position without going through a process. In 1998, this same process was followed for hiring Gerald Lechner and to cherry pick facts now and try to give people the impression that this was done totally wrong then the job should have been posted at the end of August.

Tom Whitted stated **the meeting is beyond its two hours** and those viewing at home should know the meeting will be replayed later than normal.

At 8:32 p.m., the Commissioners adjourned the regular session for a five minute recess. At 8:38 p.m., the Commissioners began the first of two Executive Sessions. The Executive Sessions ended at 9:45 p.m.

Kelly L. Kresser
Clerk of the City Commission

Daniel J. Kaman
President of the City Commission