

The City Council met in regular session in the Council Chambers on Wednesday, May 21, 2008 at 7:30 p.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 May 7, 2008 were dispensed with and same adopted with copies furnished to the members of City Council by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson, and Jones. 7. Nays. 0.

Copies of the bills under date of May 16 and May 23 were given to City Council and same adopted by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones, with the exception of invoices to the NATO Centers on which Mrs. Jenkins-Husband abstained from voting.

By Mr. Cappabianca, Council File Ordinance #15,578, Pending Official File Ordinance #16-2008

an ordinance appropriating the sum of **\$5,000.00** from unappropriated and anticipated revenue from Weed and Seed Quality of Life Grant and providing for the expenditure thereof by allocating said funds to Account #261-0613-2007-4059 Other Services & Charges.

May 21, 2008. City Council on motion of Mr. Cappabianca, Seconded by Mr. Aleksandrowicz, having read Council File Ordinance #15,578, and now known as Pending Official file Ordinance #16-2008, does hereby adopt on final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Council File Ordinance #15,579, Pending Official File Ordinance #17-2008

an ordinance appropriating the sum of **\$6,000.00** from unappropriated and anticipated revenue from Contributions received from Highmark Blue Cross/Blue Shield and providing for the expenditure thereof by allocating said funds to Account #259-1219-0000-4552 Summer Recreation Program.

May 21, 2008. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mr. Thompson, having read Council File Ordinance #15,579 and now known as Pending Official file Ordinance #17-2008, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Council File Ordinance #15,580, Pending Official File Ordinance #18-2008

an ordinance appropriating the sum of **\$40,000.00** from unappropriated and anticipated revenue received from the Erie School District and providing for the expenditure thereof by allocating said funds to Account #259-1219-0000-4552 Summer Recreation Program.

May 21, 2008. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mr. Thompson, having read council File Ordinance #15,580 and now known as Pending Official File Ordinance #18-2008, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Council File Ordinance #15,581, Pending Official File Ordinance #19-2008

an ordinance appropriating the sum of **\$250,000.00** from unappropriated revenue to be received from the Liquid Fuels Tax Fund and providing for the expenditure thereof by allocating said funds to Account #013-1291-0000-4075 Bridges/Streets.

May 21, 2008. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mr. Thompson, having read Council File Ordinance #15,581 and known as Pending Official File Ordinance #19-2008. does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Council File Ordinance #15,582, Pending Official File Ordinance #20-2008

an ordinance appropriating the sum of **\$513,231.51** from unappropriated revenue from Account #021-0000-0000-3001 Fund Balance and providing for the expenditure thereof by allocating said funds to Account #021-0713-0000-4075 Bridges and Streets.

May 21, 2008. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mr. Thompson, having read Council File Ordinance #15,582 and now known as Pending Official File Ordinance #20-2008, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Council File Ordinance #15,583, Pending Official File Ordinance #21-2008

an ordinance appropriating the sum of **\$715,812.00** from unappropriated revenue from #018-0000-0000-3001 Fund Balance and providing for the expenditure thereof by allocating said funds to Account #018-0713-0000-4075 Bridges/Streets.

May 21, 2008. City Council on motion of Mrs. Jenkins-Husband, seconded by Mr. Thompson, having read Council File Ordinance #15,583 and now known as Pending Official file Ordinance #21-2008, does hereby adopt on Final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

By Mr. Cappabianca, Council File Ordinance #15,584, Pending Official File Ordinance #22-2008

an ordinance amending the Codified Ordinances, Part 5 (Traffic), Title Five (Stopping, Standing and Parking), Article 527 (Impounding of Vehicles) by amending Section 4 (c) (**Storage Charges**) to provide for a change of the day of accrual of storage fees to the day of the tow for vehicles towed from any location in the City.

May 21, 2008. City Council on motion of Mr. Cappabianca, Seconded by Mr. Aleksandrowicz, having read Council File Ordinance #15,584, and now known as Pending Official File Ordinance #22-20008, does hereby adopt on final Passage by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 6. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

By Mrs. Jenkins-Husband, Council File Ordinance #15,585

an ordinance appropriating the sum of \$150,000.00 from unappropriated and anticipated revenue to Account #3929- Operating Transfer - Erie Insurance Exchange BUDAG and providing for the expenditure thereof by allocating said funds to Account #314-1314-2000-4402 Bayfront East Side Taskforce-UDAG Renovation Project.

May 21, 2008. City Council on motion of Mrs. Jenkins-Husband, Seconded by Mr. Thompson, having read Council File Ordinance #15,585, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

By Mr. Cappabianca, Council File Ordinance #15,586

An ordinance appropriating the sum of **\$71,000.00** from unappropriated and anticipated revenue from Account #267-0613-2008-3336 Project Safe Neighborhood and providing for the expenditure thereof by allocating said sum to various #267-0613-2008-40xx accounts.

(Funds will be used for overtime for the department's ATF Task Force and for additional saturation patrols. Funds will also cover the expenses and equipment for several program promotions to include: Neighborhood Youth Summits, Summer Basketball League, Family Fun Nights/Community Movie Nights, Youth Community Newsletter and a Community Lending Library. Fund will also be used for software updates to the Department Mapinfo System and to purchase equipment such as computer and radios. The grant period for this award is 4/1/08 to 3/31/09. See memo submitted to Council)

May 21, 2008. City Council on motion of Mr. Cappabianca, Seconded by Mr. Aleksandrowicz, having read Council File Ordinance #15,586, does hereby adopt on First Reading by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

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

That pursuant to the provisions of Zoning Ordinance #80-2005 and a Public Hearing held on Wednesday, May 7, 2008, the City Solicitor is authorized and directed to prepare an ordinance rezoning property located at the southeast corner of West 26th and Cherry Streets from C-4 (Traditional Neighborhood Commercial and R-2 (Medium Density Residential District) to C-2 (General Commercial District) as requested by Lakeview Resale Company (owners Gerald and Carolyn Munsch), for used car sales.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

Alan Monschein
953 West Front Street, Erie, Pa. 16510
Certified Mail Re: Conditional Use Application for 931-933 West Front Street

May 13, 2008

Dear Mr. Monschein:

Enclosed herewith, please find a copy of the decision City Council rendered denying your application for conditional use with incorporated findings of fact and reasons in support of said denial.

Very truly yours,
S/ Gregory Karle, City Solicitor

**Findings of Fact and Reasons in Support of Denial of Conditional Use
Application for 931, 933 West Front Street, Erie, Pa.**

In accordance with Section 204 of the City of Erie Zoning Code and Section 913.2 of the Pennsylvania Municipalities Planning Code ("Planning Code"), Act of July 21, 1968, P. L. 805, 53 P. S. s/s 10913.2, as amended, City Council for the City of Erie hereby renders Findings of Fact and Reasons for its determination, concluding to deny the Conditional Use Application of Al Monschein to erect a two-story garage on his property locate at 931 and 933 West Front Street, Erie, Pa., zoned Waterfront Residential District.

FINDINGS

1. On or about January 5, 2008, Al Monschein ("Applicant") filed an Application with the City of Erie Zoning Office ("Office") to erect a two-story garage addition to his home at 931 and 933 West Front Street, Erie, Pa.
2. Applicant initially sought a variance from the set-back requirements set forth in Section 205 of the City of Erie Zoning Code ("Code").
3. On January 22, 2008, The City of Erie Zoning Hearing Board ("Board") convened a hearing regarding Applicant's request for a variance. The Applicant's request was denied and orally conveyed to him at the hearing. A written decision followed and was sent by the Board secretary to Applicant on March 7, 2008.
4. On or about January 24, 2008, Applicant submitted to the Office new building plans, which complied with all express zoning requirements.
5. In compliance with Section 306 of the Code, Applicant's plan was submitted to the City's Design Review Committee ("Committee") for consideration.
6. On February 6, 2008, the Committee unanimously approved the plan.
7. On February 19, 2008, Applicant's Application was considered by the City of Erie Planning Commission ("Commission") and was approved that same date.
8. On April 16, 2008, Erie City Council ("Council") convened a public hearing in accordance with Section 306 of the Code to take public comment for and against the Application. After the public comment portion of the hearing, the Secretary of the Commission advised Council that the Commission recommended approval of the Application.
9. On May 7, 2008, Council, at its regularly scheduled meeting, considered the Application and denied it by a vote of 4 to 2.

REASONS FOR DENIAL

In support of their decision to deny the Application on May 7, 2008, Council expressed a number of concerns, which led it to conclude that approval of a Conditional Use Application would be contrary to Sections 204.22 and 306 of the Code and Section 204 of the Code as it incorporates Section 913 of the Planning Code in the following respects:

1. At least one Council person believed that if the Application were granted, there was potential for an altered use of the property from residential to commercial.
2. Council was concerned with the current state of a sewerage septic system on the property which could leach sewage into the soil and cause bank erosion to the bluff upon where the property is located;
3. Council expressed concern with the height of the proposed structure because, although it complied with the express Code height requirements, the neighbors felt it would obstruct their view of the waterfront if built according to the plan;
4. Council took into consideration the concerns of some neighbors that the project would not be beneficial to the neighborhood.

Any appeal from the decision rendered by City Council shall be in compliance with Section 1002-A of the Pennsylvania Municipalities Planning Code, 53 P. S. s/s 11002-A.

Date of Decision: May 13, 2008

S/ Gregory A. Karle, Esq.

May 21, 2008. City Council receive and enter in the minutes for information.

By Mrs. Jenkins-Husband, Seconded by Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Schember, Thompson and Jones,
Resolved, by the Council of the City of Erie, That

WHEREAS, the City Council of the City of Erie wishes to pay special tribute to the Northwest Pennsylvania Collegiate Academy High School Academic Sports League Team, upon winning the Pennsylvania State Championship again this year which placed them in the National Championship of the United States Academic Decathlon in California, and

WHEREAS, the Northwest Pennsylvania Collegiate Academy took third place in Division II and earned the bronze medal in national competition, earned several individual honors while competing against about 350 students from 41 states in 10 subjects, so

THEREFORE, BE IT RESOLVED, by the Council of the City of Erie that this commendation is hereby presented to the Northwest Pennsylvania Collegiate Academy Academic Sports League Team along with our sincere congratulations and best wishes for continued success as they pursue academic excellence at the university level.

May 21, 2008. City council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

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

That the City Solicitor is authorized and directed to draft the following amendments to the Urban Forest Ordinance regarding tree damage penalties:

(e) Fees

An Administration fee of Fifty Dollars (\$50.00) shall be collected for every tree removal application upon the approval from the City Arborist. This fee may be waived in the case of hazardous tree removals as determined by the City Arborist.

165.15 Penalty

Whoever violates any provisions of this article or any rules and regulations of the Committee and/or the City Arborist, or fails to comply with any order of the Committee and/or the City Arborist issued in accordance with the terms hereof, within the period specified, shall be fined not less than five hundred dollars (\$500.00) for small growing tree species, one thousand dollars (\$1,000.00) for medium growing tree species and not more than fifteen hundred dollars (\$1,500.00) for large growing tree species as determined by the accepted mature height of the species in addition to the appraised value of the particular tree in question as determined by the Landscapers Appraisers Standard Protocol and in addition to a tree replacement fee of three hundred and fifty dollars (\$350.00) for each and ever offense, together with costs, and in default of payment thereof, imprisoned not more than thirty days. Each failure to obtain a permit or to comply with any of the requirements of this article and each and every day which such violation persist shall constitute a separate offense.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

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

That pursuant to the recommendation submitted by the City Solicitor, and the City Treasurer, requesting the authorization to remove interests and costs of a paving lien on property known as **1804 East 7th Street**, Index #14-011-0100 12300 (01) (02) owned by Patricia B. and Donald G. Brewer be approved by City Council in the total amount of \$3,392.20 (owners will pay lien principle and costs totaling \$1,937.54).

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

**ERIE MUNICIPAL AIRPORT AUTHORITY
Management's Discussion and Analysis**

This Management Discussion and Analysis (MD&A) of the Erie International Airport Tom Ridge Field provides an introduction to the major activities affecting the operations of the airport and an introduction and overview to the financial performance and statements of the Erie Municipal Airport Authority (Authority) for the years ended December 31, 2007 and 2006. The information contained in the MD&A should be considered in conjunction with a reading of the basic financial statements.

Following this MD&A are the basic financial statements of the Authority together with notes thereto which are essential to a full understanding of the data contained in the financial statements.

Airport Activities and Highlights

As of December 31, 2007, the Airport was served by three (3) major airline brands, US Airway Express offered service to Philadelphia. Northwest AirlinK provided service to Detroit, and Continental Connection flew passengers to Cleveland. These three (3) airlines offered a combined average of twelve (12) daily departures, of which seven (7) were regional jet aircraft 2007 annual enplanements declined eleven point four percent (-11.4%) from 2006. Throughout all of 2007 US Airways worked to implement their post-bankruptcy merger with America West Airlines. Both Delta and Northwest emerged from bankruptcy protection in the second quarter. In the second half of 2007 Delta discontinued service to Atlanta and US Airways announced that all service to Pittsburgh would end in January 2008. Coinciding with the September closing of the Delta station, Continental elected to assume the lease for the former Delta office and ticket counter space and open their own station staffed with Continental employees. High lights for 2007 included the Northwest upgrade of two turbo-prop flights to regional jets in August and the announced phased upgrade of the entire Continental schedule from 19 seat to 37 seat planes by February 2008.

Enplanement Data

2007 - 142,785	2005 - 187,848	2003 - 140,334
2006 - 161,083	2004 - 177,037	2002 - 132,339

US Airways market share, Erie's historical market share leader, declined steadily during 2007, while Northwest and Continental market share increased. For the full year, Northwest surpassed US Airways by 5.3% to become the Erie market share leader for the first time capacity and flight frequency reductions at US Airways resulted in a decline of three (3.4) percent market share points to a total of thirty-four (34.3%) in 2007. Northwest led all airlines with thirty-nine (39.6)) of the local market. Continental ended the year in third place with thirteen (13.2%) percent. Delta market share dropped to eleven (11.7%) percent of the Erie market, despite ceasing all operations September 5, 2007.

German Partnership

In 2007, the Airport Authority was notified by its partner in the Germany Project, Erie Aviation, Inc., that it was formally withdrawing from the project. Based on this announcement, the Airport Authority also announced its decision to cease all activity on the Germany Project. The Germany Project proposed to develop a former air base (Cottbus-Drewitz) located on the eastern border of Germany into a multi-modal distribution and fulfillment center capable of handling road, rail and air cargo.

Runway Extension

The proposed 1920 foot runway extension continues to be the Airport Authority's highest priority capital improvement project. The project has three major components, a 920 foot safety portion, a 1,000 foot capacity portion, and a rehabilitation of the existing runway surface. The project will establish standard safety areas at both ends of the airports primary runway, eliminate current airline operational restrictions and permit larger and/or more fully loaded aircraft to use the runway. Additionally, with the full extension, longer state lengths from the airport can be achieved. The projects Finding of No Significant Impact - Record of Decision (FONSI-ROD) was issued in December 2005. 2006 saw efforts to begin initial design and to develop a land acquisition strategy. Throughout 2007, efforts were focused on obtaining the necessary local financial commitment and the start of Zone 1 residential and vacant lot property acquisitions in December. The project plan of finance is expected to be approved in 2008, with construction to begin 2009. The project is forecasted to be completed in 2013. A new project cost estimate was completed in 2007. The \$67.2 million cost estimate in 2007 dollars equates to an \$80.3 million fully inflated total project cost when built over the upcoming 5 year span.

Financial Highlights

The Authority's net assets increased \$1,849.840 in 2007. Total capital contributions from Federal and State grants equaled \$2,741,619 and \$1,138,856 in 2007 and 2006, respectively. The Authority's loss from operations in 2007 equaled \$938,227 compared to a loss of \$1,107,627 in 2006. Depreciation expense was \$1,760,279 in 2007 and \$1,851,739 in 2006. Operating revenues increased from \$4,169,346 in 2006 to \$4,245,339 in 2007, due in large part to increased rental car consumer finance charge (CF) fees. Total operating expenses decreased from \$5,276,973 in 2006 to \$5,183,566 in 2007, due to reduction of advertising expense, recover of bad debt and elimination of an air show.

On November 15, 2007, the Federal Aviation Administration, published a letter reinstating the Authority's Letter of Credit (LOC) for Federal Fiscal Year 2007 grants.

NOTE: THE ABOVE NOTATIONS ARE EXCERPTS FROM THE TEXT OF THE FINANCIAL STATEMENTS. THE COMPLETE TEXT IS INCLUDED IN THE ORIGINAL ON FILE IN THE OFFICE OF ACCOUNTS, FINANCE & BUDGET.

By Mrs. Jenkins-Husband, Seconded by Mr. Schember, Resolved, etc.,
That the Financial Statements of the **Erie Municipal Airport Authority** as of December 31, 2006 and 2007 as compiled by Malin, Bergquist and Company, LLP are hereby received by City Council and ordered placed on file in the Office of Accounts, Finance and Budget.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

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

That the proper City officials are hereby authorized and directed to execute an Easement Agreement between the city of Erie and **Michael D. Fullerton**, owner of 502 West 18th Street, Index No. (16) 3026-100, in compliance with the attached City Engineer's metes and bounds description locating an accessible ramp in the Walnut Street right-of-way.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

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

That the proper City officials are hereby authorized and directed to execute an Easement Agreement between the City of Erie and **Liberty Iron & Metal, LLC**, 1515 East Avenue in compliance with the attached City Engineer's metes and bounds description locating two (2) fences with two (2) sliding gates in the East Avenue right-of-way at the south end of the McBride Viaduct.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

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

That the proper City officials are authorized to enter into an agreement with the School District of the City of Erie to convey the property located in the vicinity of East 19th Street, being bounded by East 19th, East 20th, German and Holland Streets, being part of parcel No. (18) 5008-100, consisting of 1.708 acres, for the purpose of constructing a building for the preparation of meals for the school district's elementary school students. The transfer is without consideration.

May 21, 2008. City Council adopt by yeas Council Member Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

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

That the Mayor and City Controller are authorized and directed to issue a purchase order to David Milano Construction, 1827 West 26th Street, Erie, Pa., for performing repair services for the Bureau of Sewers as follows:

550 East 19th Street; McBride Viaduct; City Hall, 505 East 10th Street; 815 Cascade Street; 229 Shenley Drive; 216 Chestnut Street; 5th & Wallace Street; 18th & Peach Streets and 203 Liberty Street,

for the total sum of \$24,504.76 (Material costs Only) for the Wastewater Treatment Plant.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember Thompson and Jones 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

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

That the Mayor and City Controller are authorized and directed to enter into a contract between the City of Erie and the **American Red Cross**, 4961 Pittsburgh, Avenue, Erie, Pa., for the Summer Learn to Swim Recreation Program in the amount of \$74,000.00.

Be It Further Resolved, that the City Council does hereby ratify and confirm the said transaction which is to be charged against Parks General Fund Account #002-0725-0000-4552 for \$34,000 and funding from Erie School District for \$40,000 to be charged against Grant Account #259-1219-0000-4552.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

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

That the City Purchasing Agent is authorized and directed to issue purchase orders 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. **General Exterminating**, 5526 Peach Street, Erie, Pa., for monthly extermination services at City firehouses from May through October of 2008 for the Bureau of Fire for the sum of \$2,184.00.
2. **NETZSCH**, 119 Pickering Way, Exton, Pa., for a Progressive Cavity Pump for the Bureau of Sewers at a total cost of \$6,220.00.
3. **Buffalino Industrial Contractors**, 25069 Highway 408, Cambridge Springs, Pa., for the installation of new shafts and bearings in the East Headworks Building, for the Bureau of Sewers at a cost of \$9,950.00.
4. **Buffalino Industrial Contractors**, 25069 Highway 408 Cambridge Springs, Pa., for the installation of a skimmer beach plate in flotation tank #1, for the Bureau of Sewers, at a cost of \$9,950.00.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.
May 21, 2008. Signed by the President. Attested by the City Clerk.

WAIVE RULES

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

That the proper City officials are authorized and directed to execute an agreement between the City and the Quinn Law Firm, 2222 W. Grandview Blvd., for specialized environmental legal advice and representation regarding the investigation and possible remediation of environmental concerns at the Erie Golf Course. Said services will be provided at an hourly rate of \$215.00, not to exceed \$10,000.00. All such expenditures to be charged to Account #002-0963-0000-4041.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 6. Nays. Mr. Cappabianca. 1.
May 21, 2008. Signed by the President. Attested by the City Clerk.

Waive Rules

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

That the Mayor and other appropriate City officials are hereby authorized and directed to execute a Consultant Agreement between the City of Erie and Environmental/Remediation & Recovery, Inc., 5719 Route 6N, Edinboro, Pa. 16412, for the proposed Site Characterization Evaluation of Environmental Conditions at the Erie Golf Course Expansion Site, in a sum not to exceed \$14,643.00. To be charged to Budget Code #002-0963-0000-4041 Professional Services.

May 21, 2008. City Council adopt by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

May 21, 2008. Signed by the President. Attested by the City Clerk.

In the "Citizens to be Heard" portion of the Agenda, Randy Barnes spoke in opposition to the proposed Tire to Energy Plant and submitted the following:

MUNICIPAL CURATIVE AMENDMENT TO THE ZONING ORDINANCE

May 21, 2008

To Erie City Council:

This is to inform you that here are specific sections of the City's Zoning Ordinance that should be declared substantively invalid as enacted. Council is allowed to do so on its own accord, under Section 609.2 of the Pennsylvania Municipalities Planning Code Act of 1968, P. L. 805, No. 247 as reenacted and amended, which empowers the City to govern with the Zoning Ordinance. City Council only needs to declare such section invalid and propose to prepare a curative amendment by a formal resolution. Such a resolution should instruct the City Solicitor and the Zoning Officer to stay all proceedings regarding the declared invalid sections and to use necessary legal means to insure compliance. The process of the Curative Amendment will have begun.

It has become evident in recent months that the Tires to Energy Power Plant is an objectionable use to the adjacent property owners, many of the citizens of this City and the surrounding land owners in Erie County. As our community has become educated in the proposed use, it is apparent that there are more questions and concerns than there are answers. The list of unknowns includes the following: What is the impact of these emissions on public health? Does our fire and Police departments have the capacity and ability to handle an explosion or fire? Does the Erie County Emergency Management have a plan to handle a catastrophe? If there is a catastrophe, who will be financially responsible for cleanup or repairs? In our future development of the waterfront as a tourist attraction, will this use be a detriment to its viability? We have worked a long time to clean our waters (the Bay & the Lake), will this use send us back down the road of polluted waters? With the tons of emissions being release annually, how much additional money will property owners, businesses, schools and the city have to spend to clean their properties? As

good citizens of a regional community, should we not consider the impact of these concerns on the surrounding population? We have a natural and historical agricultural recognition as a premier region of grape growers, is this going to destroy or diminish them?

On May 9, 2008, the City's Zoning Officer issued a preliminary opinion that the Tire to Energy power plant is in compliance with the 2005 Zoning Ordinance. On May 16, 2008, the developer published a legal notice of the preliminary opinion that started the 30 day window for objections. At first glance, a power plant is listed as a Permitted Use under Section 204.20 and there appears to be no issue. However, when the entire Ordinance is examined, it does become clear that allowing the power plant as a Permitted Use is in direct conflict with several of the main objectives of the Ordinance. In viewing these conflicts, there are 2 additional Permitted Uses, Chemical Processing and Production and Asphalt Manufacturing, which need to be included in the Curative Amendment. These 3 Permitted Uses, Chemical Processing and Production, Asphalt Manufacturing and Power Plants, need to be declared substantively invalid as Permitted Uses, based on the contradiction with the following sections of the City's Zoning Ordinance and the following sections of the Pennsylvania Municipalities Planning Code, Act of 1968, P. L. 805, No. 247, as reenacted and amended.

2005 Zoning Ordinance:

Section 107 that refers to the PA MPC "The purposes and provisions of this Ordinance are those as set forth by Sections 703, 603.1 and 604 of the "Pennsylvania Municipalities Planning Code"

Section 108.10 Statement of Objectives "... so developed land in Erie can exist in a compatible and harmonious way."

Section 108.30 Statement of Objectives "..... to preserve, protect, and improve residential neighborhoods"

Section 202.40 Manufacturing Districts "..... Development standards, parking specifications, and yard regulations are set forth in the Ordinance to assure manufacturing development compatible with adjacent uses..."

Section 202.42 Manufacturing Districts. "Heavy Manufacturing Districts are for a wider range of manufacturing activities under conditions and standards which protect adjacent properties from adverse or objectionable influences."

Section 204.20 which references Section 305.49 "Any other use which is not objectionable to immediate neighbors because of noise, vibration or emissions of noxious gases, fumes, or dust shall be referred to the Zoning Hearing Board for interpretation and approval."

Pennsylvania Municipalities Planning Code:

Section 604 Zoning Purposes: The provisions of zoning ordinances shall be designed:

(1) To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density or population; emergency management preparedness and operations, airports, and national defense vehicle parking and loading space, transportation, water sewerage, schools, recreational facilities; public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

(2) To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

(3) To preserve prime agriculture and farmland considering topography, soil type and classification and present use.

(4) To provide for the use of land within the municipality for residential housing of various dwelling types encompassing all basic forms of housing, including single family and two-family dwellings, and a reasonable range of multi-family dwellings in various arrangements, mobile homes and mobile home parks, provided, however that no zoning ordinance shall be deemed invalid for the failure to provide any other specific dwelling type.

(5) To accommodate reasonable overall community growth, including population and employment growth and opportunities for development of a variety of residential dwelling types and non-residential uses.

May 21, 2008. City Council receive and enter in the minutes.

May 21, 2008. City Council on motion of Mr. Thompson, Seconded by Mr. Schember, adjourned at 9:55 p.m. by yeas Council Members Aleksandrowicz, Cappabianca, Horan-Kunco, Jenkins-Husband, Schember, Thompson and Jones. 7. Nays. 0.

Attest:

President of City Council

City Clerk