

A regular meeting of the Council of the City of Blue Ash, Ohio, was held on May 11, 2006. 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 Marvin Thompson, Deputy Solicitor Bryan Pacheco, Clerk of Council Jamie Eifert, Deputy Clerk of Council Sue Bennett, Assistant City Manager David Waltz, Treasurer/Administrative Services Director James Pfeffer, Parks & Recreation Director Chuck Funk, Service Director Dennis Albrinck, Assistant Community Development Director Dan Johnson, members of the press, and interested citizens

HEARING – 7:00 PM - Consideration of an appeal by Al Neyer, Inc. associated with a Board of Zoning Appeals decision regarding signs at 4755 Lake Forest Drive

Mr. Chris Dobrozsi, Director of Real Estate Development for Al Neyer, Inc., and Mr. Brian Matthews of Von Lehman & Associates (a partner of Neyer in this project and a building tenant), were present to discuss the appeal. These two gentlemen, as well as Assistant Community Development Director Dan Johnson, swore to “tell the whole truth and nothing but the truth,” as administered by the Mayor.

Mr. Dobrozsi explained that Neyer purchased the first building of this development in 1999, with the intent of having Cintech as its primary tenant. Though the Cintech occupancy did not work out for the long term, currently that building has two other tenants. The building upon which this appeal is based is Phase II of the project completed in late 2005. Von Lehman desired 15,000 square feet of the building, and eventually Von Lehman and Neyer developed a partnership in connection with this phase of the development. The other tenant in this building is Raymond James.

Mr. Matthews explained that Von Lehman is a regional accounting firm with about 100 employees total, 40 of those located in Blue Ash. Their payroll is about \$2 million, their firm is continuing to grow, and they would like to maintain their office in Blue Ash.

Mr. Dobrozsi explained the desire to have two signs above the first story of this Phase II building (in the M-1 District) – one for Von Lehman and the other for Raymond James. He had originally received from Blue Ash sign permits for two signs, totaling about 55 square feet, for placement of both on the west side of the building (facing Reed Hartman Highway). Due to the signs’ proximity, he had requested that one of the signs (Raymond James) be relocated from the west side of the building to the south elevation, facing Glendale-Milford Road. His intent was also to move the other sign on the west facing Reed Hartman further to the north to separate the two signs to avoid a cluttered appearance on the building. No change in the size of the signs was requested, just their placement. Both signs fall within the allowable square footage of signs allowed for such a building. They believe the proposed sign placement would be more aesthetically pleasing than having both on the same elevation.

In addressing questions from Council, Mr. Dobrozsi commented that signage is important to Raymond James and that anything in height below where the sign is proposed would not be as beneficial. Raymond James has approximately 8,500 square feet of the building and employs about 30. Neither sign has yet been installed.

Councilman Bryan commented that it appears that the Board of Zoning Appeals seemed somewhat sympathetic to this situation. Mr. Johnson confirmed that he would share this impression as well from what he understood at the meeting. Mr. Johnson further explained that the Board simply did not believe that the Code allowed them the ability to grant such a variance; however, they believe it would be a good idea for Council to hear this appeal.

Councilman Weber commented that from an aesthetic viewpoint, he would have no problem with the two signs as proposed by the applicant. However, from a legal standpoint, he has concerns that if the appeal would be granted that it might set an unwanted precedent for the City as a whole. Deputy Solicitor Bryan Pacheco commented that legally such a variance should not present a problem; however, practically speaking, such a decision may be used against the City in other cases, as it would be found in the discovery phase. However, legally, it should not be relevant.

Councilman Sumner commented that while he is sympathetic to the applicant and this situation, the City did pass Code changes with the intent to tighten the City's sign regulations. He also believes that variances should be the exception. Councilman Sumner stated that he would be inclined to stick to the Code rules as is and not vote for this variance.

In clarifying and confirming a statement by Councilman Bryan, Mr. Johnson confirmed that if both signs were on one side of the building, the signs would be permitted (if immediately adjacent, they would be seen as "one"). However, neither tenant is in favor of having the signs placed together as they believe company identification problems of the two firms might occur. (The public may mistakenly view the two firms as the same or related in some manner.)

Councilwoman Stoller commented that she believes as long as the size of the signs together fall within the allowable square footage, the signs look better separated; she believes this is an instance when a variance is justified and should be granted.

Councilman Stacey commented that he agrees that this case seems to be an instance when a variance would be warranted. He does not believe that this would be an example of what the sign ordinance is trying to prevent.

Mayor Buckman moved, Councilman Sumner seconded to affirm the decision of the Board of Zoning Appeals. After some discussion of clarification, Mayor Buckman withdrew this original motion, and Councilman Bryan moved, Councilwoman Stoller seconded to reverse the decision of the Board of Zoning Appeals (thereby allowing placement of the two signs as desired by the applicant). The Clerk was asked to call the roll, and Councilpersons Stoller, Stacey, Czerwonka, Bryan, Buckman, and Weber voted yes. Councilman Sumner voted no. Six yeses, one no. Motion passed.

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. Those interested in hearing the ordinances and resolutions read in their entirety were welcome to move to the rear of the Chambers.

ACCEPTANCE OF AGENDA

Councilman Sumner 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. HEARING – 7:00 PM – Consideration of an appeal by Al Neyer, Inc. associated with a Board of Zoning Appeals decision regarding signs at 4755 Lake Forest Drive
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 April 27, 2006

8. COMMUNICATIONS

- a. Communications to Council - Clerk of Council Jamie K. Eifert
- b. Reports From Outside Agencies
- c. Mayor's Report – April 2006 – Honorable Robert J. Buckman, Jr.
- d. Financial Report – Motion to accept the report for April 2006
- e. Proclamation – Public Works Week, May 21 - 27, 2006

9. HEARINGS FROM CITIZENS

10. COMMITTEE REPORTS

- a. Planning & Zoning Committee, James W. Sumner, Chairperson
 - 1. Ordinance No. 2006-19, amending portions of the Blue Ash Code of Ordinances (portions of Part Nine – Streets and Public Services Code and Part Eleven – Planning and Zoning Code)
 - 2. Ordinance No. 2006-20, adopting the *Blue Ash Town Center Concept Redevelopment Plan* (regarding downtown Blue Ash)
 - 3. Ordinance No. 2006-38, amending Chapter 505 (Animals and Fowl) of the Blue Ash Code of Ordinances
 - 4. Ordinance No. 2006-41, authorizing a request to the Ohio Board of Building Standards to certify the City for enforcement of the Residential Code of Ohio
- b. Finance & Administration Committee, Rick Bryan, Chairperson
 - 1. Ordinance No. 2006-39, awarding bid for City's Interim deposits and confirming active depository
 - 2. Motion setting 7:00PM, Thursday, July 13, 2006 for consideration of the 2007 Tax Budget
- c. Parks & Recreation Committee, Lee Czerwonka, Chairperson
 - 1. Motion rejecting the bid received for the Hunt House restoration project

11. MISCELLANEOUS BUSINESS

12. EXECUTIVE SESSION – Personnel Matters

13. ADJOURNMENT"

APPROVAL OF MINUTES

Councilman Stacey moved, Councilman Weber seconded to approve the minutes of the regular meeting of April 27, 2006. 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 – April 2006

RECEIPTS:

Fines.....	\$28,158.00
Bonds & BMV fees carried over	\$150.00
Interest Earned.....	\$9.85
Bonds collected.....	\$150.00
TOTAL RECEIPTS:.....	\$28,317.85

DISBURSEMENTS:

To Blue Ash (fines/costs/interest/Expungements/forfeitures)	\$20,918.85
To the State of OH	\$7,224.00
Refund of Overpaid Fine.....	\$25.00
Bond Money applied.....	\$0.00
Bond Money returned	\$150.00
BMV	\$ 0.00
TOTAL DISBURSEMENTS	\$28,317.85

BALANCE IN BONDS:.....	\$0.00
Mayor's Court traffic citations	266
Mayor's Court criminal citations	11
TOTAL.....	277
April rev. from Mayor's Ct. Cases:	\$20,918.85

Financial Report - April 2006

Councilman Czerwonka moved, Councilman Stacey seconded to accept the Financial Report for April 2006 as submitted. A voice vote was taken. All members present voted yes. Motion carried.

**CITY OF BLUE ASH FINANCIAL POSITION STATEMENT
FOR THE MONTH ENDING APRIL 30, 2006**

MONTH TO DATE	2005	2006
START OF MONTH FUND BALANCE: 4-1-06	\$9,291,349.60	\$11,227,771.54
Revenues:		
Earnings Tax Collections:	\$2,684,637.42	2,911,747.11
Debt Financing (long term)	0	0
Debt Financing (short term)	0	0
Other Revenue Received:	<u>1,135,821.25</u>	<u>1,075,216.18</u>
= Total Monthly Receipts	3,820,458.67	3,986,963.29
Expenditures:		
Bond Retirement	0	0
Short term debt refinancing	0	0
Other Expenditures:	<u>2,726,538.83</u>	<u>2,501,267.58</u>
= Total Monthly Expenditures:	<u>-2,726,538.83</u>	<u>-2,501,267.58</u>
ENDING FUND BALANCE: 4-30-06	10,385,269.44	12,713,467.25
YEAR TO DATE	2005	2006
START OF YEAR FUND BALANCE:	14,622,289.87	12,916,635.98
Revenues:		
Earnings Tax Collections:	8,219,687.13	8,299,645.79
Debt Financing (long term)	0	0
Debt Financing (short term)	0	0
Other Revenue Received:	<u>2,499,569.51</u>	<u>2,787,868.32</u>
= Total Monthly Receipts	10,719,256.64	11,087,514.11
Expenditures:		
Bond Retirement	0	0
Short term debt refinancing	5,100,000.00	0
Other Expenditures:	<u>9,856,277.07</u>	<u>11,290,682.84</u>
= Total YTD Expenditures:	<u>-14,956,277.07</u>	<u>-11,290,682.84</u>
YTD FUND BALANCE	10,385,269.44	12,713,467.25

100% of the fund balance was invested as of 4-30-06. Interest paid to date on matured investments: \$169,441.18. Receipt and expenditure figures do not include interfund transfers.

**BLUE ASH INCOME TAX DIVISION INCOME TAX RECEIPT SUMMARY
FOR MONTH ENDING APRIL 30, 2006**

MONTH-TO-DATE STATUS		
	2005	2006
Business Net Profit	796,611.73	783,343.06
Resident Net Profit	261,944.67	297,483.97
Non-Resident Net Profit	89,136.97	87,562.80
Subcontractor Net Profit	<u>6,443.22</u>	<u>12,681.44</u>
Net Profit Total		1,181,071.27
Withholding	1,504,503.39	1,701,175.26
Subcontractor Withholding	<u>25,997.44</u>	<u>29,500.58</u>
Withholding Total		<u>1,730,675.84</u>
Monthly Collection Totals	2,684,637.42	2,911,747.11
YEAR-TO-DATE STATUS	2005	2006
Business Net Profit	1,721,527.12	1,8008,222.20
Resident Net Profit	385,272.25	412,974.89
Non-Resident Net Profit	124,751.20	119,283.62
Subcontractor Net Profit	<u>11,174.91</u>	<u>16,067.26</u>
Net Profit Total		2,356,547.97
Withholding	5,883,501.20	5,838,790.77
Subcontractor Withholding	<u>93,460.45</u>	<u>104,307.05</u>
Withholding Total		<u>5,943,097.82</u>
YTD Collection Totals	8,219,687.13	8,299,645.79
YTD Refund Totals	<u>308,323.90</u>	<u>301,049.74</u>

Proclamation – Public Works Week, May 21 - 27, 2006

The following proclamation was presented:

“Whereas, public works services in our community are an integral part of our citizens' everyday lives; and
Whereas, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets and highways, public buildings, solid waste collection, snow removal, and waste reduction activities, such as recycling; and
Whereas, the health, safety, and comfort of this community greatly depend on these facilities and services; and
Whereas, the quality and effectiveness of these facilities, as well as their planning, design, and construction, are vitally dependent upon the efforts and skill of public works officials and personnel; and
Whereas, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people's attitude and understanding of the importance of the work they perform.
Now, Therefore, I, Robert J. Buckman, Jr., Mayor of the City of Blue Ash, Ohio, do hereby proclaim May 21 through May 27, 2006 as **PUBLIC WORKS WEEK** in Blue Ash, Ohio and call upon all citizens and civic organizations to acquaint themselves with the challenges involved in providing our public works and to recognize the contributions that public works officials and personnel make everyday to our health, safety, and comfort.

In Witness Whereof, I have hereunto subscribed my name and caused the Seal of The City of Blue Ash, Ohio to be affixed this 11th day of May in the Year of Our Lord Two Thousand and Six.”

HEARINGS FROM CITIZENS

Marcallene Shockley, 4916 Laurel Avenue, commented that landscaping is blocking motorists' views coming out of the Starbuck's parking lot onto Laurel. Treasurer Jim Pfeffer commented that the City would look into this situation and that it would be addressed.

Michael Kelly, 9639 Cooper Lane, commented that he appreciates Council's willingness to continue looking into the issue of scale of the infill homes, as compared to lot size. There is currently a 4,000 square foot two-story home being built on his street, which will overshadow the neighboring three-bedroom ranch. There is also construction near West Avenue on Hunt Road where he assumes a large home will be built among smaller homes.

Brent Fisher, 5000 Myerdale Drive, urged Council to continue the process of looking into concerns with infill housing. At one point, he gave to Planning Commission sample ordinances of neighboring communities which, in his opinion, better protect property owners/investors. He believes that people will move out of Blue Ash to other communities if those communities protect property owners more than Blue Ash. He supports ideas such

as those presented by Councilman Sumner (in past meetings) to protect existing homeowners. He also commented on homes being constructed perpendicular to the street on Hunt Road.

Randall Fath, 9418 Blue Ash Road, commented that he has lived in Blue Ash for 54 years, and has owned his current home since May 1980. In reviewing the update to the downtown plan, it appears that certain existing properties are going to be eliminated, including homes in the vicinity of his. Mayor Buckman stressed the conceptual nature of the downtown plan and that it is not the goal of Blue Ash to purchase properties for redevelopment. City Manager Thompson added that it is not the City's intention to acquire any of those residential properties in the vicinity of his home or to use eminent domain on any residential properties. However, if a developer was able to get options on properties and approached the City with a concept that met the goals of the City, including more dense residential development surrounding downtown (such as the area where Mr. Fath lives), then the City might consider allowing such development. If that scenario were to happen, it would be the choice of property owners to reach an agreement with the developers. The plan shows the concept of how, in the long term, certain properties could be developed. Higher density residential development surrounding downtown could be desirable.

In addressing a comment from Councilman Sumner, Mr. Thompson stated that though Blue Ash is not actively seeking development or developers, there have been several occasions when developers have approached the City with ideas.

Mayor Buckman further commented that the document sets a vision for the future of the City, with one desire being mixed-use development in downtown. The City will need to work with existing property owners.

In addressing a concern of Mr. Fisher's whereby existing residents bought out by developers could not afford to move back into Blue Ash, Mr. Thompson commented that where persons choose to relocate is market driven. Census figures support the fact that Blue Ash does have diversified housing stock since about 67% is valued at less than \$250,000, with about 33% being greater than \$250,000. In Mr. Thompson's opinion, Blue Ash has one of the most diversified housing markets in the Greater Cincinnati area. Councilwoman Stoller added that there are many affordable new housing opportunities in the Hazelwood neighborhood.

Hearings from Citizens was declared closed at approximately 7:44 PM.

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 May 11th Council Agenda:

4. HEARING - 7:00 PM - Consideration of an appeal by Al Neyer, Inc. associated with a Board of Zoning Appeals decision regarding signs at 4755 Lake Forest Drive

Recently the Board of Zoning Appeals denied a request for a second building sign above the first story of a multi-story building located at 4755 Lake Forest Drive (the building adjacent to MOM). The building will have multiple tenants, and the building owner, Al Neyer Inc., desires a second building sign on the south face, towards Glendale-Milford Road. Section 1185(g)(2) of the Code, regulating building signs in the M-1 District, stipulates that there will be no more than one wall sign above the first story in a multi-story building. The Board denied their request.

Included in your packets is separate information from Assistant Community Development Director Dan Johnson regarding this issue.

"Please direct questions regarding this motion to the Assistant Community Development Director.

10.a.1. Ordinance No. 2006-19 - Amending portions of the Blue Ash Code of Ordinances (portions of Part Nine – Streets and Public Services Code and Part Eleven – Planning and Zoning Code)

Thursday's meeting represents the second reading (and formal Council vote) for both Ordinance No. 2006-19, representing the recommended changes to the Code of Ordinances, as well as Ordinance No. 2006-20 representing the downtown master plan update. Both items have been discussed with Council and the Planning

Commission for the past several weeks, and detailed information regarding both have been posted on the City's website for many weeks as well.

Please address questions regarding either of these items to the City Manager or Assistant City Manager.

10.a.2. Ordinance No. 2006-20 - Adopting the Blue Ash Town Center Concept Redevelopment Plan (regarding downtown Blue Ash)

See above. Also, in conjunction with discussion had at the April 27th meeting, a Council position statement included with Council packets (Council Addendum to the Blue Ash Town Center Concept Redevelopment Plan) has been prepared for Council's consideration.

Please direct questions to the Assistant City Manager.

10.a.3. Ordinance No. 2006-38 - Amending Chapter 505 (Animals and Fowl) of the Blue Ash Code of Ordinances

Ordinance No. 2006-38 amends two sections of Chapter 505 of the Blue Ash Code regarding Animals and Fowl. The first involves an additional paragraph, 505.01(c)(3), which addresses the issue of cats causing damage to property. That paragraph reads as follows: "The owner, keeper, or harborer of a dog, cat or other domestic animal shall restrain or confine such dog, cat or domestic animal so that such dog, cat or domestic animal shall do no damage to the property of another."

The second portion of Ordinance No. 2006-38 amends Section 505.09(a) of the Code to allow "two or more persons" to be annoyed or disturbed unreasonably. The Solicitor's office is recommending using the term "persons" rather than people because "person" is defined under our Code at section 101.02(k). With this language, sufficient corroboration must be established by two persons, notwithstanding whether they are residents of Blue Ash or not. This would also allow police officers or building officials to serve as the second person if needed without specifically requiring it in the ordinance.

Please direct questions regarding these changes to the Deputy Solicitor who will be in attendance at the meeting.

10.a.4. Ordinance No. 2006-41 - Authorizing a request to the Ohio Board of Building Standards to certify the City for enforcement of the Residential Code of Ohio

Representatives from the National Inspection Corporation (NIC) have informed the City of a new State Residential Code of Ohio, which becomes effective state-wide on May 27th (House Bill 175 passed in spring 2005).

This affects all jurisdictions enforcing a residential building code and mandates that Building Departments must be certified by the Ohio Board of Building Standards (OBBS) as a Residential Building Department by May 27, 2007 in order to continue enforcing the residential building code. The certification process is similar to that of a Commercial Building Department. Certification requires Council to pass legislation, in the form of Resolution No. 2006-2, authorizing the City Manager to apply to OBBS for certification and adopting the State of Ohio Residential Building Code.

A second item to be addressed in this resolution addresses Swimming Pools and Hot Tubs. The new Ohio Residential Building Code does not contain provisions for swimming pool installations. Representatives from NIC are recommending that with the adoption of the new Residential Building Code that the City also adopt the current Appendix G (Swimming Pools & Hot Tubs) requirements.

The third and final item to be addressed in the resolution confirms/verifies that the City's Board of Zoning Appeals is the correct Board for appeals filed for the Residential Building Code.

10.b.1. Ordinance No. 2006-39 - Awarding bids for City's Interim deposits and confirming active depository

The Ohio Revised Code requires that the City periodically bid the capability for local financial institutions to handle the City's investments, and also to designate which financial institution or bank will be the primary depository for active funds. At the present time, Fifth Third Bank is the designated depository for the City's active balances, and that designation will expire on May 31, 2006. Other financial institutions have been authorized to accept investments from the City of Blue Ash, although the City has not been active in placing long-term investments through these institutions.

The Deputy Treasurer prepared a packet of information regarding this bidding opportunity, and asked the Public Information Officer to place an ad in the local paper regarding this bid, which appeared on April 19, 2006. The period to be covered is June 1, 2006 through May 31, 2011. When the bids were opened last Friday, we received only one bid – from Fifth Third Bank.

Our plan did not envision transferring the City's active depository from Fifth Third Bank at this time, as there are significant costs and efforts involved in making such a transition. This bidding primarily related to offering the opportunity for other eligible banks to handle City investments.

Ordinance No. 2006-39 authorizes continuation of our existing active depository contract with Fifth Third Bank (at the same rates and contract terms as currently exist) until May 31, 2011. Additionally, it authorizes the City to invest interim balances with Fifth Third Bank during the same time period. Most of the City's interim balances are deposited with the State of Ohio's investment account called "STAR OHIO." Recently, STAR OHIO has been paying interest in the 4.6% range in interest earnings which also matches what the City has received on balances left in the interim deposits with Fifth Third Bank.

Please direct questions regarding this ordinance to the Treasurer.

10.b.2. Motion setting 7:00PM, Thursday, July 13, 2006 for consideration of the 2007 Tax Budget

As is customary this time of year, this motion sets the public hearing date for the 2007 Tax Budget for July 13, 2006 at 7:00 PM. It is necessary to hold a public hearing and to thereafter present Council with a resolution for

the Budget's acceptance, as has been the practice in the past. A copy of the Tax Budget will be available for review by the public, and Council's copy will be delivered in early July.

Please direct any questions regarding this motion or the tax budget process to the Treasurer.

10.c.1. Motion rejecting the bid for the Hunt House restoration project

On Monday, May 8th, the Parks & Recreation Director and Project Coordinator opened bids for the "Carpentry and Finishes" portion of the Phase I Hunt House Renovation Project. Although four companies were actively pursuing the project, a sole bid was received from HGC Construction in the amount of \$217,565 for the base amount plus alternates (+\$23,425), for a total bid of \$240,990.00. Engineering estimates for this portion of the work were \$160-\$180,000, placing this bid 33% to 50% over estimates.

Given that this renovation requires the involvement of specialists in the trades that are more commonly involved in residential construction and renovation, quality companies unfamiliar with or intimidated by our formal bid process eliminated themselves from the process. The Parks & Recreation Director suggests that the City would be best served by rejecting this lone bid and pursuing informal bids from contractors and tradespersons for individual portions of the project resulting in a cost savings to the City. While a number of the individual contracts may fall below the statutory bid limit of \$25,000, it is expected that one or more will also exceed that limit. Proposals in excess of the \$25,000 bid limit will then be presented to Council at the June 8th Council meeting, along with the request to Council to waive formal bidding. The need to follow prevailing wage requirements is unaffected and will remain in place.

Similarly, the Parks & Recreation Department presently has a contract with Jim Davis of Superior Company for masonry work at the Hunt House currently underway in the amount of \$24,110. In the progress of renovation, additional areas of masonry repairs have been discovered which would be best addressed at this time. We expect to also present a proposal to extend the contract of Superior Company beyond the bid limit and waiving formal bidding to allow us to proceed with these additional repairs.

Please direct questions regarding this motion or this project to the Parks & Recreation Director."

Another memo included in packets describing the Neyer public hearing issue is spread below:

"DATE: May 11, 2006
FROM: Dan Johnson, Assistant Community Development Director
TO: City Council

TOPIC

This item is an appeal to a decision from the Board of Zoning Appeals.

BACKGROUND

History of the issue is as follows:

Al. Neyer Inc. applied for a variance to have two signs above the first story of a multiple story building in the M-1 district, which is prohibited by Section 1181.05(g)(2). On April 10, the Board of Zoning Appeals held a public hearing and voted 4-0 to deny the application.

The applicant submitted a letter of appeal on April 18, 2006 detailing the basis of the appeal (attached).

Background materials and correspondence are attached, including the letter of appeal, a photo simulation of the signs on the building, and the approved minutes from the BZA hearing.

COUNCIL ACTION

Per Code Section 1133.03(b) an appeal to Council from a decision of the Board of Zoning Appeals requires a public hearing. The appellant, Chris Dobrozsi of Al. Neyer Inc., and any other member of the audience have a right to speak to the matter of the appeal subject to the rules of Council.

The public hearing process for an appeal is as follows:

Council will open a public hearing on the appeal and the Mayor will swear in all persons present who wish to speak to the matter. The Mayor will then recognize the appellant and allow him to explain his appeal. The Mayor will then recognize any other member of the public who wishes to speak to the matter. During public testimony, Council may ask questions of the speaker or appellant. After public comments, Council will close the public hearing and enter into debate, during which time the public is forbidden to comment unless asked to by Council. After sufficient debate, Council will make a motion relative to the appeal and vote on it.

"Council...may affirm, reverse, vacate or modify the [Board of Zoning Appeals] decision complained of in the appeal." The decision of Council is binding."

Planning & Zoning Committee, James W. Sumner, Chairperson

Councilman Sumner asked the Clerk of Council to read Ordinance No. 2006-19 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2006-19

AMENDING PORTIONS OF THE BLUE ASH CODE OF
ORDINANCES, INCLUDING PORTIONS OF PART NINE –
STREETS AND PUBLIC SERVICES CODE, AND PORTIONS OF
PART ELEVEN – PLANNING AND ZONING CODE

Councilman Sumner moved, Councilman Weber seconded to adopt Ordinance No. 2006-19 (it having been read previously at the April 27, 2006 Council meeting). Councilman Sumner commented that he believes these changes represent a good start to address concerns regarding infill or teardown housing, particularly grading, first floor elevation, and front yard setbacks. However, he believes the City should continue to explore side yard issues and the building of homes (perhaps too large) on smaller lots. Councilman Stacey added that the City is interested in potential additional solutions, and the intent is for the Assistant Community Development Director Dan Johnson to be actively involved. There being no further discussion, the Clerk called the roll. Councilpersons Stoller, Sumner, Weber, Stacey, Czerwonka, Bryan, and Mayor Buckman voted yes. Seven yeses. Ordinance No. 2006-19 passed.

Councilman Sumner asked the Clerk of Council to read Ordinance No. 2006-20 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2006-20

ADOPTING THE BLUE ASH TOWN CENTER CONCEPT
REDEVELOPMENT PLAN (REPRESENTING AN UPDATE TO THE
DOWNTOWN MASTER PLAN FIRST ADOPTED IN 1982)

Councilman Sumner asked the Clerk to read the addendum to the plan, which is spread below:

"COUNCIL ADDENDUM TO THE BLUE ASH TOWN CENTER CONCEPT
REDEVELOPMENT PLAN

The Blue Ash City Council and Administration retained a professional consultant to undertake and prepare the attached *Blue Ash Town Center Concept Redevelopment Plan*. This process was undertaken due to a recognition that while today's downtown is attractive and viable, that the City must remain vigilant in ensuring that downtown continues being competitive in an ever-changing market. Thus, a process was undertaken to produce the Concept Redevelopment Plan which is both ambitious and visionary.

However, as with any bold and visionary process, some fears and trepidation can be expected from those not intimately involved in the process. In particular, some property owners may feel threatened by some of the plan's renderings reflecting an ambitious overhaul of downtown. To that end, it is anticipated that this Council Addendum, combined with the Concept Redevelopment Plan itself, will provide some clarifying statements.

First and foremost, the attached plan is intended to be a conceptual document. It provides a framework for discussion of a potential future for downtown Blue Ash. The attached plan is NOT an implementation strategy or document. As such, specific renderings or site plans are for illustrative purposes only and not meant to dictate specific outcomes. Such specificity will be undertaken during the implementation phase, and anticipated to be done on a case-by-case basis in a joint venture with property owners and developers.

Secondly, it can be re-stated that the PRIMARY focus of the attached plan is a commitment to four key principals:

- A. That the City will encourage the introduction of more appropriate dense and mixed use

- developments than exist today but to be determined at a later time;
- B. That future projects will encourage pedestrian flow and connectivity, particularly to Towne Square;
 - C. That the City will encourage and support key public and/or private anchors or venues; and
 - D. That the City further study the re-organization of existing parking and traffic conditions to result in a more productive and effective configuration conducive to proposed new building patterns.

Lastly, the attached plan does NOT recommend an urban renewal approach to change but rather a process characterized by mutually beneficial and dynamic public – private partnership. Hence, it is not anticipated that wholesale eminent domain will be utilized during implementation. The City will work to bring together property owners, developers, investors and other stakeholders to build and identify the strategy for the implementation of quality, economically viable projects that contribute to the downtown vision.

The City of Blue Ash has historically been a leader in providing a quality community through visionary planning and implementation. To remain a leader in the region, such visioning and planning is needed by our City leaders for the future. The attached plan represents another proactive vision that will be viewed with success 20 years from now. In the meantime, it is hoped that this Addendum clarifies implementation direction.”

Councilman Sumner moved, Councilwoman Stoller seconded to adopt Ordinance No. 2006-20 (it having been read previously at the April 27, 2006 Council meeting). (A question regarding the wording of “A.” above was clarified, and incorporated in the above information.) Councilman Sumner asked Council their opinion on taking the time to refine the concept plan as presented into an “implementation” document. Councilman Weber commented that he believes this is an evolving process and that to focus on the concepts at this time is appropriate. Councilwoman Stoller agreed and added that she believes the concept plan is what Council should concentrate on at this point. City Manager Thompson commented that since 1982, when the original Downtown Master Plan was passed, that approximately 65% to 70% of what was in the plan was actually developed as shown in the plan. However, that plan was different than the current one. He stressed that a planning document has to be a “living” document – it must be able to evolve. This is definitely a long-term plan, and in his opinion, if 50% of the downtown area changes as a result of this plan within the next 20 years, it will be a success. He believes it is good to have an ambitious plan since “setting the bar high” usually ends up with better results. He stressed the conceptual nature of the plan, and the desire for more residential density and more pedestrian-friendly features, including additional streetscaping features. There being no further discussion, the Clerk called the roll. Councilpersons Sumner, Weber, Stacey, Czerwonka, Bryan, Stoller, and Mayor Buckman voted yes. Seven yeses. Ordinance No. 2006-20 passed.

Councilman Sumner asked the Clerk of Council to read Ordinance No. 2006-38 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2006-38

AMENDING SECTIONS 505.01 AND 505.09 OF CHAPTER 505
(ANIMALS AND FOWL) OF THE BLUE ASH CODE OF ORDINANCES;
AND DECLARING AN EMERGENCY

Councilman Sumner moved, Councilman Czerwonka 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 yeses. Motion carried.

Councilman Sumner moved, Councilwoman Stoller seconded to adopt Ordinance No. 2006-38. In addressing questions from Councilman Bryan, Deputy Solicitor Bryan Pacheco commented that he believes the phrase "other animals" within the ordinance (before the proposed change within Ordinance No. 2006-38) did include cats; however, because there seemed to be some concern by Police officials regarding enforcement of this, the proposed change clarifies and eliminates any question. It was stressed that only when damage was caused by a cat would an owner be liable (not simply for a cat which roams off the owner's property and does not cause damage). In addressing a question from the audience, Mr. Pacheco commented that in the case of stray cats, since there is no one (i.e., owner) to be held liable, there is no one committing the offense. There being no further discussion, the Clerk called the roll. Councilpersons Stacey, Czerwonka, Bryan, Stoller, Sumner, Weber, and Mayor Buckman voted yes. Seven yeses. Ordinance No. 2006-38 passed.

Councilman Sumner asked the Clerk of Council to read Ordinance No. 2006-41 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2006-41

AMENDING SECTION 1305.01(a) OF THE BLUE ASH CODE OF ORDINANCES, INCLUDING ADOPTION OF THE RESIDENTIAL CODE OF OHIO AS PROMULGATED BY THE OHIO BOARD OF BUILDING STANDARDS (OBBS); AUTHORIZING A REQUEST TO THE OBBS TO CERTIFY THE CITY OF BLUE ASH, OHIO, FOR ENFORCEMENT OF THE RESIDENTIAL CODE OF OHIO TO EXERCISE ENFORCEMENT AUTHORITY, ACCEPT AND APPROVE PLANS AND SPECIFICATIONS, AND MAKE INSPECTIONS (INCLUDING SWIMMING POOLS, SPAS AND HOT TUBS); AND CERTIFYING THE BLUE ASH BOARD OF ZONING APPEALS AS THE APPROPRIATE APPEALS BOARD FOR RESIDENTIAL CODE APPEALS

Councilman Sumner moved, Councilman Bryan 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 yeses. Motion carried.

Councilman Sumner moved, Councilman Czerwonka seconded to adopt Ordinance No. 2006-41. There being no discussion, the Clerk called the roll. Councilpersons Bryan, Stoller, Sumner, Weber, Stacey, Czerwonka, and Mayor Buckman voted yes. Seven yeses. Ordinance No. 2006-41 passed.

Finance & Administration Committee, Rick Bryan, Chairperson

Councilman Bryan asked the Clerk to read Ordinance No. 2006-39 by title only.

THEN WAS PRESENTED AND READ BY TITLE ONLY:

ORDINANCE NO. 2006-39

AUTHORIZING THE CITY MANAGER TO ENTER INTO DEPOSITORY AGREEMENTS FOR CITY OF BLUE ASH ACTIVE AND INTERIM DEPOSITS FOR THE PERIOD JUNE 1, 2006 TO MAY 31, 2011; AND DECLARING AN EMERGENCY

Councilman Bryan 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 Bryan moved, Councilman Stacey seconded to adopt Ordinance No. 2006-39. 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. 2006-39 passed.

Councilman Bryan moved, Councilman Sumner seconded to set 7:00PM, Thursday, July 13, 2006 for consideration of the 2007 Tax Budget. A voice vote was taken. All members voted yes. Motion carried.

Parks & Recreation Committee, Lee Czerwonka, Chairperson

Councilman Czerwonka moved, Councilwoman Stoller seconded to reject the bid received for the Hunt House restoration project. Parks & Recreation Director Chuck Funk commented that the only bid received came in approximately \$60,000 to \$80,000 over budget. The Administration believes that a quality project can be achieved while being closer to budgeted figures. A voice vote was taken. All members voted yes. Motion carried.

MISCELLANEOUS BUSINESS

Service Director Denny Albrinck commented that grinding of Cooper Road was recently done in conjunction with the water main project being done by Cincinnati Water Works. Paving will be done as soon as weather permits.

Mr. Albrinck commented that surveying work currently being done in the Arcadia area is related to a future water main replacement in the area planned by Cincinnati Water Works, probably to start in 2007.

Mr. Albrinck commented that Blue Ash Road would not be repaved this year due to the Cincinnati Water Works transmission line project planned for essentially all of Blue Ash Road in Blue Ash, as well as parts of the road which falls within Sycamore Township. This project should begin this summer, with paving hopefully to be scheduled for next spring. This will also affect a portion of Cooper Road, between Blue Ash Road and Kenwood Road. Mr. Albrinck clarified that any such work in the area would not be performed near the time of Blue Ash's special events.

City Manager Thompson commented that the May 25th meeting will be a work session, with the pro-formas being presented for both the potential Rec Center expansion and new Golf Course clubhouse projects. (*Administrative Note: it was later decided to include additional items upon the May 25th Council agenda [in addition to the projects noted above]*).

In clarifying a question from Council, Assistant City Manager David Waltz commented that the new Blue Ash based employees planned by MVD Communications are expected to be added within the next three years. The Ohio Department of Development controls the requirements upon which they grant tax incentives for expansions, etc.

In commenting on a memo included in packets regarding the future Park Manor project and the possibility of reducing sale of City-owned property to encourage that project to move forward more rapidly (per request of the developer), Councilman Bryan commented that he would not be enthusiastic about reducing the revenue to the City in the sale of that property. After brief discussion, it was the consensus of Council that they are not supportive of the idea to reduce the sale price of City-owned property to benefit this developer, now Kurlemann Homes.

Councilman Stacey commented that the pavement on the ramp from westbound Ronald Reagan Highway onto Kenwood Road appears to be damaged. Mr. Albrinck will look into this. Though it technically could be a Hamilton County or State of Ohio issue, Blue Ash has done work in the area.

Mayor Buckman wished all moms at the meeting a happy Mother's Day.

EXECUTIVE SESSION

After all items on the agenda were acted upon, Councilman Stacey moved, Councilman Weber seconded to convene an Executive Session to discuss matters pertaining to personnel. The Clerk called the roll. Councilpersons Weber, Stacey, Czerwonka, Bryan, Stoller, Sumner, and Mayor Buckman voted yes. Seven yeses. Motion carried.

After matters pertaining to personnel were discussed, Councilman Weber moved, Councilman Sumner seconded to convene to the regular meeting. A voice vote was taken. All Council members voted yes. Motion carried.

ADJOURNMENT

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

Robert J. Buckman, Jr., Mayor

Jamie K. Eifert, Clerk of Council

MINUTES WRITTEN BY:

Susan K. Bennett, Deputy Clerk of Council