

The City Council met in regular session in the Council Chambers on Wednesday, March 5, 2008 at 9:00 A.M.

Council Members present: Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

On motion of Mr. Thompson, Seconded by Mr. Schember, the reading of the minutes of the meeting of February 20, 2008, were dispensed with and same adopted with copies furnished to the members of City Council by yeas Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

Copies of the bills under date of February 22, 2008, February 29, 2008 and March 7, 2008 were given to City Council and same adopted by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0., with the exception of invoices to the NATO Centers on which Mrs. Jenkins-Husband abstained.

By Mr. Aleksandrowicz, Council File Ordinance #15,574 and now known as Pending Official File Ordinance #12-2008, entitled

an ordinance appropriating the sum of **\$95,200.00** from unappropriated and unanticipated revenues from Account #002-0000-0000-3677 FEMA Fire Grant and providing for the expenditure thereof by allocating said funds to Account #002-0639-0000-4024 Bureau of Fire Tool Allowance/Benefits. (For the purchase of fire protection equipment)

March 5, 2008. City Council on motion of Mr. Aleksandrowicz, Seconded by Mr. Thompson, having read Council File Ordinance #15,574 and now known as Pending Official File Ordinance #12-2008, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

March 5, 2008. Signed by the President. Seconded by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That the City Council of the City of Erie recognizes the month of March as **Women's History Month** and acknowledges the achievements of women in our State, Nation and local community and hereby presents proclamations to the American Association of University Women; the Business and Professional Women; the Women's Roundtable; the Council of Women's Organizations; and the ZONTA Club.

March 5, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Schember, Thompson and Jones

WHEREAS, the City Council of the City of Erie wishes to recognize the month of March as Women's History Month, so as to honor and celebrate the achievements of women both past and present who have made significant contributions in our State, Nation, and local communities, and WHEREAS, women throughout the ages have been instrumental in all areas of government, industry and education and have made their mark on American History from the founding colonies, through all our wars for freedom, the industrial revolution, to present day where they now head some of our nations largest corporations, so

THEREFORE, BE IT RESOLVED, by the Council of the City of Erie that this commendation be placed into official records of the City of Erie to document our honor and respect for "Women of History in America".

March 5, 2008.. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Schember, Thompson and Jones. 7. Nays. 0.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk

NOTE: SIMILAR TRIBUTES WERE ALSO PRESENTED TO THE ERIE BRANCH OF THE AMERICAN ASSOCIATION OF UNIVERSITY WOMEN; THE BUSINESS AND PROFESSIONAL WOMEN; THE WOMEN'S ROUNDTABLE AND THE COUNCIL OF WOMEN'S ORGANIZATION AND THE ZONTA CLUB

SEVERAL CITIZENS SPOKE BEFORE COUNCIL REGARDING THE PROPOSED TIRE TO ENERGY PLANT INCLUDING RANDY BARNES; DR. FRANK VENTO; JUDITH SMITH; MARY WIERZBINSKI, MARTIN VISNOSKY, WAYDELL JOHNSON AND JOHN TRETTER. MR. DENNIS STRATTON SUBMITTED DOCUMENTATION WHICH WAS PLACED ON FILE.

To: President and Members of City Council
From: Gregory A. Karle, Esq., City Solicitor
Re: Continuous Emission Monitoring Ordinance

February 29, 2008

The City Council Agenda for March 5, 2008 requests the Solicitor's office to draft an ordinance requiring continuous emission monitoring of air pollution. The ordinance is being requested in response to a proposal by Erie Renewable Energy ("ERE") to locate a tire incineration facility at the former International Paper site.

First, I must caution that if the city enacts an ordinance that targets a single business in order to effectively ban that business's operation, the ordinance has a strong likelihood of being overturned on constitutional grounds.

Second, there is a common belief that the city can enact its own air quality standards that are stricter than those mandated by the federal government and the state of Pennsylvania. As a practical matter, this is not necessarily so. The Air Pollution Control Act, Act of January 8, 1960, P. L. (1959) 2119, et seq., allows municipalities to enact local regulation "which will not be less stringent" than those contained in the Federal Clean Air Act. This has been interpreted to permit municipalities to enact more stringent standards. However, nearly all municipalities have approached air pollution regulation with deference to the federal and state regulations, yielding control to the state to monitor emissions.

The City of Philadelphia and Allegheny County both have stand alone ordinances permitting them to regulate air pollution, including toxic emissions locally. However, in both cases, the standards for toxic emissions are not less stringent but also "no greater than" the state's. These municipalities have, in reality, adopted the state's standards for regulating industry.

I have located one ordinance statewide that attempts to impose more stringent standards, requiring continuous emissions monitoring. But I am reluctant to use this ordinance as a blue print because it is currently under challenge in federal court.

Any municipality that seeks to enact its own ordinance must submit it to an exacting approval process by the Pennsylvania Department of Environmental Protection before it can be implemented locally. Among the items to be submitted and considered under the state's regulations are:

- A description of the applicant's legal authority for establishment of an air pollution control program.
- A description of the administrative, technical and enforcement organization and facilities of the applicant, including its financial resources and budget.
- A comprehensive air pollution control program plan which describes the nature and extent of the problem, the immediate and long-range objectives of the plan, the measures to be taken to attain the objectives and a schedule for their accomplishment.

At the present time, the city is technically ill-equipped to engage in this approval process. The air quality regulation field is highly specialized. We would be required to obtain the expertise of a consultant for the purpose of formulating a plan and establishing more stringent emission standards. The city currently has nothing in the way of an administrative, technical and enforcement apparatus to implement local emission standards. In addition, I can't speculate what a budget would be for our local enforcement. The city expends approximately \$120,000 along for a consultant to prepare its Title V application for the incinerator at the wastewater treatment plant. The Department of Public Works simply does not have the expertise or financial resources to now review the applications of other industries for the purpose of monitoring compliance on a local level.

I would, therefore, caution Council from adopting an ordinance seeking to ban a single business or from attempting regulation of air quality without first proceeding with the appropriate approval procedures.

By Mr. Cappabianca, Seconded by Mrs. Horan-Kunco, Resolved, etc.,
Resolved, by the Council of the City of Erie, That

WHEREAS, Erie City Council recognizes that the City of Erie's ambient air quality is a matter of vital concern to the residents of the City, and

WHEREAS, Erie City Council is of the opinion that increased introductions of air contaminants within the City would have an adverse effect on the ambient air quality, and

WHEREAS, the United States of America Clean Air Act, as amended, including Amendments of 1989, and the Pennsylvania Air Pollution Control Act of January 9, 1960 (P. L. 2119), as amended, provide in part for better protection of the health, general welfare and property of the people of the Commonwealth by the abatement, reduction and prevention of the pollution of the air by smokers, fumes, gases, odors, mists, vapors, and similar matter, or any combination thereof, and

WHEREAS, the Federal and Commonwealth Legislatures have granted the power to local municipalities to adopt more stringent air pollution standards than those provided within the cited Acts, as affirmed by the adoption of Section 12 of Act 1995 of 1992, 35 P. S. 4012, and

WHEREAS, local municipalities have been empowered with the right to enact ordinances in protecting and preserving the ambient air quality, and

WHEREAS, Erie City Council has determined that the impact of increased introductions of air contaminants should be borne by those introducing the contaminants, and

WHEREAS, pursuant to the Third Class City Code of the Commonwealth of Pennsylvania, the City is empowered to prohibit nuisances, including, but not limited to accumulations of garbage and rubbish, and the storage of abandoned or junked automobiles, on public or private property, and the carrying on any offensive manufacture or business, and

WHEREAS, the Erie City Council finds that the Pennsylvania Department of Environmental Protection does not possess sufficient staff, funding or resources to continuously verify compliance with applicable environmental protection requirements, and

WHEREAS, there are many pollutants that could be released into the city's air for which no monitoring is required or for which monitoring is too infrequent to serve as an accurate indicator of annual emissions, given that occasional test do not capture or measure emissions during start-up, shutdown or malfunction conditions, and do not capture or measure variations in emissions due to variability in fuels, feedstocks, processes, or changes in operating conditions, and

WHEREAS, the Erie City Council finds that to protect the citizens of the City of Erie's health and welfare and to promote clean technologies and improve the quality of life in the City, and

WHEREAS, as enabled by 35 P. S. 4012(a) the Erie City Council may promulgate an ordinance regulating air emissions that is no less stringent than those of the Clean Air Act, the Pennsylvania Air Pollution Control Act, or the rules and regulations promulgated thereunder; so

THEREFORE, BE IT RESOLVED, that Erie City Council authorizes and directs the Solicitor of the City of Erie to draft a City of Erie Air Pollution Monitoring and Disclosure Ordinance to require the continuous emissions monitoring of all Title V (of the Pa. Air Pollution Control Act/Clean Air Act) permitted facilities.

March 5, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco and Jones. 4. Nays. Jenkins-Husband, Sember and Thompson. 3.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mrs. Jenkins-Husband, Seconded by Mr. Thompson, Resolved, etc.,

That the proper officials of the City of Erie are authorized and directed to enter into a **Memorandum of Understanding** (MOU) between the City of Erie, the County of Erie and the Erie Municipal Airport Authority for the purpose of furthering the Authority's runway extension project. Under the terms of the MOU, the County will commit up to \$25.7 million in local match funds to the project; the Authority will pay the City \$1.6 million, which will be used to pay a portion of the debt incurred on the previous Erie Golf Course renovation project and the City will consent to expand the Authority's board membership from five members to nine members, four of which to be appointed by the County.

March 5, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Horan-Kunco, Jenkins-Husband, Sember, Thompson and Jones. 6. Nays. Mr. Cappabianca. 1.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mr. Cappabianca, Seconded by Mr. Sember, Resolved, etc.,

That the proper City officials are hereby authorized and directed to enter into an agreement with **North Eastern Uniforms & Equipment, Inc**, 2305 West 12th Street, Erie, Pa., for extending the current contract for providing Uniforms and Equipment for the City of Erie Police Department per Bid #6212 for an additional year at the same rates per the current contract which now will expire on June 7, 2009; and His Honor the Mayor and the City Controller are hereby authorized and directed to execute this agreement on behalf of the City.

March 5, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Sember, Thompson and Jones. 7. Nays. 0.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mr. Aleksandrowicz, Seconded by Mr. Thompson, Resolved, etc.,

That the proper City officials are hereby authorized and directed to enter into an agreement with **North Eastern Uniforms and Equipment, Inc.**, 2305 West 12th Street, Erie, Pa., for providing all Uniforms and Equipment for the City of Erie Fire Department per Bid #6211 for an additional year at the same rates per the current contract which now will expire on June 7, 2009; and His Honor the Mayor and the City Controller are hereby authorized and directed to execute the agreement on behalf of the City.

March 5, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Sember, Thompson and Jones. 7. Nays. 0.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

Dear Mr. Goldstein:

January 13, 2008

After a thorough discussion at our last board meeting we have unanimously agreed to offer our services again the City of Erie by extending our contractual agreement with no changes for another year.

We will continue to provide the exact same services laid out in the current contract for the exact same amount billed quarterly as we have been doing for the past 21 months. Therefore, we will continue to provide housing/care of stray and unwanted pet animals for the City of Erie Animal Control with all current provisions for the same amount of 25,000.00.

Our current contract expires March 26, 2008. Our new agreement then will begin on March 27, 2008 and run through March 26, 2009. Please let me know what more you will need from me to finalize this new agreement.

Thanks and look forward to working with/for you and the City of Erie during this new contract.

Sincerely,
S/ Ruth Thompson-Delio

By Mr. Cappabianca, Seconded by Mr. Schember, Resolved, etc.,

That the proper City officials are authorized and directed to enter into an agreement with **The A.N.N.A. Shelter**, 1555 East 10th Street, Erie, Pa., for providing Animal Shelter Services for the City of Erie per Bid #6209 for an additional year at the same rates per the current contract which now will expire on March 22, 2009; and His Honor the Mayor and the City Controller are hereby authorized and directed to execute this agreement on behalf of the City.

March 5, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

TO: Mrs. Rubye Jenkins-Husband February 28, 2008
FROM: Jon Tushak, P. E., City Engineer
SUBJECT: City Council Purchase Order Resolutions - March 5, 2008 meeting
PROJECT: Lighting Equipment/ Electrical Equipment/ Perry Square Renovation

These purchase orders are to pre-purchase materials for an upcoming construction contract for Phase I of the proposed Perry Square Renovation. The lighting equipment includes lighting poles, fixtures and bollards. The electrical equipment includes panels required to feed electricity to the light fixtures. By pre-purchasing these items, the City will realize savings in time and money.

A resolution to award the purchase order on the above referenced Lighting Equipment to GraybaR, 1220 Myrtle Street, Erie, Pa 16501 in the amount of \$65,562.75 will be presented to City Council at their Wednesday, March 5, 2008 meeting. GraybaR was the lowest of four bids submitted. Weber Electric submitted a bid of \$65,982.00. Signal Service submitted a bid of \$72,844.80. Billows Electric submitted a bid of \$76,504.00. Scott Electric was solicited but did not submit a bid.

A resolution to award the purchase order on the above referenced Electrical Equipment to GraybaR, 1220 Myrtle Street, Erie, Pa., in the amount of \$44,867.12 will be presented to City Council at their Wednesday, March 5, 2008 meeting. GraybaR was the lower of two bids submitted. Weber Electric submitted a bid of \$47,156.00. Signal Service, Billows Electric and Scott Electric were solicited but did not submit a bid.

A contract will be let for bids Friday, February 29, 2008 for Perry square Renovation, Phase I, Electrical Construction. The contract is expected to be presented to Council for award March 19, 2008. The scope of proposed electrical construction is in accordance with the Perry Square Master Plan prepared by Burt Hill with input from others.

Time is of the essence on this project because the CDBG funding must be spent by the end of June 2008. The lighting and electrical equipment is being pre-purchased by the city ahead of the proposed construction contract because these items have about eight weeks of lead time from order to delivery and because contractors typically mark-up items by 10-15% when purchasing for construction contracts. By pre-purchasing, the City will get a head start on the long lead-time and will save the mark-up on these items.

This project is to be charged to CDBG Budget Code #501-1245-2007-4072. Please contact me at extension 1377 if you have any questions.

By Mrs. Jenkins-Husband, Seconded by Mrs. Horan-Kunco, Resolved, etc.,

That the Mayor and City Controller are authorized and directed to execute contracts between the City of Erie and following individuals and/or companies and goods and/or services as noted and the City Council does hereby ratify and confirm the said transactions which are to be charged to the respective Budget Code Numbers, viz:

1. **Clearwater Construction, Inc.**, 1040 Perry Highway, P. O. Box 231, Mercer, Pa., they being the lowest of six bidders for the Davison Avenue Sanitary Sewer Project, Bid 1613-08, for the sum of \$132,940.00 lowest of six bidders. (This project will replace 694 feet of sanitary sewer to correct sanitary sewer basement backups during rain events in the Davison Avenue area.)
2. **GraybaR**, 1220 Myrtle Street, Erie, Pa., for Lighting Equipment for Perry Square Renovation for the sum of \$65,562.75, lowest bidder of four bids received.

3. **GraybaR**, 1220 Myrtle Street, Erie, Pa., for Electrical Equipment for Perry Square Renovation, for the sum of \$44,867.12, lowest of two bids.

4. **HELM, Inc.**, 14310 Hamilton Avenue, Highland Park, MI, for the purchase of Diagnostic Software and Accessories for the maintenance/safety upkeep of city vehicles, for the sum of \$20,642.00; to be charged against Risk Management Account #024-0571-0000-4069.

5. **OMSS**, 2016 Peach Street, Erie, Pa, for (2) Panasonic Toughbooks and Accessories to run diagnostic/safety tests on city vehicles, for the sum of \$10,399.00; to be charged against Risk Management Account 024-0571-0000-4069.

March 5, 2008. City Council adopt Item Nos. 1, 2 and 3 by yeas Council Members Aleksandrowicz, Cappabianca Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones 7. Nays. 0.

March 5, 2008. City Council adopt Item Nos. 4 and 5 by yeas Council Members Aleksandrowicz, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 6. Nays. Mr. Cappabianca. 1.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

By Mr. Aleksandrowicz, Seconded by Mr. Thompson, Resolved, etc.,

That the City Purchasing Agent is authorized and directed to issue a purchase order to the following individuals and/or companies for goods and/or services as noted and the City Council does hereby ratify and confirm the said transactions which are to be charged to the respective Budget Code Numbers, viz:

1. **Automatic Transmissions of Erie**, 1854 West 21st Street, Erie, Pa., for the Emergency Rebuilding of the Transmission in the Deputy Chief's Vehicle for the Bureau of Fire for the sum of \$2,155.00.

2. **Snap-on Tools**, 2801 80th Street, P. O. Box 1410, Kenosha, WI, for the purchase of Electronic Diagnostic Equipment for the maintenance/safety upkeep of city vehicles for the sum of \$2,151.00; to be charged against Risk Management Account #024-0571-0000-4069.

3. **Five Star International**, 8100 Wattsburg Road, for Diagnostic Software and Accessories for the maintenance/safety upkeep of city vehicles for the sum of \$2,500.00; to be charged against Risk Management Account #024-0571-0000-4069.

4. **Vulcan Signs**, 408 East Berry Avenue, P.O. Box 1850, Foley, AL., for Sign Faces and Aluminum Sign Blanks for the Bureau of Streets for the sum of \$4,427.61.

5. **A & H Equipment**, P. O. Box 337, 1124 McLaughlin Road, Bridgeville, Pa., for Hose, Clamps, etc., for Vactor Truck, which are being purchased from the truck supplies and are OEM parts for the Bureau of Sewers for the sum of \$2,324.98.

6. **Ace Viking**, 2222 East 30th Street, Erie, Pa., for a 100 HP Baldor Inverter Drive for the sludge pump for the Bureau of Sewers for the sum of \$6,757.00.

7. **David Milano Construction**, 1827 West 36th Street, Erie, Pa., for Storm Drain & Sanitary Sewer Repairs at 19th & Chestnut Street; 642 West 4th Street and 818 West 5th Street, for the sum of \$6,439.93 (Material Costs Only), for the Wastewater Treatment Plant.

8. **David Milano Construction**, 1827 West 36th Street, Erie, Pa., for Storm Drain & Sanitary Sewer Repairs at 311 East 10th Street; 3003 Oakwood and 120 Goodrich Street, for the sum of \$9,658.96 (Material Costs Only), for the Wastewater Treatment Plant.

March 5, 2008. City Council adopt Item Nos. 1, 4, 5, 6, 7 and 8 by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

March 5, 2008. City Council adopt Item Nos. 2 and 3 by yeas Council Members Aleksandrowicz, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 6. Nays. Mr. Cappabianca. 1.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

Dear President and Members of City Council

February 29, 2008

I, Gerald C. Munsch and Carolyn J. Munsch, owners of Lakeview Resale Co. located at the corner of 26th & Cherry Street (563 W. 26th Street, Erie, Pa.) have purchased the adjoining property at 555 West 26th Street due to our expansion. We tore this residence down, which was zoned C4 and paved the empty lot.

We are still growing and have acquired two additional adjoining properties located at 2613 and 2615 Cherry Street. These 2 properties are now zoned residential. We are asking for the property located at 563 W. 26th Street, Erie, Pa. to be rezoned from C4 to C2. Also, to rezone the two adjoining properties at 2613 and 2615 Cherry to be rezoned from R2 to C2 which will be combined into 1 parcel, to be known as 563 W. 26th Street. See Attachment A.

We are asking your consideration in this matter as we have already invested over One Hundred Thousand dollars (\$100,000.00) in improvements. We have entered into an agreement with the Traffic Engineering Department to restore 60 foot of curbing on the Cherry Street side of our property to alleviate customers from parking on the sidewalk. This will be completed as soon as the weather permits. See Attachment B.

We are asking for the adjoining properties to be rezoned to C2 and become one property to alleviate the parking and congestion at 26th and Cherry Street.

Thank you for your time and consideration regarding this matter. If you have any questions, please feel free to contact us at 814-454-8884.

PETITION FOR REZONING

President and Members of City Council

We request that the property we own at 2613 & 2615 Cherry Street and 563 West 26th Street, now zoned as R-2 West 26 Street now zoned R-2 and 4 be rezoned to C-2 for the following permitted uses as set forth in Zoning Ordinance #64-2000.

Gerald C. Munsch, Petitioner
Carolyn J. Munsch, 6210 Zuck Road

WAIVE RULES

By Mr. Schember, Seconded by Mr. Thompson, Resolved, etc.,

That the petition submitted by Gerald C. and Carolyn Munsch, owners of Lakeview Resale Company, requesting the rezoning of property located at 555-563 West 26th Street, Erie, Pa., for C-2 (Traditional Neighborhood Commercial) to C-2 (General Business District) and two adjoining properties at 2613 and 2615 Cherry Street (which will be combined into 1 parcel) from R-2 (Medium Density Residential District) to C-2 (General Business District) is received by City Council and referred to the City Planning Commission for recommendation and report thereon. The properties to be rezoned will become one property - 563 Cherry Street to alleviate parking ad congestion at 26th and Cherry Street.

(Accompanied by the requisite filing fee in the sum of \$500.00)

March 5, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

March 5, 2008. Signed by the President. Attested by the Acting City Clerk.

March 5, 2008. City Council on motion of Mr. Cappabianca, Seconded by Mr.

Schember, adjourned at 12:05 p.m. by yeas Council Members Aleksandrowicz,

Cappabianca, Horan-Kunco, Jenkins-Husband, Schember and Jones. 6. Nays. 0. (Mr.

Thompson left the meeting at 11:40 a.m.)

Attest:

President of City Council

(Acting) City Clerk