

**MINUTES
PIQUA CITY COMMISSION
JANUARY 19, 2010
7:30 P.M.**

Piqua City Commission met at 7:30 P.M. in the Municipal Government Complex Commission Chambers located at 201 W. Water Street. Mayor Fess called the meeting to order. Also present were Commissioners Martin, Vogt, Terry, and Wilson. Absent: None.

REGULAR CITY COMMISSION MEETING

Moved by Commissioner Vogt, seconded by Commissioner Martin, that the minutes of the Regular City Commission Meeting of January 4, 2010 be approved. Voice vote, Aye: Wilson, Fess, Terry, Martin, and Vogt. Nay: None.

ORD. 1-10 (1st Reading)

An Emergency Ordinance amending Chapter 34 of the Piqua Municipal Code to permit the City to participate in Joint Purchasing programs

City Manager Enderle stated this would be used for the purchase of large items such as vehicles, road salt, and plant chemicals, but not on the everyday commodities such as paper and supplies. These purchases would be done through a cooperative group, which would allow the city to get better pricing.

There was discussion on the amount of chemicals the city has on hand at this time, and if it would be possible to wait and give the ordinance another reading before making a decision. It was stated there were not enough chemicals left to go through the three readings.

Mayor Fess stated if we do not go in with the cooperative at this time we would have to go out on our own for bids, and would not be able to get the lower prices we get by being a part of the cooperative. Law Director Wall stated an amendment to the Code Section allows for the joint purchasing program, which does follow all state laws, and bidding requirements, and does not circumvent any of the city laws. All this does is bid the product or supplier of the service for the city on a much larger market so the city has the benefit of a broader range of suppliers to choose from, said Ms. Wall.

Commissioner Martin asked if it would be possible to bid the products out locally. City Manager Enderle stated no, this is bid out to more national companies that supply the larger amounts required by the city. The city vehicles are usually bid out on the state bid which allows for better pricing also.

Public Comment

No one came forward to speak for or against Ordinance 1-10.

Moved by Commissioner Martin, seconded by Commissioner Vogt, that the rule requiring Ordinance No. 1-10 be read fully and distinctly on three separate days be suspended. Roll call, Aye: Martin, Terry, Fess, Wilson, and Vogt. Nay: None. Motion carried unanimously.

Moved by Commissioner Wilson, seconded by Commissioner Terry, that Ordinance No. 1-10 be adopted. Roll call, Aye: Wilson, Vogt, Martin, Terry, and Fess. Nay: None. Motion carried unanimously. Mayor Fess then declared Ordinance No. 1-10 adopted.

RES. NO. R-11-10

A Resolution appointing two members to the Community Diversity Committee

City Manager Enderle stated Resolution No. R-11-10 appoints himself and Commissioner Julia Terry to the Community Diversity Committee.

Moved by Commissioner Vogt, seconded by Commissioner Wilson, to take Resolution No. R-11-10 off the table. Voice vote, Aye: Martin, Fess, Wilson, Vogt, and Terry. Nay: None. Motion carried unanimously.

Public Comment

No one came forward to speak for or against Resolution No. R-11-10.

Moved by Commissioner Wilson, seconded by Commissioner Vogt, to adopt Resolution No. R-11-10. Voice vote, Aye: Martin, Vogt, Terry, Wilson, and Fess. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-11-10 adopted.

RES. No. R-12-10

A Resolution appointing a member to the Board of Zoning Appeals as the Planning Commissioner Representative

City Manager Enderle stated Resolution No. R-12-10 appoints Mark Spoltman to the Board of Zoning Appeals as the Planning Commission Representative.

Public Comment

No one came forward to speak for or against Resolution No. R-12-10.

Moved by Commissioner Terry, seconded by Commissioner Martin, that Resolution No. R-12-10 be adopted. Voice vote, Aye: Fess, Terry, Wilson, Vogt, and Martin, Nay: None. Motion carried unanimously. Mayor Fess declared Resolution No. R-12-10 adopted.

RES. NO. R-13-10

A Resolution authorizing the City of Piqua to participate in the State of Ohio Cooperative Purchasing program

City Manager Enderle stated by being a member of the State of Ohio Cooperative Purchasing Program it allows the city to participate in the state contracts for the purchase of supplies, services, equipment, and other materials.

Commissioner Martin asked if there is a cost or membership fee associated with this program. City Manager Enderle stated there is no cost or membership fee at this time.

Public Comment

No one came forward to speak for or against Resolution No. R-13-10 at this time.

Moved by Commissioner Martin, seconded by Commissioner Vogt, that Resolution No. R-13-10 be adopted. Voice vote, Aye: Terry, Wilson, Martin, Vogt, and Fess. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-13-10 adopted.

RES. No. R-14-10

A Resolution rescinding Resolution No. R-107-09 and establishing a new Piqua City Commission 2010 calendar of meetings

City Manager Enderle stated there has been discussion over changing the day of the Commission meeting for some time. The first City Commission Meeting of the year is set by the Piqua Charter and must be held on the first Monday of the new year. The Commissioners stated they would like to

change the day from the first and third Monday of each month, to the first and third Tuesday of each month after the first meeting is held on Monday of the new year, said Mr. Enderle.

Commissioner Wilson noted an incorrect date on "Exhibit A" and moved to amend "Exhibit A". This was seconded by Commissioner Martin, to amend "Exhibit A" the Commission calendar, to change the date of the Commission meetings in June, to delete the dates of June 8 and June 22, and insert the dates of June 1 and June 15, 2010. Voice vote, Aye: Martin, Terry, Wilson, Fess, and Vogt. Nay: None. Motion carried unanimously.

Commissioner Wilson asked if the Commission packets would still be available on Friday before the Commission Meeting. City Manager Enderle stated the packets would still be available on Friday, but in the future would like to have the packets ready by Wednesday or Thursday if possible.

Public Comment

No one came forward to speak for or against Resolution No. R-14-10.

Commissioner Vogt explained by moving the Commission Meetings to Tuesday it allows the Commissioners the opportunity to take extended weekends. Also by moving the Commission meetings to Tuesday the meeting days would not have to be changed when Monday legal holidays occur each year, said Commissioner Vogt. All of the Commissioners were in agreement with the changing of the day.

Mayor Fess stated the Commissioners discussed the change of the day for the Commission meetings, and City Manager Enderle checked the schedules of other various committees to make sure there were no conflicts. This seems to be a good idea stated Mayor Fess.

Moved by Commissioner Vogt, seconded by Commissioner Martin, that Resolution No. R-14-10 be adopted, as amended. Voice vote, Aye: Wilson, Fess, Vogt, Martin, and Terry. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-14-10 adopted, as amended.

RES. NO. R-15-10

A Resolution authorizing purchase orders to Municipal Water Solutions, Standard Purification, Chemrite, Inc. Huron Lime, Chemical Services, Bonded Chemicals, and the City of Dayton for the 2010 purchase of various Water Treatment Chemicals

City Manager Enderle gave a brief explanation for the purchase of the various chemicals that are required by the city, and where they can be purchased.

Public Comment

No one came forward to speak for or against Resolution No. R-15-10.

Moved by Commissioner Vogt, seconded by Commissioner Terry, that Resolution No. R-15-10 be adopted. Voice vote, Aye: Martin, Terry, Fess, Wilson, and Vogt. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-15-10 adopted.

RES. NO. R-16-10

A Resolution authorizing application to the Ohio Department of Natural Resources for funding through the Recreational Trails Program for the repairs to the Linear Park

City Manager Enderle stated the Engineering Department would be applying for the funding through the Ohio Department of Natural Resources Recreational Trails Program. The Funds will be used for bank stabilization along the Great Miami River near the River's Edge section of the Linear Park. The estimated overall cost of the stabilization will be approximately \$125,000. The grant will provide 80% reimbursement of these costs, and the remaining 20% will budgeted in the 2011 budget. The 20% will

be accounted for by using city labor as “in-kind” labor to fulfill the local match, said City Manager Enderle.

Mayor Fess stated the bank is washing out in several areas along the River, and asked if there is anything that can be done to stop or slow down the erosion along the riverbanks.

City Engineer Amy Havenar explained what is being done to help the erosion of the riverbanks at this time.

Public Comment

No one came forward to speak for or against Resolution No. R-16-10.

Moved by Commissioner Terry, seconded by Commissioner Wilson, that Resolution No. R-16-10 be adopted. Voice vote, Aye: Fess, Vogt, Martin, Terry and Wilson. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-16-10 adopted.

RES. NO. R-17-10

A Resolution authorizing the submittal of applications for the jobs for Main Street Act of 2010 funds through the Miami Valley Regional Planning Commission

City Manager Enderle stated this resolution authorizes the application for the Jobs for Main Street Act for 2010. This is the anticipated continuation of the 2009 Stimulus Program for the streets, and this year they are asking for resolutions and recommendations from cities on the high priority streets requested. Upon submittal of the applications to MVRPC all of the projects in the region will be ranked and programmed according to the applicable scoring criteria. Mr. Enderle went over the list of streets that they are considering and what is involved in requesting assistance for these streets.

Mayor Fess asked if the Stimulus dollars were one hundred percent guaranteed. Mr. Enderle stated no, the funds have not been allocated yet. Commissioner Terry stated we need to be prepared to act on this quickly, and do a little preparation work ahead of time. But we won't get the grants unless we apply for them, said Commissioner Terry.

Public Comment

No one came forward to speak for or against Ordinance No. R-17-10.

Moved by Commissioner Terry, seconded by Commissioner Vogt, that Resolution No. R-17-10 be adopted. Voice vote, Aye: Wilson, Fess, Vogt, Martin, and Terry. Nay: None. Motion carried unanimously. Mayor Fess then declared Resolution No. R-17-10 adopted.

PUBLIC COMMENT

A Tim Elsass, Madison Avenue, came forward and voiced his concern over the City of Piqua Utility Office policy on disconnects and late fees, and the requirement of a deposit or a co-signer on an utility account if the customer is late or misses a set number of payments. Mr. Elsass stated he previously called the City Manager and he did not return his call. City Manager Enderle stated he did return a telephone call to Mr. Elsass, and stated he also asked the Utility Department Supervisor Robin Hungerford to contact him regarding his situation. Mr. Enderle asked Finance Director Cynthia Holtzapple to explain the Utility Office Policy at this time. Ms. Holtzapple explained the policy and indicated all Mr. Elsass would need to do to resolve the situation is to pay the deposit or have someone come in and co-sign for him. Mayor Fess stated she understands it is hard for him at this time, and asked Mr. Elsass to speak with the Commissioners after the meeting.

Deron Yingst, Adams Street, voiced his concern over the City not making the keys available to him for a property he owns. Mayor Fess stated Mr. Yingst should have his attorney contact the Law Director to go over the issues, and further stated there have been specific reasons for not giving the keys to him at this time. It would be better to settle this dispute outside the Commission meeting, said Mayor Fess. This is a legal matter and until Mr. Yingst complies with the agreement in place we cannot return the keys, said City Manager Enderle.

Commissioner Vogt stated the YWCA hosted the Martin Luther King Celebration on Monday, January 18, 2010 and it was a wonderful program. Joe Taylor, a Piqua native came up from Dayton to play the piano and brought his choir from his church to participate in the celebration. Commissioner Vogt congratulated the YWCA on the celebration of the life of Martin Luther King a noteworthy person who has changed the lives of many citizens in this country.

Commissioner Martin asked if the Street Department was able to patch potholes in the cold temperatures. City Manager Enderle stated yes, they can use cold patch to repair the potholes in cold weather. Commissioner Martin stated there is a large pothole on Garbry Road between Looney Road and Kienle Drive, and asked if someone would look into it.

Commissioner Wilson stated he attend the Martin Luther King Celebration and thoroughly enjoyed it.

Commissioner Wilson inquired if it would be possible to change the Charter to state the City Commission Meetings would be held on the first Tuesday of the new year so as not to have to change the first meeting of the year from Monday as stated now in the Charter. There are other changes that are going to be put on the ballot and this could be included with them, said Commissioner Wilson.

Moved by Commissioner Wilson, seconded by Commissioner Martin, to propose a change to the Charter to hold the first meeting of the Piqua City Commission on the first Tuesday instead of the first Monday of the New Year, and to place it on the ballot. Voice vote: Aye, Martin, Terry, Fess, Vogt, and Wilson. Nay: None. All Commissioners were in agreement to put the change of the Piqua City Commission Meeting day from Monday to Tuesday on the ballot.

Commissioner Terry stated she enjoyed the Martin Luther King Celebration program at the YWCA on Monday, January 18, 2010.

Mayor Fess stated the Martin Luther King Celebration was a wonderful event with outstanding music, and thanked all who participated in the program.

Mayor Fess asked what the status on the Hospital Project.

City Manager Enderle gave a brief update on the progress of the project so far, and stated the current owner is unable to complete the project at this time. The City of Piqua has explored State and Federal grants, but these grants would only be available to the City of Piqua not a private owner. If the City should receive the grants, the owner of the property would give the City of Piqua the property to continue with the cleanup. This could be a two to two-half year project before the cleanup is completed.

Mayor Fess stated the City would only complete the cleanup if the City receives the grants and the property free and clear, which then there would be no cost to the City. City Manager Enderle stated yes.

Mayor Fess inquired as to the status of City owned properties on Ash Street.

City Manager Enderle stated we finally have the environmental clearance we need, but the asbestos still needs to be removed, and the plan is to tear down the properties ourselves.

City Engineer Amy Havenar stated they received the asbestos reports back from the consultant last week, and they indicated that all the properties we plan to take down have asbestos in them. We will

have to hire a separate contractor to come in and remove the asbestos material prior to the city's demolition, and this could possibly take one to two months, said Ms. Havenar.

City Manager Enderle reminded the Commissioners of the City Commission Work Sessions to be held on Wednesday, January 27th at 11:00 A.M. and Saturday, January 30th at 10:00 A.M. in the Commission Chambers. City Manager Enderle reminded the Commissioners to get their questionnaires back in as soon as possible so the information can be processed.

Mayor Fess reminded citizens to please contact their Commissioners with their thoughts and ideas about goals or priorities they would like to see happen in the City. Please write your comments down and send them to the Commissioners so when we go into the meetings we have some idea of what the community would like to see happen, said Mayor Fess.

Moved by Commissioner Vogt, seconded by Commissioner Martin, to adjourn from the Piqua City Commission Meeting at 8:30 P.M. Voice vote, Aye: Vogt, Martin, Terry, Wilson, and Fess. Nay: None. Motion carried unanimously.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____

REBECCA J. COOL
CLERK OF COMMISSION

ORDINANCE NO. 2-10

AN ORDINANCE AMENDING SECTIONS 154.005 AND 154.129 OF THE CITY OF PIQUA CODE OF ORDINANCES TO ESTABLISH DEFINITIONS AND STANDARDS APPLICABLE TO SWIMMING POOLS, SPAS, AND HOT TUBS

WHEREAS, the City of Piqua Charter Section 154.141 directs the Commission to take action on zoning amendment recommendations received from the Planning Commission at their next regularly scheduled meeting; and

WHEREAS, the Planning Commission has studied a proposed amendment to the zoning code amending section 154.005 and section 154.129 of the City of Piqua Code of Ordinances to establish definitions and standards applicable to swimming pools, spas, and hot tubs; and

WHEREAS, the Planning Commission has conducted a public hearing and made a report of its findings; and

WHEREAS, the Planning Commission has submitted a recommendation to the City Commission;

NOW THEREFORE, BE IT ORDAINED BY the Piqua City Commission, a majority of its members concurring that:

SECTION 1. That the City of Piqua hereby amends sections 154.005 and 154.129 of the City of Piqua Code of Ordinances as set forth below (deleted text lined through and proposed text bold and underlined):

§ 154.005 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning.

ACCESSORY BUILDING. An open or enclosed accessory structure with a roof system supported by columns or walls.

ACCESSORY STRUCTURE. Any structure detached from the principal building on the same lot and serving a purpose incidental and subordinate to the principle building or use. See Exhibit C at the end of this section.

ACCESSORY USE. Any use of land or of a building or portion thereof serving a purpose incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

AGRICULTURE. The use of land for the purpose of raising and harvesting crops; or for raising, breeding or management of livestock, poultry or honeybees; or for dairying, truck farming, forestry, nurseries or orchards; for the noncommercial, on-farm storage or

processing of agricultural products or for any other similar agricultural or horticultural use.

ALLEY. Any dedicated public way affording a secondary means of access to abutting property and not intended for general traffic circulation.

ALTERATION. Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as altered or reconstructed.

ANIMAL GROOMING. An activity where the principal business is domestic pet hygiene, including washing, brushing, shearing and nail cutting.

ANIMAL HOSPITAL. Any building or structure used for treatment and care of injured or ailing animals administered by a Doctor of Veterinary Medicine licensed to practice in the state.

ARCHITECTURAL PROJECTION. A building facade feature that is not intended for occupancy and extends beyond the face of the exterior wall of a building.

AUTO SERVICE STATION. A place where gasoline or any other automobile engine fuel, stored only in underground tanks, kerosene or motor oil and lubricants or grease, for operation of motor vehicles, are retailed directly to the public on the premises, including the sale of minor accessories and the servicing of and minor repair of automobiles, not including storage of inoperable vehicles.

AUTOMOBILE REPAIR, PAINTING AND BODY SHOPS. The repair or maintenance of automobiles or any part thereof, including engine or transmission rebuilding or overhauls, rebuilding or reconditioning of parts, body, frame or fender straightening, painting or undercoating, and the minor repair or maintenance of automobiles or any part thereof, including the changing of oil, adding fluids, replacing wiper blades, and any other activities similar in nature to those described which can be performed by the average automobile owner in his or her own driveway, and be completed on the same calendar day as the calendar date upon which the work commenced. This shall not include the storage of any junk or abandoned vehicles as defined in § 91.01 through § 91.10 of the City of Piqua Ohio Code of Ordinances.

AUTOMOBILE WASHING FACILITIES. Area of land and/or a structure with machine or hand-operated facilities used principally for cleaning, washing, polishing, or waxing of automobiles.

AUTOMOTIVE APPEARANCE AND RUST PROTECTION SERVICES. Rust protection, paint protection (except painting), fabric protection, trim sales/installation, accessory sales and installation.

AVERAGE LOT WIDTH. The width determined by dividing the total lot area by the depth of the lot from the street right-of-way line to the furthest rear lot line. If the rear lot line and right-of- way lines are not parallel, an average depth dimension shall be used.

AWNING. An architectural projection of shelter projecting from and supported by the exterior wall of a building and composed of rigid or non-rigid materials and/or fabric on a supporting framework that may be either permanent or retractable, including such structures that are internally illuminated by fluorescent or other light sources.

BARS, TAVERNS AND NIGHTCLUBS. Establishments primarily engaged in the retail sale of drinks, such as beer, ale, wine, liquor and other alcoholic beverages for consumption on the premises. The sale of food may also be a part of the operation.

BASEMENT. That portion of a building which is partly or wholly below grade but so located that the vertical distance from the average grade to the floor is greater than the vertical distance from the average grade to the ceiling. A BASEMENT shall not be counted as a story, except as provided in the definition of story.

BED AND BREAKFAST INN. A residential structure, which is owner-occupied, that has, as a secondary use of the structure, one to five guestrooms for rent. Development standards shall be as follows.

- (1) Maximum number of guests per day shall be ten.
- (2) Only breakfast shall be served, and the kitchen shall not be remodeled into a commercial kitchen.
- (3) Only one non-illuminated sign of four square feet may be erected on the property.
- (4) Parking shall be in conformance with §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations.
- (5) Guests shall not stay longer than 15 consecutive days.
- (6) Facility shall be located in an existing structure and a structure cannot be built for this purpose.
- (7) Tandem parking is permitted, but the area shall be screened from adjacent uses.
- (8) The operator of the inn shall live on the premises or in adjacent premises.

BLOCK. Property abutting one side of a street and lying between the two nearest intersecting streets, crossing or terminating, or between the nearest street and railroad right-of-way, unsubdivided acreage, river or live stream, or between any of the foregoing and any other barrier to the continuity of development or corporate lines of the municipality.

BOARDING OR LODGING HOUSES. A building other than a hotel, not exceeding ten sleeping rooms, where, for compensation and by pre-arrangement for definite periods, meals, or lodging and meals, are provided.

BUILDING. A structure designed, intended, or used for shelter, enclosure, or protection of persons, animals, chattels, or property.

BUILDING SERVICES. Building supply and services facilities, including facilities for plumbing and heating equipment, sheet metal shops, glass repair shops and similar uses.

BUSINESS, PROFESSIONAL AND ADMINISTRATIVE OFFICES. Uses that include but are not limited to corporate offices; insurance; real estate; law; engineering; architecture; management and consulting; accounting; bookkeeping and investment; data processing services; advertising, commercial art and public relations; news syndicates; travel agencies; personnel and employment services; and detective and protective services. Development standards for professional offices in R-3 District are as follows.

(1) The building, including accessory buildings and uses, shall occupy no more than 25% of the lot area.

(2) A new building shall not exceed two stories in height.

CANOPY. A multisided overhead structure or architectural projection, including the following types:

(1) **CANOPY (ATTACHED).** A canopy with a flat or low slope roof that is supported by attachments to a building on one or more sides and either cantilevered from such building or also supported by columns at additional points. A marquee.

(2) **CANOPY (DETACHED).** A canopy with a flat or low slope roof that is supported by columns, but not enclosed by walls.

CAR WASH. See **AUTOMOBILE WASHING FACILITIES**, as defined in this section.

CARRY-OUT. A place of business where food and beverages are purchased for consumption on or off the premises. These can include photo kiosks and freestanding automatic teller machines, but do not include drive-in windows.

CEMETERIES. Land used or intended to be used for the disposition of deceased persons and dedicated for cemetery purposes, including columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of a cemetery. Cemeteries may be allowed by special use permit subject to the following conditions.

(1) Cemeteries shall be permitted only if they are adjoining or an extension of existing cemeteries and if they have access to an arterial street.

(2) All structures shall be located no closer than 25 feet away from any property line.

CHILD DAY CARE CENTER. A place in which child day care is provided, with or without compensation, for 13 or more children at any one time; or any place that is not the permanent residence of the licensee or administrator in which child day care is provided, with or without compensation, for seven to 12 children at any one time. In counting children for the purposes of this definition, any children under six years of age who are related to a licensee, administrator, or employee and who are on the premises shall be counted. Development standards for a day care center in any approved business or industrial district shall be in compliance with the minimum standards as established by the State of Ohio. When said districts abut a residential district, the development shall be subject to the screening requirements described for the given district. Development standards in any approved residential district shall be as follows.

(1) Child day care centers for seven or more children shall have a minimum lot area of 500 square feet per child.

(2) There shall be provided a minimum of 100 square feet of fenced outdoor play area per child for the maximum number of children in the play area at any one time.

(3) Access, loading and unloading requirements shall be as follows.

(a) The Public Works Director may require an on-site drop-off area be provided sufficient to accommodate automobiles for facilities.

(b) The Public Works Director may require sites adjoin and have access from an arterial or collector street.

(4) All outdoor play areas shall be enclosed by a six-foot high wall, solid wood fence, or chain link fence planted with a continuous evergreen screening.

(5) Use of outdoor play areas shall be limited to between the hours of 8:00 a.m. and 8:00 p.m.

(6) When the child day care center is the principal use, the exterior appearance shall be similar to that of the eight most proximate residential structures on the same street in regard to height, bulk, width, setback landscaping, and off-street parking visible from the street.

(7) Child day care centers shall not include overnight accommodations.

CLINIC. See MEDICAL OFFICES AND CLINICS as defined in this section.

CLUB. A building or facility owned or operated by an organization of persons for special purposes or for the promulgation of sports, arts, sciences, literature, politics, or the like, but not operated for profit.

COMMERCIAL ENTERTAINMENT, OUTDOOR. These facilities include drive-in theaters, amusement parks, fairgrounds, golf driving ranges, miniature golf courses, race tracks, skating rinks and sports arenas.

COMMERCIAL RECREATION FACILITIES, INDOOR. Include skating rinks and tennis, racquetball and handball courts and health clubs operated for profit as distinguished from public indoor recreation facilities and community recreation centers.

COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITY or GROUP HOME. A state licensed or authorized home for children or adults which is operated by the state or a political subdivision, or pursuant to a license issued by or to a contract with the state or a political subdivision. COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITIES include agency group homes for children or adults; residential homes for children or adults; residential homes for children or adolescents 18 years of age or under, dependent or neglected, who have not been adjudged delinquent, and who for various reasons cannot reside with their natural family.

COMPREHENSIVE PLAN. The long-range growth and development plan, and any amendments and supplements thereto, for the city and its environs, as approved by the City Commission.

CONSTRUCTION TRADES AND CONTRACTOR OFFICES AND SHOPS. These activities include heavy construction, building, cement, electrical, heating and air conditioning, masonry, plumbing, painting and wallpapering, roofing, glazing, but does not include salvage materials or debris.

CONVALESCENT HOME. See NURSING HOME as defined in this section.

CONVENIENCE STORE. Retail store that caters to the motoring public where the sale of food items such as hot or cold drinks, pre-packaged foods and tobacco, road maps, magazines and other publications, automotive maintenance items such as brake fluid, oil, polishes, anti-freeze and similar products and other retail items that may be readily purchased. A convenience store may also sell gasoline. This does not include drive-in or drive-through windows.

CORNER LOT. A lot abutting two or more streets at their intersection. See Exhibit B at the end of this section.

DAY CARE CENTER. See CHILD DAY CARE CENTER as defined in this section.

DEPTH OF LOT. An average horizontal distance between the front and rear lot lines. See Exhibit C at the end of this section.

DISTRICT. A portion of the incorporated area of the city within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DORMITORIES, CONVENTS AND MONASTERIES. Buildings used as group living quarters for a student body or religious order or as an accessory use to a university, boarding school, orphanage, hospital, church or other similar institutional use.

DRIVEWAY. Private access to a premises, the use of which is limited to the persons residing, employed, or otherwise authorized to use or visit the parcel on which it is located and designed to serve.

DRIVE-IN. A business establishment so developed that its retail or service character is dependent on providing a driveway approach or parking spaces for motor vehicles so as to serve patrons while in the motor vehicle, or within a building or structure on the same premises and devoted to the same purpose as the DRIVE-IN service.

DWELLING.

(1) Dwelling types shall be as follows.

(a) MULTI-FAMILY DWELLING. A building, or a portion thereof, designed exclusively for occupancy by three or more families independently of each other.

(b) ONE-FAMILY ATTACHED DWELLING (ROW OR TOWNHOUSES). One of two or more single-family residential dwellings having a common wall separating dwelling units. The building may also include an attached garage.

(c) ONE-FAMILY DETACHED DWELLING. A building designed exclusively for and occupied exclusively by one family.

(d) TWO-FAMILY DWELLING. A building designed exclusively for occupancy by two families living independently of each other.

(2) Development standards for dwellings in the B Business District and the CBD Central Business District shall be as follows.

(a) Dwellings may be permitted on the first story of a building.

(b) A portion of the first story shall be used for a non-dwelling use permitted in the district.

(c) The non-dwelling use shall not be accessory to the residential use or be a parking lot or garage.

(d) Parking requirements shall be the same as those for multi-family dwellings, except in the CBD Central Business District all or part of the parking requirements may be provided on a separate and non-adjoining lot determined by the Planning Commission to be suitable therefor and convenient thereto. Parking requirements shall not be considered provided unless they are readily available without charge to the residents of the dwelling.

(e) Prior to the granting of a special use permit, an inspection of the dwelling unit and the structure within which it is to be located shall be made by qualified personnel to determine that the dwelling unit and structure conform to all applicable fire and safety codes.

(3) Height and area requirements shall be as follows.

(a) Minimum lot area: 2,000 square feet per unit.

(b) Minimum lot frontage: None.

(c) Minimum front yard setback: None, except abutting or across the street from a Residential District, then same as Residential District front yard setback.

(d) Minimum side yard setback: 10 feet of abutting Residential District.

(e) Minimum rear yard setback: Less of 30 feet or 20% of lot depth.

(f) Maximum height: 35 feet.

DWELLING UNIT. A building, or a portion thereof, designed for occupancy of one family for residential purposes and having living, cooking, sleeping and sanitation facilities.

ELDERLY HOUSING FACILITIES. Residential developments specially designed to house retired and elderly persons, and which may include a mixture of living options, including apartments, group quarters and nursing care facilities.

ELEMENTARY, JUNIOR HIGH AND HIGH SCHOOLS. Public, private and/or religious schools including grades K through 12. Development standards shall be as follows.

(1) Parking shall be in conformance with §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations.

(2) Access shall be provided by an arterial or collector street.

(3) Side yard requirements shall be 20 feet.

(4) An educational institution shall have a minimum lot area of 20,000 square feet.

EMPLOYEE. A person who works or performs in and/or for a sexually oriented business, regardless of whether or not said person is paid a salary, wage or other compensation by the operator of said business, or any form of remuneration, tips of any kind or gratuities from the operator or customers of said business.

ERECTED. Includes the terms built or constructed, altered, or reconstructed. ERECTED also includes the moving of a building or structure onto a lot or any physical operations on the premises which are required for construction. Excavation, fill drainage, and the like shall be considered an operation of erection.

ESSENTIAL SERVICES. The erection, construction, alteration, or maintenance by public utilities or municipal departments of underground, surface, or overhead gas, electrical, telephone, telegraph, steam, fuel, or water transmission or distribution systems, collection, communication, supply, or disposal systems, including towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories in connection therewith, but not

including buildings which are necessary for the furnishing of adequate service by the utilities or municipal departments for the general health, safety, or welfare. ESSENTIAL SERVICES shall be allowed in the district insofar as permitted, authorized, or regulated by law or other ordinance. Buildings required in conjunction with an ESSENTIAL SERVICE may be permitted in the district when approved by the Planning Commission. In granting this permission the Planning Commission shall take into consideration the location, size, use, and effect the building will have on adjacent land and buildings.

ESTABLISHED includes any of the following:

- (1) The opening or commencement of any sexually oriented business as a new business;
- (2) The conversion of an existing business, whether or not a sexually oriented business, to any of the sexually oriented businesses defined in this chapter;
- (3) The addition of any of the sexually oriented businesses defined in this chapter to any other existing sexually oriented business; or
- (4) The relocation of any such sexually oriented business.

FACADE. See BUILDING ELEVATION.

FAMILY. An individual or group of two or more persons related by blood, marriage or adoption, together with foster children and servants of the principal occupants, with not more than one additional unrelated person who are domiciled together as a single domestic housekeeping unit in a dwelling unit; or a collective number of individuals domiciled together in one dwelling unit, whose relationship is of a continuing non-transient domestic character, and who are cooking and living as a single nonprofit housekeeping unit. This definition shall not include any society, club, fraternity, sorority, association, lodge, coterie, organization, or group of students or other individuals whose domestic relationship is of a transitory or seasonal nature, or for an anticipated limited duration of a school term or terms, or other similar determinable period.

FENCE. Any structure, other than part of a building, of sufficient strength and dimension to prevent straying from within or intrusion from without.

FINANCIAL ESTABLISHMENTS. These facilities include banks, savings and loan associations, credit unions, finance companies, loan offices and safe deposit companies.

FLOODPLAIN. Those lands designated by the U.S. Department of Housing and Urban Development and Miami Conservancy District which are subject to a 1% or greater chance of flooding in any given year.

FLOOR AREA. For the purpose of computing parking, that area used for or intended for the sale of merchandise or services, or the use to serve patrons, clients, or customers. Floor area which is used or intended to be used principally for the storage of processing of merchandise, such as hallways, stairways, and elevator shafts, or for utilities or sanitary facilities shall be excluded from this computation of FLOOR AREA.

Measurements of usable FLOOR AREA shall be the sum of the horizontal areas of the several floors or the building measured from the interior faces of exterior walls.

FLOOR AREA, GROSS. See GROSS FLOOR AREA as defined in this section.

FRATERNAL AND SOCIAL ASSOCIATION FACILITY. A meeting place for people formally organized for a common interest, usually public service, cultural, religious or entertainment, with regular meetings, rituals and formal, written membership requirements, and where food and alcohol may be served.

FRONT LOT LINE. See LOT LINE as defined in this section.

FRONT SETBACK LINE. A line formed by the face of the building. For the purposes of this chapter, a FRONT SETBACK LINE is the same as a building line. See Exhibit C at the end of this section.

FRONT YARD. See YARD as defined in this section.

FUNERAL HOME. A building or part thereof used for human funeral services. The building may contain space and facilities for embalming, refrigeration, cremation, and the performance of other services used in preparation of the dead for burial; the performance of autopsies and other surgical procedures; the storage of caskets, funeral urns, and other related funeral supplies; and the storage of funeral vehicles. Where a funeral home is permitted, a funeral chapel shall also be permitted.

GARAGE, PRIVATE. An accessory building or portion of a main building with a connecting driveway providing access to or from a street or alley improvement, designed or used for the storage or minor repair or maintenance of motor driven vehicles, boats, and similar vehicles or other personal property owned by, licensed to, or used by the owner of the lot or the occupants of the building to which it is accessory.

GARAGE SALE, YARD SALE, AND PORCH SALE. A temporary accessory use of a lot or premises for the sale of new or used goods and/or secondhand materials.

GARAGE, SERVICE. Any premises used for the storage or care of motor-driven vehicles, or where any vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

GAS STATION. See AUTO SERVICE STATION as defined in this section.

GENERAL MERCHANDISE STORES. These facilities include department stores, variety stores, discount stores, grocery stores and drug stores.

GRADE or GROUND LEVEL. The average of the finished GROUND LEVEL at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the above GROUND LEVEL shall be measured at the sidewalk, unless otherwise defined herein.

GROSS FLOOR AREA. The sum of the gross horizontal areas of all the several floors of a building or buildings, including interior balconies and mezzanines. All horizontal measurements are to be made between the exterior faces of walls including the walls of roofed porches having more than one wall. The GROSS FLOOR AREA of a building shall include the floor area of accessory buildings, on the same lot, measured the same way.

GROUP HOME. See COMMUNITY-ORIENTED RESIDENTIAL SOCIAL SERVICE FACILITY or GROUP HOME as defined in this section.

HEAVY EQUIPMENT RENTAL, SALES, SERVICE AND STORAGE. These facilities include rental, sales, service and storage of semi-tractor trailers, agricultural equipment, and construction equipment.

HEAVY INDUSTRY. A use engaged in the basic processing of and manufacturing of materials or products predominately from extracted or raw materials, or a use engaged in storage of, or manufacturing processes that produce commonly recognized offensive conditions.

HOME FURNISHINGS, HOME IMPROVEMENTS AND MISCELLANEOUS MATERIALS AND EQUIPMENT STORES. These facilities include appliance and appliance sales and repair stores; auto accessory stores with no on-premises installation; bicycle shops; business machine shops; carpeting and floor covering stores; curtain and drapery stores; fabric stores; furniture stores; hardware stores; lawnmower and snow blower sales; music, record and musical instrument; paint, glass and wallpaper stores; sporting goods stores; stereo, radio and television stores. This category does not include lumberyards or building materials sales.

HOME OCCUPATION. A lawful activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling provided the development standards are adhered to as follows.

(1) No person other than members of the family residing on the premises shall be engaged in the occupation.

(2) The use of the dwelling unit for the HOME OCCUPATION shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and not more than 25% of the floor area of the dwelling unit shall be used in the conduct of the HOME OCCUPATION.

(3) There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of the home occupation other than one sign, not exceeding one foot in area, non-illuminated and mounted flat against the wall of the principal building.

(4) There shall be no alteration or construction except that which is customarily found in a dwelling.

(5) There shall be no home occupation conducted in any accessory building.

(6) No traffic shall be generated by a home occupation in greater volumes than would normally be expected in a residential neighborhood.

(7) No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable to the normal senses off the lot, if the occupation is conducted in a single-family residence, or outside the dwelling if conducted in other than a single-family residence. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.

HOSPITAL. An institution licensed by the State Department of Health and providing health services primarily for in-patient medical or surgical care of the sick or injured, and including related facilities such as laboratories, out-patient departments, training facilities, central service facilities and staff offices which are an integral part of the facility, provided the institution is operated by, or treatment is given under direct supervision of a licensed physician. Development standards shall be as follows.

(1) Parking requirements in addition to those stated in §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations, may be imposed. Traffic may be required to discharge onto an arterial or collector street.

(2) Whenever a facility abuts a Residential District, the yard requirements shall be ten feet greater than those of the abutting Residential District, plus an additional one foot for each foot of building height over 20 feet.

(3) Buildings shall not occupy over 35% of the total land area upon which they are located.

HOTEL. A building occupied as the temporary abode of individuals who are lodged with or without meals, in which there are ten or more sleeping rooms, and which shall have no provision made for cooking in any individual room or apartment. A HOTEL may include a restaurant or cocktail lounge, public banquet halls, ballrooms, meeting rooms, or other commercial uses.

INDEPENDENT CONTRACTOR. A person who contracts with a sexually oriented business establishment to provide services on behalf of the sexually oriented business to the patrons of such business whether or not the individual receives any remuneration, gratuity or tips of any kind, or pays the owner or operator for the right to perform or entertain in the sexually oriented business. The intention of this definition is to exclude those persons who are not employees and who are not reasonably expected to have contact with customers or patrons of the sexually oriented business, including, but not limited to, persons on the premises of a sexually oriented business performing repair or maintenance services or delivering goods to the premises of a sexually oriented business.

INDUSTRIAL CRAFT SHOPS. These facilities include carpentry, cabinet making and furniture making, refinishing and upholstering.

INTERIOR LOT. Any lot other than a corner lot. See Exhibit B at the end of this section.

JUNK YARD or SALVAGE YARD. An open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packaged, disassembled, or handled, including but not limited to scrap iron and other metals, paper, rags, rubber tires, and bottles. A JUNK YARD includes automobile wrecking yards and includes any area of more than 200 square feet for storage, keeping, or abandonment of junk, but does not include uses established entirely within enclosed buildings. An open area containing two or more inoperative or unlicensed vehicles shall be construed to be a JUNK YARD.

KENNEL. Any lot or premises used for the sale, boarding, or breeding of dogs, cats, or other household pets. KENNEL shall also mean the keeping on or in any lot or building of three or more dogs, cats, or other household pets which are over the age of six months.

LANDSCAPING. The design and arrangement of natural scenery, including trees, flowers, shrubs, and grass, or of non-living materials or objects, over a tract of land, taking into account the use to which the land is to be put.

LAUNDRIES AND DRY CLEANING PLANTS. A building or premises that serves more than one laundry and/or dry cleaning outlet, including linen supply and diaper services.

LIBRARY. A public or private repository for literary and artistic materials, such as books, periodicals, newspapers, pamphlets, and prints, kept for reading or reference. Development standards shall be as follows.

- (1) Parking shall be in conformance with §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations.
- (2) Access shall be provided by an arterial or collector street.
- (3) Side yard requirements shall be 20 feet.
- (4) The minimum lot area shall be 20,000 square feet.

LIGHT MANUFACTURING. A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of those products, but excluding basic industrial processing.

LOADING SPACE. An off-street space on the same lot with a building or group of buildings, used for the temporary parking of a commercial vehicle while loading and unloading merchandise or materials.

LOT. A parcel of land, occupied or to be occupied by a main building or a group of buildings and accessory buildings, or utilized for the principal use and uses accessory

thereto, together with any open spaces as are required under provisions of this chapter. Every LOT shall abut upon and have permanent access to a public street.

(1) CORNER LOT. A lot abutting two or more streets at their intersection. See Exhibit B at the end of this section.

(2) INTERIOR LOT. Any lot other than a corner lot. See Exhibit B at the end of this section.

(3) THROUGH LOT. An interior lot having a frontage on two non-intersecting streets, as distinguished from a corner lot. See Exhibit B at the end of this section.

LOT AREA. The total horizontal area within the lot lines of the lot.

LOT COVERAGE. The part or percentage of the lot occupied by buildings, including accessory buildings.

LOT DEPTH. The average horizontal distance between the front and rear lot lines.

LOT LINE. Shall be as follows:

(1) FRONT LOT LINE. In the case of an interior lot, that line separating the lot from the street. In the case of a corner lot or through lot, that line separating the lot from either street. In the case of a lot with alley frontage and no street frontage, that line separating the lot from the alley. See Exhibit C at the end of this section.

(2) REAR LOT LINE. That lot line opposite the front lot line. In the case of a lot pointed at the rear, the REAR LOT LINE shall be an imaginary line parallel to the front lot line, not less than ten feet long, lying furthest from the front lot line and wholly within the lot. In the case of a corner lot, the REAR LOT LINE is established based upon the orientation of the house. See Exhibit C at the end of this section.

(3) SIDE LOT LINE. Any lot line other than the front lot line or rear lot line. A SIDE LOT LINE separating a lot from a street is a side street lot line. A SIDE LOT LINE separating a lot from another lot or lots is an interior SIDE LOT LINE. See Exhibit C at the end of this section.

LOT OF RECORD. A parcel of land, the dimensions of which are shown on a document or map on file with the County Recorder or in common use by city or county officials, and which actually exists as so shown, or any part of that parcel held in a record ownership separate from that of the remainder thereof.

LOT WIDTH, AVERAGE. The width determined by dividing the total lot area by the depth of the lot from the street right-of-way line to the furthest rear lot line. If the rear lot line and right-of-way lines are not parallel, an average depth dimension shall be used.

LUMBERYARDS and BUILDING MATERIALS SALE AND STORAGE. Buildings or premises used for the storage and sale of lumber and building materials.

MEDICAL OFFICES AND CLINICS. Include the offices of physicians, dentists and other health practitioners and medical and dental laboratories. Establishments primarily engaged in out- patient care with permanent facilities and with medical staff to provide diagnosis and/or treatment for patients who are ambulatory and do not require in-patient care.

MEMBERSHIP SPORTS AND RECREATION USES. Country clubs and neighborhood swim clubs, but not including health spas, fraternal associations, or commercial recreation facilities as specified elsewhere. Development standards shall be as follows.

(1) The principal recreational building or use is a minimum of 200 feet from any land in residential use.

(2) The recreational use shall have a minimum lot area of one acre.

(3) The recreational use shall be used only for the enjoyment of members and their families and guests of members of the association or club under whose ownership or jurisdiction the facility is operated.

(4) Accessory facilities such as snack bars, restaurants and bars may be permitted only if they occupy integral parts of the principal building, and there is no display of goods or advertising visible, off the premises.

(5) Loudspeakers, public address systems and electric amplifiers may be permitted in recreation areas only if their use is solely for the members of the facility and does not create a public nuisance for nearby persons or properties.

(6) Any outdoor pool area, including the area used by bathers, shall be walled or fenced with a security fence or wall at least six feet in height and maintained in good condition to prevent uncontrolled access by children.

(7) Exterior lighting shall be shaded whenever necessary to avoid casting direct light upon any adjacent property or upon any adjacent public street.

(8) Access to the recreation use shall be only from an arterial or collector street.

MEZZANINE. An intermediate floor in any story occupying not more than two-thirds of the floor area of the story.

MINI-WAREHOUSE. See SELF-SERVICE STORAGE FACILITY as defined in this section.

MOBILE HOME. Any detached single-family living quarters to be located on foundation supports, designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, including major appliances and furniture, with plumbing and electrical connections provided for attachment to outside systems, and designed to be transported after fabrication on its own wheels, or detachable wheels.

MOBILE HOME COURT. Any plot of ground upon which two or more trailer coaches or mobile homes occupied for dwelling or sleeping purposes may be located. Development standards shall be as follows.

- (1) The mobile home court shall have a minimum site area of five acres.
- (2) The average area per mobile home space within the court shall not be less than the lot area per dwelling unit in the district in which the mobile home court is located.
- (3) No mobile home shall be located closer than 50 feet to any exterior lot line, except when the mobile home is adjacent to another mobile home court. A distance of 25 feet shall be maintained between mobile home and buildings, in all horizontal directions.
- (4) A detailed landscaping and screening plan shall be approved by the Planning Commission.

MOBILE SERVICE AND RETAIL OPERATIONS. A self contained service or retail operation that is operated from a movable vehicle or portable structure that routinely changes location, and is operated as a temporary use, including mobile food service operations and mobile retail food establishments as defined by section 3717-1-01 of the Ohio Administrative Code, and also including mobile operations and entities exempted from the food license requirements by R.C. § 3717.22.

MOTEL. A building or group of buildings for the accommodation of transient guests, chiefly motorists, containing guest rooms for rent. It may include all facilities specified under the definition of hotel.

MULTI-FAMILY DWELLING. A building, or a portion thereof, designed exclusively for occupancy by three or more families independently of each other.

NEIGHBORHOOD BUSINESS. These facilities include barber and beauty shops, pharmacies, grocery stores, bakeries, specialty food stores, laundry and dry cleaning pick-up service and self-service washing and dry-cleaning facilities, florists and bait and tackle shops. Neighborhood businesses may be permitted only in the R-1, R-2, and R-3 Residential Districts upon issuance of a special use permit. Development standards shall be as follows.

- (1) No structure or use qualifying as a neighborhood business may exceed 3,000 square feet of gross floor area.
- (2) Hours of business operation shall be between the hours of 7:00 a.m. and 10:00 p.m.
- (3) The maximum number of employees during business hours may not exceed five employees.
- (4) Minimum lot area shall be 5,000 square feet.

- (5) Minimum lot frontage shall be 50 feet.
- (6) Minimum front yard setback shall be 25 feet.
- (7) Minimum side yard setback shall be 10 feet if abutting a residential district.
- (8) Minimum rear yard setback shall be the less of 30 feet or 20% of lot depth if abutting a Residential District.
- (9) Maximum height shall be 35 feet.
- (10) A plot plan shall be submitted indicating the location and type of screening to be used.
- (11) A finding shall be made that the proposed screening will do the following.
 - (a) Provide a visual barrier of no less than six feet in height to partially or completely block out the view of unattractive structures or activities.
 - (b) Provide an acoustic screen, of no less than 15 feet, of dense plantings or a solid masonry wall in combination with decorative plantings, to aid in absorbing and deflecting noise.
 - (c) Provide for the containment of litter and debris.
- (12) Screening may be one or more of the following or other similar materials.
 - (a) A solid masonry wall.
 - (b) A solidly constructed decorative fence.
 - (c) Louvered fence.
 - (d) Dense evergreen plantings.
 - (e) Deciduous trees and shrubs.

NIGHTCLUB. See BARS, TAVERNS AND NIGHTCLUBS as defined in this section.

NONCONFORMING USE. The use of any dwelling, building, structure, lot, land, or premises, or part thereof, which was existing and lawful immediately prior to the effective date of this chapter and which does not conform with the provisions of this chapter, as set forth in §§ 154.060 through 154.066, Nonconforming and Nonstandard Uses.

NONSTANDARD USE. Those lots occupied by buildings or structures or uses which existed immediately prior to the effective date of this chapter which fail to comply with minimum lot requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which they are located,

even though the use of the premises conforms to the permitted uses within the district as set forth in §§ 154.060 through 154.066, Nonconforming and Nonstandard Uses.

NUDE, NUDITY or STATE OF NUDITY. A live person exhibiting: (1) the anus, male genitals, female genitals, or the areola or nipple of the female breast; or (2) a state of dress which fails to opaquely and fully cover the anus, male or female genitals, pubic region or areola or nipple of the female breast.

NURSERIES and GARDEN SUPPLY STORES. A space, including accessory building or structure, for the growing and storage of live trees, shrubs, or plant materials offered for retail sale on the premises, including products used for gardening or landscaping.

NURSING HOME. An establishment which specializes in providing necessary health and related services to those unable to care for themselves. Development standards shall be as follows.

(1) Parking requirements in addition to those stated in §§ 154.080 through 154.083, Parking and Off-street Loading Regulations, may be imposed. Traffic may be required to discharge onto an arterial or collector street.

(2) Whenever a facility abuts a residential district, the yard requirements shall be ten feet greater than those of the abutting residential district, plus an additional one foot for each foot of building height over 20 feet.

(3) Buildings shall not occupy over 35% of the total land area upon which they are located.

OFF-STREET PARKING. The provision of parking facilities for a specified use, to be provided on the same lot or lots as the use they are intended to serve, and not on any public street or public right-of-way.

OFFICES OF BUSINESS AND PROFESSIONAL ASSOCIATIONS. These uses include labor unions and civic, political, religious and social service organizations, but not including social and fraternal associations.

ONE-FAMILY DWELLING. A building designed exclusively for and occupied exclusively by one family.

OPEN SPACE. That part of a lot, including courts or yards, which is open and unobstructed by structures from its lowest level to the sky, accessible to all tenants upon the lot.

OUTDOOR FESTIVAL, EXHIBITION, OR GATHERING. An assembly or crowd attending a celebration, event, fair, circus, carnival, public display of items of special interest or demonstration of a particular skill or craft at an open air or tented location.

PARAPET. The extension of the building facade above the line of the structural roof.

PARKING LOT. An area providing vehicular parking spaces along with adequate drives and aisles for maneuvering, so as to provide access for entrance and exit for the parking of more than five vehicles.

PARKING SPACE. A minimum area as defined in § 154.081(O), other than on a street or alley, exclusive of drives, aisles, or entrances giving access thereto, and fully accessible for the storage of parking of one motor vehicle.

PERSONAL SERVICES. Services of a personal nature, including beauty and barber shops and massage therapy; individual laundry and dry-cleaning establishments; laundromats; photo studios and photo finishing; shoe repair; tailoring; watch, clock and jewelry repair; clothing rental; and other services performed for persons or their apparel.

PET SHOPS. Any building or structure used for the sale, other than casual sale, of domestic pets and pet supplies.

PLACES OF WORSHIP. Establishments of recognized religious organizations operated for worship or for promotion of religious activities. Development standards shall be as follows.

- (1) Parking shall be in conformance with §§ 154.080 through 154.083, Parking and Off-Street Loading Regulations.
- (2) Access is provided by primary collector streets.
- (3) Side yard requirements shall be 20 feet.
- (4) The minimum lot area shall be one acre.

PLANNED UNIT DEVELOPMENT. Land under unified control, planned and developed as a whole according to comprehensive and detailed plans, including streets, utilities, lots, or building sites, site plans and design principles for all buildings intended to be located, constructed, used and related to each other, and for other uses and improvements on the land as related to buildings. Development may be a single operation or a definitely programmed series of development operations, including all lands and buildings, with a program for provision, operation, and maintenance of the areas, improvements, and facilities necessary for common use by the occupants of the development. Further provisions are as set forth in §§ 154.040 through 154.047, Planned Unit Development.

PLANNING COMMISSION. The Planning Commission of the city.

POOL, SWIMMING. See SWIMMING POOL as defined in this section.

PORTABLE STORAGE UNIT. Any enclosed unit constructed of metal or other durable material that is designed to be transported by vehicle and used to provide storage.

PREEXISTING USE. An existing use of the type listed as a special use in the zoning district that was lawfully established on the effective date of this chapter, without the prior issuance of a special use permit, as set forth in § 154.140(C).

PRINCIPAL USE. The primary or predominant use of any land or improvement on it.

PRIVATE CLUBS. Private, civic, cultural, educational, labor, professional, and trade membership organizations, fraternities, sororities, and lodges, except those the primary activity of which is a service customarily carried on as a business.

PRIVATE SCHOOLS. Private schools, including but not limited to business or commercial schools, dance or music academies, kindergarten, nursery, play and special schools, when not otherwise permitted, may be allowed by the issuance of a special use permit.

PROFESSIONAL OFFICES. See **BUSINESS, PROFESSIONAL AND ADMINISTRATIVE OFFICES** as defined in this section.

PUBLIC OFFICES and PUBLIC BUILDINGS. Establishments housing activities of local, county, regional, state or federal government agencies, but not including public service garages.

PUBLIC PARK. A public land which has been designated for park or recreational activities including, but not limited to, a park, playground, swimming pool, reservoir, athletic field, basketball or tennis courts, open space, wilderness areas, or similar public land within the city which is under the control, operation, or management of any governmental entity.

PUBLIC RECREATION FACILITIES. Parks, playgrounds, golf courses, sports arenas, gymnasiums, swimming pools, skating rinks, tennis, racquetball and handball courts, senior citizen and youth centers, arboretums, hiking and jogging trails, ice skating rinks, nature areas, picnic areas, out lots, and wildlife sanctuaries, but not including commercial recreation and entertainment facilities listed elsewhere in this chapter.

PUBLIC SERVICE YARDS AND GARAGE. Premises used for the storage, service and repair of publicly-owned vehicle fleets.

PUBLIC UTILITIES. Publicly-owned or leased buildings, public utility buildings, telephone exchanges, and transformer stations may be allowed upon issuance of a special use permit.

REAR LOT LINE. See **LOT LINE** as defined in this section.

REAR YARD. See **YARD** as defined in this section.

RECONSTRUCTED. Any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls or partitions, columns, beams or girders, the consummated act of which may be referred to herein as altered.

RECREATION VEHICLE. Includes travel trailers, campers, camp car, truck campers, boats, and boat trailers.

RESIDENTIAL DISTRICT OR USE. Any zoning district set forth in Chapter 154 that contains the word "residential" in its title, or any individual residential dwelling located within the city.

RESTAURANT, FAST FOOD. An establishment whose principal business is the sale of food and/or beverages in a ready-to-consume state for consumption within the restaurant building, with a motor vehicle parked on the premises, or off the premises, as a carry-out order, and whose principal method of operation includes food and/or beverages usually served in edible containers or in paper, plastic or other disposable containers.

RESTAURANT, STANDARD. An establishment whose primary business is serving food and beverages to patrons for consumption inside the building.

ROOMING HOUSE. A building other than a hotel, not exceeding ten sleeping rooms, where, for compensation and by pre-arrangement for definite periods, meals or lodging and meals, are provided for three or more persons.

SALVAGE YARD. See JUNK YARD or SALVAGE YARD as defined in this section.

SCREENING. The placement of landscaping or fencing on a lot in a manner to reduce any negative effects resulting from the location of two or more dissimilar uses next to one another.

SEASONAL/TEMPORARY SERVICE AND RETAIL ESTABLISHMENTS. A self contained service or retail operation, other than a mobile service or retail operation, that temporarily or routinely operates at a set location from a portable structure or an area with a defined boundary delineated by a fence, tent, or other similar feature, and is operated as a temporary use, including seasonal and temporary food service operations, and seasonal and temporary retail food establishments as defined by section 3717-1-01 of the Ohio Administrative Code, and also including seasonal and temporary operations and entities exempted from the food license requirements by R.C. § 3717.22.

SELF-SERVICE STORAGE FACILITY. A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized, and controlled access stalls or lockers for the storage of customers goods or materials, the gross floor area of each unit not to exceed 500 square feet.

SERVICE GARAGE. Any premises used for the storage or care of motor-driven vehicles, or where any vehicles are equipped for operation, repaired, or kept for remuneration, hire, or sale.

SERVICE STATION. See AUTO SERVICE STATION as defined in this section.

SETBACK. The minimum required distance between the property line and the structure line.

SEXUALLY ORIENTED BUSINESSES. Those businesses defined as follows:

(1) ADULT ARCADE. An establishment where, for any form of consideration, one or more still or motion picture projectors, slide projectors, or similar machines, or other image producing machines, or other visual representations, for viewing by five or fewer persons each, are regularly used to show films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas."

(2) ADULT BOOKSTORE, ADULT NOVELTY STORE or ADULT VIDEO STORE. A commercial establishment which has as a significant or substantial (such as 50% or more) portion of its stock-in-trade or derives a significant or substantial (such as 50% or more) portion of revenues or devotes a significant or substantial (such as 50% or more) portion of its interior business or advertising to the sale or rental for any form of consideration, of any one or more of the following:

(a) Books, magazines, periodicals or other printed matter, or photographs, films, motion pictures, video cassettes, slides, digital video discs, or other visual representations which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas;"

(b) Instruments, devices, or paraphernalia which are designed for use or marketed primarily for stimulation of human genital organs or for sadomasochistic use or abuse of themselves or others.

An establishment may have other principal business purposes that do not involve the offering for sale, rental or viewing of materials depicting or describing "specified sexual activities" or "specified anatomical areas," and still be categorized as an adult bookstore, adult novelty store, or adult video store. Such other business purposes will not serve to exempt such establishments from being categorized as an adult bookstore, adult novelty store or adult video store so long as the definition above is met.

(3) ADULT CABARET. A nightclub, bar, restaurant, private club, bottle club, juice bar or similar commercial establishment, whether or not alcoholic beverages are served, which regularly features: (a) persons who appear nude or semi-nude or in a state of nudity or semi-nudity; (b) live performances which are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities;" or, (c) films, motion pictures, video cassettes, digital video discs, slides, or other photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas." "Private club" means an establishment where patrons may bring in their own bottle or other container of alcohol (including beer, wine or liquor) and purchase a mixture for the same or use of a glass from the club or business.

(4) ADULT MOTEL. A motel, hotel or similar commercial establishment which offers public accommodation, for any form of consideration, which provides patrons with closed-circuit television transmissions, films, motion pictures with closed-circuit television transmissions, films, motion pictures, video cassettes, digital video discs, slides or other photographic reproductions which are characterized by the depiction or description of

"specified sexual activities" or "specified anatomical areas" and which advertises the availability of this sexually oriented type of material by means of a sign visible from the public right-of-way, or by means of any off-premises advertising including, but not limited to, newspapers, magazines, pamphlets or leaflets, radio or television.

(5) ADULT MOTION PICTURE THEATER. A commercial establishment where films, motion pictures, video cassettes, digital video discs, slides or similar photographic reproductions which are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas" are regularly shown for any form of consideration.

(6) ADULT THEATER. A theater, concert hall, auditorium, or similar commercial establishment which, for any form of consideration, regularly features persons who appear in a state of nudity or semi-nudity or live performances which are characterized by exposure of "specified anatomical areas" or by "specified sexual activities" which is not customarily open to the general public during such features because it excludes minors by reason of age.

(7) ESCORT AGENCY. A person or business association that furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration. "Escort" means a person who, for any form of consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person or to privately appear in the state of nudity or semi-nudity for another person.

(8) MASSAGE PARLOR. Any place where, for any form of consideration or gratuity, massage, alcohol rub, administration of fomentations, electric or magnetic treatments, or any other treatment or manipulation of the human body which occurs as a part of or in connection with "specified sexual activities" is offered, or where any person providing such treatment, manipulation, or service related thereto, exposes his or her "specified anatomical areas." The definition of sexually oriented businesses shall not include the practice of massage in any licensed hospital, nor by a licensed hospital, nor by a licensed physician, surgeon, chiropractor or osteopath, nor by any nurse or technician working under the supervision of a licensed physician, surgeon, chiropractor or osteopath, nor by trainers for any amateur, semiprofessional or professional athlete or athletic team or school athletic program, nor barber shops or beauty salons in which massages are administered only to the scalp, the face, the neck or the shoulder, nor by any other individual licensed by the state to perform massages.

(9) SEMI-NUDE MODEL STUDIO. Any place where a person regularly appears in a state of nudity or semi-nudity or displays "specified anatomical areas" for money or any form of consideration to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons. Reference above to nudity should not be construed or interpreted to permit nudity or a state of nudity in a SEMI-NUDE MODEL STUDIO. SEMI-NUDE MODEL STUDIO shall not include any school, college, or university licensed by the state.

(10) SEXUAL ENCOUNTER ESTABLISHMENT. A business or commercial establishment, that as one of its principal business purposes, offers for any form of

consideration: (1) a place where two or more persons may congregate, associate, or consort for the purpose of "specified sexual activities" or the exposure of "specified anatomical areas;" or (2) activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity. The definition of sexually oriented businesses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

SIDE LOT LINE. See LOT LINE as defined in this section.

SIDE YARD. See YARD as defined in this section.

SIGN. See § 154.096.

SIMULATED. To assume the mere appearance of something, without the reality; to imitate or pretend.

SINGLE-FAMILY DWELLING. See ONE-FAMILY DWELLING as defined in this section.

SPECIAL USE. A use that, owing to some special characteristics attendant to its operation or installation, is permitted in a district subject to approval by the Planning Commission, and subject to special requirements, different from those usual requirements for the district in which the special use may be located. Further set forth in § 154.140, Special Use Permits.

SPECIALTY FOOD STORES. These include stores specializing in a specific type or class of food, including but not limited to bakeries; candy, nut and cheese shops; confectionery stores; coffee and tea shops; dairy and ice cream stores; delicatessens; fruit and vegetable stores; international food stores; liquor stores; meat and fish markets; and wine shops. These uses do not include restaurants or carry-outs or convenience food stores.

SPECIALTY RETAIL COMMERCIAL ESTABLISHMENTS and BOUTIQUES. These include antique stores; apparel stores; art galleries; art supplies; book and magazine stores; card and stationery shops; cosmetics stores; craft and hobby shops; camera and photo supply stores; florists; gift shops; interior decorating accessories; leather goods stores; jewelry stores; kitchen, bath and bedroom accessory stores; office supply stores; picture framing shops; tobacco shops and toy stores. These uses do not include stores with drive-in or drive-through facilities or general merchandise stores.

SPECIFIED ANATOMICAL AREAS. Includes any of the following:

(1) Less than completely and opaquely covered human genitals, pubic region, anus, or areolas or nipple of female breasts; or

(2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES. Includes any of the following:

- (1) The fondling or other intentional touching of human genitals, pubic region, anus, or female breast;
- (2) Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;
- (3) Masturbation, actual or simulated;
- (4) Human genitals in a state of sexual stimulations, arousal or tumescence; or
- (5) Excretory functions as part of or in connection with any of the following activities set forth in subsections (1) through (4).

STORY. That part of a building, except a mezzanine, included between the surface of one floor and the surface of the next floor, or if there is no floor above, then the ceiling next above. If the floor level directly above a basement is more than six feet above grade, the basement shall be considered a story.

STORY, HALF. An uppermost story lying under a sloping roof, having an area of at least 190 square feet with a clear height of seven feet, six inches. For the purposes of this chapter, the usable floor area is only that area having at least four feet clear height between floor and ceiling

STREET. A public thoroughfare which affords the principal means of access to abutting property.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

STRUCTURE ELEVATION. The entire side of a structure, from ground level to the roofline, as viewed perpendicular to that side of the structure.

STRUCTURE FACE. That portion of the exterior surface of a structure on a common plane.

STRUCTURE HEIGHT. The vertical dimension measured from the average grade to the highest point of the structure, or in the case of a building, the mid-point of the roof system (see § 154.005 Exhibit A). The height of a stepped or terraced structure shall be the maximum height of any segment of the structure.

STRUCTURE LINE. The perimeter of that portion of a structure nearest a property line, but excluding open steps, terraces, cornices, and other ornamental feature projecting from the structure face of the structure.

STRUCTURE WIDTH. The dimension measured along an exterior structure elevation, or structure face, from the outermost exterior surfaces that are opposite and parallel to one another, and perpendicular to the structure face being measured.

SWIMMING POOLS, SPAS, AND HOT TUBS. ~~A structure constructed or placed below ground or above ground, which contains water in excess of 24 inches of depth and is suitable or utilized for swimming or wading.~~ **Any structure, chamber, or tank containing a body of water intended for swimming, diving, or bathing.**

PRIVATE RESIDENTIAL SWIMMING POOL, SPA OR HOT TUB. **A Swimming Pool, Spa, or Hot Tub intended to serve a residential structure containing not more than three dwelling units and used exclusively by the residents and their nonpaying guests.**

PUBLIC SWIMMING POOL, SPA, OR HOT TUB. **A Swimming Pool, Spa, or Hot Tub intended to be used collectively and operated by any person whether as the owner, lessee, operator, licensee, or concessionaire, regardless of whether or not a fee is charged for use, not including any public bathing areas or Private Residential Swimming Pools.**

TAVERN. See BARS, TAVERNS AND NIGHTCLUBS as defined in this section.

TEMPORARY USE. The use of land, a building, or a premises for a duration not exceeding 180 consecutive days and permitted by the provisions set forth in § 154.126.

TENT. Any structure used for living or sleeping purposes, or for sheltering a public gathering constructed wholly or in part from canvas, tarpaulin, or other similar materials and which shall include shelter provided for circuses, carnivals, side shows, revival meetings, camp meetings, and all similar meetings or exhibitions in temporary structures.

THOROUGHFARE. An arterial street which is intended to serve as a large volume trafficway for both the immediate city area and the region beyond, and which may be designated as a major thoroughfare, parkway, freeway, expressway, or equivalent term in order to identify those streets comprising the basic structure of the street plan. Any street with a width, existing or proposed, of 80 feet, shall be considered a major thoroughfare.

THOROUGHFARE PLAN. That part of the comprehensive plan of the city which includes the major highway and street plan for the city, including any amendments or supplements thereto.

THROUGH LOT. An interior lot having a frontage on two non-intersecting streets, as distinguished from a corner lot. See Exhibit B at the end of this section.

TOWNHOUSE. One of a group or row of no less than three single-family dwellings having common walls and built as a single structure.

TRAILER PARK. See MOBILE HOME COURT as defined in this section.

TRANSPORTATION TERMINALS. Trucking and motor freight terminals, express and hauling establishments, rail terminals, landing strips and heliports.

TWO-FAMILY DWELLING. A building designed exclusively for occupancy by two families living independently of each other.

USE. The purpose for which land or a building is arranged, designed, or intended, or for which land or a building is or may be occupied.

USE, CATEGORIES. The heading under which a particular principal use, special use, or nonconforming use type is listed within this chapter, said use categories including the following:

- (1) Agricultural uses.
- (2) Residential uses.
- (3) Institutional and public recreation uses.
- (4) Business and professional office uses.
- (5) Retail commercial and service uses.
- (6) Road service and commercial entertainment uses.
- (7) Light industrial uses.
- (8) Heavy industrial uses.
- (9) Transportation and utility uses.
- (10) Other uses.

USE, CHANGE OF. The conversion of an existing principal use, accessory use or special use to a use in a different use category, or when the change necessitates improvements to the structure or premises to support the intended use in accordance with the provisions set forth in Chapter 150 (Building Regulations) and Chapter 154 (Zoning).

VARIANCE. The relaxation of strict and literal enforcement of any of the provisions of this chapter to allow the reasonable use of property and land, provided the use is in the best public interest and does not jeopardize the general health, safety, and welfare of the city, as set forth in § 154.142(D)(2).

VEHICLE SALES, RENTAL AND SERVICE. The sales, service and rental of new and used cars, trucks, trailers, motorcycles, mobile homes, recreational vehicles, snowmobiles and boats. This does not include semi-tractor trailers, farm equipment and construction equipment.

VETERINARY CLINIC. See ANIMAL HOSPITAL as defined in this section.

WAREHOUSE. A building used principally for the storage of goods and materials.

WHEELCHAIR RAMP. A fabricated or constructed sloping surface designed and installed to provide access from one level to a higher or lower level.

YARD. An open space on the same lot with a main building, unoccupied, and unobstructed by structures from the ground upward, except as otherwise provided in this chapter. See Exhibit C at the end of this section.

(1) FRONT YARD. An open space extending in full width of the lot, the depth of which is the minimum horizontal distance between the front lot line and the nearest point of the main building.

(2) REAR YARD. An open space extending the full width of the lot, the depth of which is the minimum horizontal distance between the rear lot line and the nearest point of the main building. See Exhibit C at the end of this section.

(3) SIDE YARD. An open space between a main building and the side lot line, extending from the front yard to the rear yard, the width of which is the horizontal distance from the nearest point of the side lot line to the nearest point of the main building. See Exhibit C at the end of this section.

('97 Code, § 150.103) (Ord. 42-96, passed 9-17-96; Am. Ord. 3-99, passed 2-1-99; Am. Ord. 17-99, passed 7-6-99; Am. Ord. 14-01, passed 7-23-01; Am. Ord. 7-02, passed 4-1-02; Am. Ord. 8-03, passed 6-2-03; Am. Ord. 9-05, passed 7-5-05; Am. Ord. 25-06, passed 10-17-06; Am. Ord. 05-07, passed 3-19-07; Am. Ord. 14-07, passed 10-1-07; Am. Ord. 24-07, passed 11-19-07; Am. Ord. 17-08, passed 7-21-08; Am. Ord. 31-08, passed 12-1-08; Am. Ord. 05-09, passed 5-18-09)

§ 154.129 SWIMMING POOLS, SPAS, AND HOT TUBS.

(A) A Private Residential Swimming Pool, Spa, or Hot Tub may be permitted as an accessory structure to a single-family, two-family, or three-family dwelling unit principal use in accordance with the following standards:

(1) Location.

(a) A Swimming Pool, Spa, or Hot Tub may be constructed or placed on a lot occupied by the principal use to which the structure will be accessory provided the Swimming Pool, Spa, or Hot Tub is located in the rear yard.

(b) A Swimming Pool, Spa, or Hot Tub may be constructed or placed on a lot other than the lot occupied by the principal use to which the structure will be accessory provided the subject lots are adjacent, separated by not more than a public alley right of way, and the lot on which the Swimming Pool, Spa, or Hot Tub is to be located is not contiguous to a public street right of way.

(2) Setback.

(a) Swimming Pools, Spas, or Hot Tubs and the mechanical equipment and deck areas incidental to the Swimming Pool, Spa,

or Hot Tub shall be setback a minimum of ten feet from any side or rear lot line.

(b) Swimming Pools, Spas, or Hot Tubs with a water surface area greater than 150 square feet shall not be located nearer than ten feet measured horizontally to any principal or accessory structure or overhead utility.

(c) Swimming Pools, Spas, or Hot Tubs shall not be located within any utility easement and shall not be located nearer than five feet measured horizontally to any underground utility.

(3) Safety Enclosure.

(a) All Swimming Pools, Spas, or Hot Tubs with a water surface area greater than 150 square feet shall be completely enclosed by a fence or structural barrier. All mechanical equipment and deck areas incidental to the Swimming Pool, Spa, or Hot Tub shall be located within the area enclosed by the fence or structural barrier. The fence or barrier shall be a minimum of 48 inches in height above the finished ground level as measured on the side of the fence or barrier away from the Swimming Pool, Spa, or Hot Tub. The fence or barrier shall be constructed without horizontal members that would make it easy to climb and in such a manner that a sphere with a diameter of 6 inches cannot be passed through any opening. All gates or doors in the safety enclosure shall be lockable, and any gate or door used for ingress and egress to the Swimming Pool, Spa, or Hot Tub area shall be self-closing and self-latching with the latching mechanism located on the pool side of the gate or door.

(B) A Public Swimming Pool, Spa, or Hot Tub may be permitted as an accessory structure to a permitted principal use in accordance with the following standards:

(1) Location.

(a) A Swimming Pool, Spa, or Hot Tub may be constructed or placed on any lot within a zoning district permitting a Swimming Pool, Spa, or Hot Tub as a permitted principal or accessory use.

(2) Setback.

(a) Swimming Pools, Spas, or Hot Tubs and incidental mechanical equipment and deck areas shall be subject to all applicable principal structure and accessory structure setback requirements of the zoning district in which the Swimming Pool, Spa, or Hot Tub is located and in all cases maintain a minimum setback of ten feet to all lot lines.

(3) Safety Enclosure.

(a) All Swimming Pools, Spas, or Hot Tubs and incidental mechanical equipment and deck areas shall be completely enclosed by a fence or structural barrier in accordance with Ohio Building Code requirements, as adopted by § 150.001.

(4) Screening.

All Swimming Pools, Spas, and Hot Tubs and incidental mechanical equipment and deck areas shall be screened with landscaping and plantings so that the Swimming Pool, Spa, or Hot Tub and incidental mechanical equipment and deck areas shall not be plainly visible from any public right of way or adjacent property.

SECTION 2. All other sections of Chapter 154 of the City of Piqua Code of Ordinances not amended herein shall remain in effect as is.

SECTION 3. This Ordinance shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____

REBECCA J. COOL
CITY COMMISSION CLERK

RESOLUTION No. PC 03-10

WHEREAS, the Planning Commission has submitted a request to amend the zoning chapter of the codified ordinances to incorporate provisions relating to Swimming Pools, Spas, and Hot Tubs; and,

WHEREAS, sections 154.141 of the City of Piqua Code of Ordinances provides the procedure for considering an amendment to the zoning code; and,

WHEREAS, the Planning Commission has studied the request, included herein as exhibit 'A', and conducted a public hearing on the matter;

NOW THEREFORE BE IT RESOLVED, board member Mrs. Franz hereby moves to APPROVE the request made, as described by this resolution, the testimony provided, and the documents attached hereto as Exhibit 'A', the motion is seconded by board member Mr. Oda, and the voting record on this motion is hereby recorded as follows.

	AYE	NAY	ABSTAIN	ABSENT
Mr. Jim Oda	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Brad Bubp	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Mr. Mike Taylor	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mrs. Jean Franz	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mr. Mark Spoltman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



CITY COMMISSION MEETING REPORT

For the Regular Meeting of February 2, 2010

TO: Fred Enderle, City Manager

FROM: Chris Schmiesing, City Planner

SUBJECT: *Amendment to sections 154.005 and 154.129 of the City of Piqua Code of Ordinances*

PURPOSE:

Adopt an ordinance for the purpose of amending sections 154.005 and 154.129 of the City of Piqua Code of Ordinances.

RECOMMENDATION:

Approval of Ordinance to amend the City of Piqua Code of Ordinances to insert/delete text related to Swimming Pools, Spas, and Hot Tubs.

BACKGROUND:

The recommended amendments stem, in part, from a permit application submitted by Mackenzie Emrick, 123 Linden Avenue. The permit request sought to place a 24 foot diameter above-ground pool on a vacant lot located adjacent to and across the alley from the applicant's residence. Because current code provisions make it necessary for a swimming pool to be accessory and incidental to a principal structure (i.e., the residence), and require that the accessory structure (i.e., the swimming pool) be located on the same lot as the principal structure to which it is accessory, it was determined that it is not possible to issue the permit requested by the applicant. This led to a conversation with the Planning Commission concerning the possibility of amending the code to allow swimming pools on lots without a principal structure when certain conditions exist.

Additionally, the code sections applicable at the time of installation currently provide no guidance concerning location, setback, safety enclosure, or screening measures appropriate to this type of use.

ALTERNATIVES:

- 1) Approve Ordinance to accept the code amendments as recommend by the Planning Commission.*
- 2) Amend and Approve the Amended Ordinance to accept code amendments as recommend by the Planning Commission with modifications.*
- 3) Defeat the Ordinance to reject the code amendments as recommend by the Planning Commission.*

DISCUSSION:

The proposed amendment language presented to the Planning Commission is responsive to the circumstances presented by the Emrick permit request and, if adopted, would allow for the issuance of a zoning permit for the installation of a swimming pool on the subject lot.

If adopted, this Ordinance will establish community standards identifying when and where it is appropriate and acceptable to permit the placement of a swimming pool, spa, or hot tub, in particular, in those instances where the swimming pool, spa, or hot tub is located on a different lot than the lot on which the principal structure to which it is accessory is located.

Specifically, the code amendments will:

- *establish location, setback, safety enclosure, and screening requirements for swimming pools, spas, and hot tubs; and,*
- *establish consistency between the zoning, building, and property maintenance codes with regards to the swimming pool, spa, and hot tub definitions and standards listed in each of those documents.*

FINANCIAL IMPACT:

A \$50 permit fee is collected for permits issued to approve the installation of a permanent (more than 6 months) swimming pool, spa, or hot tub. No permit/no fee is applicable for temporary (less than six months) swimming pool, spa, or hot tub installations. This represents no change to the current fee structure/permit requirements.

COMMUNITY IMPACT:

The standards presented reflect the input and guidance provided by the Planning Commission concerning this matter. A public hearing to receive public comment and review the proposed code amendments was conducted on January 26, 2010 before the Planning Commission. At this meeting one person, Ms. Mackenzie Emrick, spoke in favor of the proposed amendment, and no other persons spoke for or against this item. The Planning Commission action on this matter resulted in a 4-0 vote to forward the item to the City Commission with a recommendation that the code amendments be approved as submitted.

CONFORMITY TO CITY PLANS & POLICIES:

The recommend code amendment is consistent and compatible with all adopted City plans and policies, including the Goal, Principles, and Objectives and Strategies outlined in the Land Use chapter of the Plan It Piqua Comprehensive Plan document.

RESOLUTION NO. R-18-10

**A RESOLUTION OF APPRECIATION FOR THE
PUBLIC SERVICE OF RICHARD K. CRON AS
A CITY EMPLOYEE**

WHEREAS, Richard K. Cron has retired as Police Lieutenant with the Piqua Police Department; and

WHEREAS, his retirement follows over 32 years of faithful and dedicated service to the City and its citizens;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, all members elected thereto concurring, that:

SEC. 1: In recognition and appreciation of the public service of Richard K. Cron as Police Lieutenant, this Commission tenders its unanimous and respectful tribute by this Resolution, which shall be a matter of public and permanent record.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-19-10

**A RESOLUTION OF APPRECIATION FOR THE
PUBLIC SERVICE OF DAVID J. LARGER AS
A CITY EMPLOYEE**

WHEREAS, David J. Larger has retired as Police Officer with the Police Department; and

WHEREAS, his retirement follows over 30 years of faithful and dedicated service to the City and its citizens;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, all members elected thereto concurring, that:

SEC. 1: In recognition and appreciation of the public service of David J. Larger as Police Officer, this Commission tenders its unanimous and respectful tribute by this Resolution, which shall be a matter of public and permanent record.

SEC. 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

RESOLUTION NO. R-20-10

**A RESOLUTION TO ACCEPT THE MIAMI COUNTY
DEBRIS MANAGEMENT PLAN FOR THE CITY OF
PIQUA**

WHEREAS, Miami County has put in place a Debris Management Plan, incorporated under the Miami County Emergency Operations Plan, (Resolution 09-11-1961) to handle debris if a disaster occurs in Miami County; and

WHEREAS, By adopting this Resolution, the Federal Emergency Management Agency will acknowledge the City of Piqua as an active participant of the Miami County Debris Management Plan thereby giving eligibility to reimbursement of funds for such disasters; and

WHEREAS, the City of Piqua does not have another active Debris Management Plan that is comprehensive and meets the Federal Emergency Management Agency guidelines.

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring:

SEC. 1: The City of Piqua shall be an active participant in the Miami County Debris Management Plan under the Miami County Emergency Operations Plan as adopted by resolution 09-11-1961.

SEC. 2: The City Engineer shall serve as the Debris Manager for the Debris Management Plan.

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION



CITY COMMISSION MEETING REPORT

For the Regular Meeting of February 2, 2010

TO: Fred Enderle, City Manager

FROM: Amy Welker, Director of Health & Sanitation

SUBJECT: Debris Management Plan

PURPOSE:

To adopt a Debris Management Plan for the City of Piqua to ensure eligibility for Federal Emergency Management Association (FEMA) funding in case of an emergency.

RECOMMENDATION:

Approval of the Resolution which adopts the Miami County Debris Management Plan.

BACKGROUND:

The Miami County Solid Waste District was mandated by Ohio EPA (in coordination with FEMA) to develop a Debris Management Plan for Miami County. Due to the complexity of post-disaster debris removal and the potential negative effects on human welfare and the environment, the plan aims to address the best practices that should be utilized in a disaster for debris removal. The Miami County Debris Management Plan has been adopted by the Miami County Commissioners and approved by the Ohio EMA. Approval of the plan is pending from FEMA.

Political Jurisdictions within the county are not mandated to have an approved Debris Management Plan. However, without an approved plan in place, FEMA funding for assistance will not be available in a disaster. Currently, the city does not have a Debris Management Plan in place.

ALTERNATIVES:

Options to consider include:

1. Adopt the Miami County Debris Management Plan (recommended option)
2. Direct staff to write a Debris Management Plan and /or alter the Miami County Plan in some fashion.
3. Do not adopt a Debris Management Plan and provide Staff with further direction.

DISCUSSION:

A disaster such as a wind storm or tornado could happen in Piqua without warning at anytime. Such an event would likely result in debris such as down trees, construction debris from damaged buildings, etc. This debris will need to be removed and the process of removal will need to be managed. Having a concise plan in place for debris removal will prepare the City to react if necessary when a disaster strikes.

In the event that the disaster is more than the City can handle on its own, then outside agencies will be needed to assist. Help will likely come from surrounding jurisdictions and Miami County. In an effort to collaborate and coordinate such efforts, the Miami County Solid Waste District has developed a Debris Management Plan which can be used by all jurisdictions in the County. The County will also coordinate meetings and training exercises for all jurisdictions who adopt the plan.

One important reason to adopt a Debris Management Plan is to receive federal funding if available. FEMA has ruled that only jurisdictions with an adopted and approved Debris Management Plan will be eligible for reimbursement with federal funds in the event of a disaster requiring debris removal efforts.

The Miami County Debris Management Plan has been reviewed by staff and is sufficient to meet our needs. The Plan has already been approved by Ohio EMA, is pending FEMA approval, and appears to be the best alternative to address the City's needs.

Staff can draft a new plan or revise the County's plan as the City Commission may wish; however, all of the key aspects of debris management are covered in the County plan. The city would also need to submit a revised plan or a new plan to the Ohio EMA and FEMA for approval.

FINANCIAL IMPACT:

There is no impact to adopting a debris management plan; however, the financial impact of NOT adopting a plan could be significant in the event of a disaster due to the lack of eligibility for federal reimbursement.

COMMUNITY IMPACT:

By establishing clear direction for debris removal after a disaster, the community should benefit from faster more reliable service. With a plan in place, priorities are established to coordinate removal efforts in the most efficient manner possible.

CONFORMITY TO CITY PLANS & POLICIES:

The Debris Management Plan would become a companion document to the City Emergency Operations Plan.

RESOLUTION NO. R-21-10

**A RESOLUTION AWARDDING CONTRACTS
FOR THE PURCHASE OF TRANSFORMERS
FOR THE POWER SYSTEM**

WHEREAS, the present operations of the City require the purchase of transformers for the Power System; and

WHEREAS, after proper advertisement, bids were opened resulting in the tabulation of bids as listed in Exhibit "A" attached hereto;

NOW, THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SEC. 1: Contract with Ermco for the purchase of 25 transformers and Westco for the purchase of 4 transformers are hereby approved as the lowest, responsible bidders for said project and the City Manager is hereby authorized to execute a contract with said bidders pursuant to contract specifications;

SEC. 2: The Finance Director is hereby authorized to draw her warrants from time to time on the appropriate account of the city treasury in payment according to contract terms, not exceeding a total of \$129,020.

SEC. 3: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

*Piqua Power System
Transformer Bid Results*

Date: 1/5/2010

Evaluated By: Nick Berger

Size: 25 KVA

Primary Voltage:

Secondary Voltage:

2400/4160 X 7620/13200 X
7620/13200 _____

120/240 X
120/208 _____
277/480 _____
240/480 _____
2400/4160 _____

Transformer Type:

Conventional X

Padmount _____

Single Phase X

Three Phase _____

Quantity: 6

<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
ERMCO	ERMCO	\$1,046.00	\$2,648.63
PEPCO	GE	\$866.00	\$2,884.58
PLS	Howard	\$1,381.00	\$3,171.88
WESTCO	ABB	\$1,140.00	\$3,180.86

Lowest and Best Bid:

Vendor: **ERMCO**

Total Cost: **\$6,276.00**

*Piqua Power System
Transformer Bid Results*

Date: 1/5/2010

Evaluated By: Nick Berger

Size: 37.5 KVA

Primary Voltage:

Secondary Voltage:

2400/4160 X 7620/13200 X
7620/13200 _____

120/240 X
120/208 _____
277/480 _____
240/480 _____
2400/4160 _____

Transformer Type:

Conventional X

Padmount _____

Single Phase X

Three Phase _____

Quantity: 6

<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
ERMCO	ERMCO	\$1,232.00	\$3,492.13
PEPCO	GE	\$1,043.00	\$3,839.80
WESTCO	ABB	\$1,341.00	\$3,999.56
PLS	Howard	\$1,574.00	\$4,124.78

Lowest and Best Bid:

Vendor: **ERMCO**

Total Cost: **\$7,392.00**

*Piqua Power System
Transformer Bid Results*

Date: 1/5/2010

Evaluated By: Nick Berger

Size: 50 KVA

Primary Voltage:

Secondary Voltage:

2400/4160 X 7620/13200 X
7620/13200 _____

120/240 X
120/208 _____
277/480 _____
240/480 _____
2400/4160 _____

Transformer Type:

Conventional X

Padmount _____

Single Phase X

Three Phase _____

Quantity: 6

<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
ERMCO	ERMCO	\$1,447.00	\$4,285.82
PEPCO	GE	\$1,186.00	\$4,658.63
WESTCO	ABB	\$1,509.00	\$4,669.15
PLS	Howard	\$1,871.00	\$5,030.64

Lowest and Best Bid:

Vendor: **ERMCO**

Total Cost: **\$8,682.00**

*Piqua Power System
Transformer Bid Results*

Date: 1/5/2010

Evaluated By: Nick Berger

Size: 75 KVA

Primary Voltage:

Secondary Voltage:

2400/4160 X 7620/13200 _____
7620/13200 X

120/240 _____
120/208 _____
277/480 _____
240/480 X
2400/4160 _____

Transformer Type:

Conventional X

Padmount _____

Single Phase X

Three Phase _____

Quantity: 3

<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
ERMCO	ERMCO	\$1,828.00	\$5,478.23
PEPCO	GE	\$1,366.00	\$5,790.30
WESTCO	ABB	\$1,648.00	\$5,899.77
PLS	Howard	\$1,871.00	\$6,493.53

Lowest and Best Bid:

Vendor: **ERMCO**

Total Cost: **\$5,484.00**

*Piqua Power System
Transformer Bid Results*

Date: 1/5/2010

Evaluated By: Nick Berger

Size: 75 KVA

Primary Voltage:

Secondary Voltage:

2400/4160 X 7620/13200 _____
7620/13200 X

120/240 _____
120/208 _____
277/480 X
240/480 _____
2400/4160 _____

Transformer Type:

Conventional X

Padmount _____

Single Phase X

Three Phase _____

Quantity: 3

<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
ERMCO	ERMCO	\$1,819.00	\$5,610.63
PEPCO	GE	\$1,453.00	\$5,649.53
WESTCO	ABB	\$1,634.00	\$6,060.30
PLS	Howard	\$1,844.00	\$6,520.49

Lowest and Best Bid:

Vendor: **ERMCO**

Total Cost: **\$5,457.00**

*Piqua Power System
Transformer Bid Results*

Date: 1/5/2010

Evaluated By: Nick Berger

Size: 750 KVA

Primary Voltage:

Secondary Voltage:

2400/4160 X 7620/13200
7620/13200 X

120/240
120/208 X
277/480
240/480
2400/4160

Transformer Type:

Conventional _____

Padmount X

Single Phase _____

Three Phase X

Quantity: 1

<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
WESTCO	ABB	\$11,576.00	\$48,108.66
ERMCO	ERMCO	\$12,875.00	\$48,732.82
PEPCO	GE	\$11,634.00	\$50,471.68
PLS	Howard	\$15,280.00	\$53,820.48

Lowest and Best Bid:

Vendor: **WESTCO**

Total Cost: **\$11,576.00**

*Piqua Power System
Transformer Bid Results*

Date: 1/5/2010

Evaluated By: Nick Berger

Size: 1500 KVA

Primary Voltage:

Secondary Voltage:

2400/4160 X 7620/13200
7620/13200 X

120/240
120/208
277/480 X
240/480
2400/4160

Transformer Type:

Conventional

Padmount X

Single Phase

Three Phase X

Quantity: 3

<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
WESTCO	ABB	\$18,184.00	\$73,418.29
ERMCO	ERMCO	\$20,583.00	\$75,174.65
PEPCO	GE	\$15,270.00	\$79,690.66
PLS	Howard	\$22,899.00	\$88,505.29

Lowest and Best Bid:

Vendor: **WESTCO**

Total Cost: **\$54,552.00**

*Piqua Power System
Transformer Bid Results*

Date: 1/5/2010

Evaluated By: Nick Berger

Size: 2500 KVA

Primary Voltage:

Secondary Voltage:

2400/4160 X 7620/13200
7620/13200 X

120/240
120/208
277/480 X
240/480
2400/4160

Transformer Type:

Conventional

Padmount X

Single Phase

Three Phase X

Quantity: 1

<i>Vendor</i>	<i>Manufacturer</i>	<i>Purchase Price</i>	<i>Evaluated Cost</i>
ERMCO	ERMCO	\$29,601.00	\$109,069.88
WESTCO	ABB	\$28,282.00	\$116,815.39
PEPCO	GE	\$25,945.00	\$120,262.05
PLS	Howard	\$40,821.00	\$134,910.18

Lowest and Best Bid:

Vendor: **ERMCO**

Total Cost: **\$29,601.00**



CITY COMMISSION MEETING REPORT

For the Regular Meeting of February 2, 2010

TO: Fred Enderle, City Manager
FROM: Nicholas Berger, Electrical Engineer
SUBJECT: Transformer Purchases

PURPOSE:

Approve the Resolution R-21-10 awarding contracts for the purchase of transformers for the Power System. Resolution R-21-10 is needed to restock the Power System's transformer inventory that has been reduced throughout the previous year's activity.

RECOMMENDATION:

Approve the Resolution R-21-10 awarding Ermco and Westco contracts for the purchase of a total of twenty-nine (29) transformers.

BACKGROUND:

Each year the Power System solicits bids to replenish inventory. Bids were received from four vendors for transformers of various sizes, voltages, and quantities on January 4th, 2010. As is our standard procedure, the bids were evaluated on a present value basis for the total cost to own and operate over a twenty-five year expected life. This evaluation considers not only the initial cost but also the operational cost associated with the transformer core and winding losses.

ALTERNATIVES:

- 1) Approve Resolution R-21-10 awarding the contract for purchase of transformers for the power system at a cost not to exceed \$129,020.
- 2) Revise the quantity of transformers to order.
- 3) Do not approve the Resolution and provide staff with further direction.

DISCUSSION:

The lowest and best bids were received from Westco and Ermco. Transformer bid result sheets are attached for these transformers. Ermco was the successful bidder for

twenty-five (25) transformers totaling \$62,892. Westco was the successful bidder for four (4) transformers totaling \$66,128. Overall, the Power System is requesting authorization to purchase twenty-nine (29) transformers for a not to exceed price of \$129,020.

The approval of Resolution R-21-10 will allow the Power System to replenish inventory supply for the needed transformers. It will also allow the Power System to maintain a minimum amount of transformers for the potential of new customers and emergency situations.

A possible alternative is to revise the quantity of transformers to order. The benefit to this alternative is that it has a possibility to reduce the overall cost. However, the Power System has taken into account many factors including the current inventory levels, the potential additions of new customers, and upcoming projects and from this information the Power System has determined the best number of each transformer to order.

The final alternative is to reject this resolution R-21-10. The benefit will be a savings of \$129,020 to the power system. However, inventory numbers will diminish, which leads to the potential of using oversized or undersized transformers. An oversized transformer will increase system losses, which will affect revenues. An undersized transformer has the potential of damaging the transformer, reduce the life of the transformer, and affect the voltage to the customer.

FINANCIAL IMPACT:

Included in the 2010 Power System budget is \$145,000 for distribution transformer purchases. Resolution R-21-10 has a not to exceed price of \$129,020, which is \$15,980 below budget.

COMMUNITY IMPACT:

The approval of Resolution R-21-10 will provide the Power System with essential equipment, which is necessary in providing our community with excellent service and reliability.

CONFORMITY TO CITY PLANS & POLICIES:

As is our standard procedure, the bids were evaluated on a present value basis for the total cost to own and operate over a twenty-five year expected life. This evaluation considers not only the initial cost but also the operational cost associated with the transformer core and winding losses.

RESOLUTION NO. R-22-10

**A RESOLUTION APPROVING THE PURCHASE OF
A 1.24 ACRE TRACT OF PARCEL NO. M40-400108**

WHEREAS, Parcel No. M40-400108, located off of Hemm Road in Piqua, Miami County, Ohio, is along an abandoned railway and is available for purchase; and

WHEREAS, the Power System desires the property to build a consolidated Service Center and has budgeted in 2010 for the property acquisition; and

WHEREAS, the City entered into an Option to Purchase Agreement with the owner, Dayton Power & Light on November 17, 2009, to have the option to purchase the property dependent on an environmental clearance of the property, which the City has received.

NOW THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SECTION 1. The City Manager is hereby authorized to purchase Parcel No. M40-400108 for an amount not to exceed \$3,000.00, the appraised value, in accordance with the terms of the Purchase Option attached hereto as Exhibit "A".

SECTION 2. The Finance Director certifies and warrants that the funds are available.

SECTION 3. This Resolution shall take effect and be in force from the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

Exhibit "A"

RIGHT OF ENTRY AND OPTION TO PURCHASE

THIS AGREEMENT is entered into this 17th day of November, 2009, between the City of Piqua, Ohio, a municipal corporation, and Dayton Power & Light Co., owner of Parcel No. M40-400108 and located off of Hemm Road, Piqua, Ohio, ("Owner") for the City to have the right to enter the land for environmental exploration and to exercise an option to purchase.

WHEREAS, the City of Piqua is in need of land for expansion of a service center for its Power operations; and

WHEREAS, the City has identified the subject land and the adjoining parcel as a potential site for its expansion but environmental clearance is required prior to any purchase.

NOW THEREFORE, by Agreement, the City of Piqua is granted the right to enter the land for purposes of environmental exploration as defined herein and an option to purchase the land as well as a right of first refusal in accordance with the terms set forth herein.

TERMS

I. DEFINITIONS

- a. City of Piqua. The City of Piqua is a municipal corporation acting under the authority of a City Charter. The City includes any and all employees, officers, contractors or agents authorized to perform work or services under this Agreement or for purposes of carrying out the services to be performed under this Agreement. The City shall be referred to hereafter as "City".
- b. Owner. The Owner of the land is Dayton Power & Light Co. whose tax mailing address is 1065 Woodman Drive, Dayton, Ohio 45432. The Owner shall be referred to hereafter as "Owner".
- c. Land. The land is Parcel No. M40-400108 and located off of Hemm Road, Piqua, Ohio. The parcel consists of 3.497 acres; however, this Agreement only pertains to the western 1.24 acre tract that adjoins parcel no. N44-069800. The land shall be referred to hereinafter as the "Property".

II. OPTION TO EXPLORE

- a. City shall have the right to enter the Property to explore whether there is any environmental concerns which would prohibit the City from acquiring the property and using it for a service center for the Power System. The City would have a third party conduct the necessary environmental tests, which may include but not be limited to, the conducting of soil tests, engineering studies, land planning and

other testing and exploration work necessary or appropriate to ensure the Property is clear of all potential contaminants that would prohibit the City from using the Property for its intended use. City shall be granted the right of ingress and egress on and across the Property for purposes of exploration.

- b. Owner understands that the City may hire a contractor to conduct the testing and exploration on the Property and permits any needed personnel, employees or contractors and any necessary equipment on the Property to conduct the exploration.
- c. Execution of this Agreement serves as the written notice to Owner that the City desires to conduct exploration on the Property. Such exploration shall begin within ten (10) business days of this Agreement. Should exploration not be able to begin within ten business days of this Agreement, City shall notify Owner and the parties shall mutually agree on a date exploration may begin.
- d. Exploration shall be conducted in a manner causing the least possible disturbance to the Owner's possession. If the option to purchase is not exercised, the City agrees to compensate the Owner for any damage that may arise out of, or be incidental, to the exploration work. Should the option be exercised, the Owner waives any and all claims for damages that may have arisen from, or be incidental to, the exploration work.
- e. By executing this Agreement, Owner acknowledges that the Property has only been an abandoned railroad site and is unaware of any other use or of any hazards that may be present on or contained within the Property.

III. OPTION TO PURCHASE

- a. City shall pay Owner \$500.00, in consideration of its ability to exercise its option and right of first refusal to purchase the Property. In exchange for the consideration, City shall have the exclusive right and option to purchase the Property as described herein and shown on Exhibit A.
- b. The term of this option shall be one hundred eighty (180) calendar days, commencing on the date of execution of this Agreement. This term may be extended as needed by mutual agreement of the parties and in writing.
- c. The full purchase price will be a mutually agreeable price using the Miami County Auditor's appraised value as a starting basis. If a price cannot be mutually agreed upon then the City shall obtain an appraisal to establish fair market value. Owner shall not refuse a good faith offer based off of an appraisal and fair market value. The appraisal shall be conducted at the expense of the City. If Owner is not satisfied with the appraisal, Owner may elect to have an independent appraisal completed at Owner's expense.

- d. If City does not exercise its option prior to its expiration, the option will automatically and immediately terminate without notice upon the one hundred eighty (180) day term unless the term has been extended by mutual agreement in writing.
- e. Upon exercising its option to purchase, the parties shall enter into a written purchase agreement within forty-five (45) calendar days of the exercise, which shall include but not be limited to the following:
 - 1. At the closing, Owner shall deliver to City transferable, recordable limited warranty deed conveying to City marketable title to the Property in fee simple, free and clear of all liens and encumbrances whatsoever, except legal highways, easements and restrictions of record and real estate taxes not yet due and payable as of the date of closing.
 - 2. If the option is exercised, the closing and delivery of the deed shall be within forty-five (45) days after notice of exercise of the option to purchase.
 - 3. At closing, Owner shall pay or credit on the purchase price all real Property taxes and assessments which became due and payable prior to the closing and a pro rata share of real Property taxes and assessments becoming due and payable after the closing, in accordance with the customary method of prorating taxes in Miami County, Ohio. If the Property has been classified as agricultural land pursuant to Chapter 5713 of the Ohio Revised Code, Owner shall pay City at the closing a sum equal to the accrued savings which would become due and payable if the Property were immediately converted to nonagricultural use, or the sum may be deducted from the purchase price payable at closing.
- f. Should the City exercise its option, the consideration paid for the option shall be credited towards the purchase price at closing. Should the City not exercise its option prior to the expiration of this Agreement, Owner shall retain the option payment.
- g. City hereby puts notice on the Owner that even if the Property is deemed environmentally cleared, the City has no obligation to purchase the Property as the purchase is contingent on being able to successfully purchase the adjoining land from a different owner.

IV. RIGHT OF FIRST REFUSAL

- a. Should Owner desire to sell the Property prior to the City exercising its option, and within one year of expiration of the City's option, Owner shall first offer the Property for purchase to the City. City shall have fourteen (14) calendar days

from the date of notice of whether to purchase the Property before the Property is offered for sale to the public. This period of time may be extended upon mutual agreement of the parties.

- b. Should owner receive an offer to purchase from a third party, Owner shall disclose the terms of the purchase offer and the desired purchase price to the City in writing, within five (5) calendar days of receipt. The City shall then have five (5) calendar days to respond. If the City does not respond within five (5) days, Owner's liability with regards to the option or right of first refusal terminates and Owner may dispose of the Property as he desires.
- c. The City's right of first refusal, if not exercised prior to, shall terminate upon one year after expiration of the City's option to purchase.

V. OTHER

- a. Assignment. This Agreement is not assignable without prior written consent of City.
- b. Binding. This Agreement is binding on and will inure to the benefit of the parties here, their personal representatives, heirs, successors and assigns.
- c. Notice. All notices required by this Agreement shall be in writing and sent by regular U.S. mail to the following on behalf of the City:

Power Systems Director
City of Piqua
123 Bridge Street
Piqua, Ohio 45356

- d. Law. This Agreement shall be construed in accordance with the laws of the State of Ohio and any applicable law of the City of Piqua.
- e. Default. Should the Owner default on any obligation contained herein and said default is not cured within five (5) business days of written notice to Owner, Owner shall return the Option payment as a result of a breach of Owner's obligations. City may exercise all remedies it may have available for default.
- f. Time. Owner understands that time is of the essence for the City to be able to enter the Property and begin to conduct exploration. Time is a material part of this Agreement.

VII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties. Any amendment hereto must be agreed upon by both parties and confirmed in writing as stated herein.

In witness whereof, the parties have set their hands hereto this 17th day of November, 2009, before a notary public.

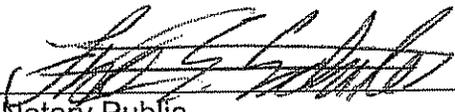


City of Piqua
Frederick E. Enderle
City Manager

Stacy M. Wall

Witness

Sworn to and subscribed before me a Notary Public in and for Miami County, State of Ohio this 17th day of November, 2009.



Notary Public Stacy M. Wall

STACY M. WALL, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03 O. R. C.

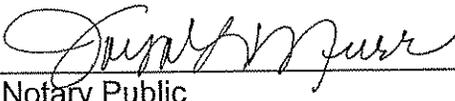


SCOTT J. KELLY,
Senior Vice President 



Witness

Sworn to and subscribed before me a Notary Public in and for Montgomery County, State of Ohio this 9th day of NOVEMBER, 2009.



Notary Public

JOYA L. MURR, Notary Public
In and for the State of Ohio
My Commission Expires May 31, ~~2009~~ 2014



CITY COMMISSION MEETING REPORT

For the Regular Meeting of February 2, 2010

TO: Fred Enderle, City Manager
FROM: Ed Krieger, Power System Director
SUBJECT: Service Center Property Purchase

PURPOSE:

Approve Resolutions R-22-10 and R-23-10 allowing for the purchase of 1.24 acres of property from The Dayton Power & Light Company (DP&L) and 3.786 acres of property from Clifford A. Blacke. These properties are to be utilized for the site of a future consolidated Power System Service Center.

RECOMMENDATION:

Approval of Resolutions R-22-10 and R-23-10 authorizing the purchase of properties from DP&L (\$3,000) and Clifford A. Blacke (\$68,148) at a total cost of \$71,148.

BACKGROUND:

The Power System currently houses a majority of our operation in the decommissioned nuclear Power Plant (Dome) located at 123 Bridge Street. The Dome is currently owned by the Federal Government and the City of Piqua has an agreement to occupy the building until a yet to be determined future time when ownership will revert to the City of Piqua. The remaining Power System staff and materials are housed within or near the decommissioned coal-fired Power Plant at 919 S. Main Street.

Current plans (assuming pending and future Clean-Ohio Grant approvals) call for demolition of the coal-fired Power Plant in 2011. It is anticipated that the Underground Utilities department will move into the Dome after the new Power System Service Center is constructed in 2011 or 2012. Power System staff have evaluated available properties over the past several years and have determined the location bounded by Hemm and Basset Avenues to be ideal for the requirements of the Power System.

ALTERNATIVES:

- 1) Approve Resolutions R-22-10 and R-23-10 allowing for the purchase of two properties to be utilized as the site of the future consolidated Power System Service Center at a total cost of \$71,148.
- 2) Reject Resolutions R-22-10 and R-23-10 and purchase property or properties at another location in Piqua.
- 3) Reject Resolutions R-22-10 and R-23-10 and cancel future plans for construction of Power System Service Center.

DISCUSSION:

The Hemm/Bassett Avenue site is a combination of two properties located within an industrial/commercial setting. The 1.24 acre DP&L property is an abandoned railroad right-of-way and the 3.786 acre Blacke property is an undeveloped grass-covered lot which was previously the site of residential housing. A Phase I Environmental Site Assessment was completed by Professional Service Industries, Inc. on 12/16/10. This assessment revealed no evidence of Recognized Environmental Conditions (RECs) in connection with these properties.

Stacy Wall has secured purchase options and negotiated prices for both properties at levels which are considered competitive based on location and site specifics. Securing the options was approved during Executive Session of the December 21, 2009 Piqua City Commission meeting.

The approval of Resolution R-22-10 and R-23-10 will allow Power System staff to proceed with plans to construct a consolidated Power System Service Center. Based on the expected demolition of the coal-fired Power Plant in 2011, construction of the Service Center would take place in 2011 or 2012. The selected site is considered ideal due to the proximity of existing Power system assets, including two electrical substations and the dam. It is located within an existing industrial/commercial area along South Main Street which will allow for prompt emergency and outage response. The Energy Board unanimously approved recommending purchasing the two properties to the City Commission for \$71,148 at their January 26, 2010 regular meeting.

A possible alternative is to purchase property at another location. Over the past several years, other available sites were identified and discussed. However, the price of other locations was typically much higher and none offered the advantages of the location ultimately identified. Placing a consolidated service center near key Power System assets along a major thoroughfare ultimately directed us to the selected location.

Another possible alternative is to reject Resolutions R-22-10 and R-23-10 and cancel future plans for construction of the Power System Service Center. The benefit would obviously be a savings to the Power System of \$71,148. However, this option does nothing to address the long-range facility needs of the Power System or the Underground Utilities department.

FINANCIAL IMPACT:

Included in the 2010 Power System budget is \$100,000 for purchase of property to be utilized for the future construction of a consolidated Power System Service Center. The two properties total \$71,148, which is \$28,852 below budget.

COMMUNITY IMPACT:

Purchasing the two properties will allow for the future construction of a consolidated Power System Service Center. Consolidating Power System personnel, equipment, inventory and resources will significantly improve the operation's overall efficiency. The site of the properties is ideally located near key Power System infrastructure, include two electrical substations and the dam. The location along South Main Street will allow for quick emergency and outage response to any location within our service territory. The approval of Resolutions R-22-10 and R-23-10 will ultimately allow for an improved level of service to our electric customers.

CONFORMITY TO CITY PLANS & POLICIES:

The purchase of the properties and the related future construction of a consolidated Power System Service Center are included in the Power System's ten year capital plan. The purchase of the properties and construction of the consolidated Power System Service Center are consistent with the Power System's goals of providing cost-effective and efficient delivery of service, while also providing a high level of customer-service.

RESOLUTION NO. R-23-10

**A RESOLUTION APPROVING THE PURCHASE
OF PARCEL NO. N44-069800**

WHEREAS, Parcel No. N44-069800 is located off of Hemm Road in Piqua, Miami County, Ohio, and is available for purchase; and

WHEREAS, the Power System desires the property to build a consolidated Service Center and has budgeted in 2010 for the property acquisition; and

WHEREAS, the City entered into an Option to Purchase Agreement with the owner, Clifford A. Blacke on November 17, 2009, to have the option to purchase the property dependent on an environmental clearance of the property, which the City has received.

NOW THEREFORE, BE IT RESOLVED by the Commission of the City of Piqua, Miami County, Ohio, the majority of all members elected thereto concurring, that:

SECTION 1. The City Manager is hereby authorized to purchase Parcel No. N44-069800 for an amount not to exceed \$68,148.00, the appraised value, in accordance with the terms of the Purchase Option attached hereto as Exhibit "A".

SECTION 2. The Finance Director certifies and warrants that the funds are available.

SECTION 3. This Resolution shall take effect and be in force from the earliest period allowed by law.

LUCINDA L. FESS, MAYOR

PASSED: _____

ATTEST: _____
REBECCA J. COOL
CLERK OF COMMISSION

Exhibit "A"

RIGHT OF ENTRY AND OPTION TO PURCHASE

THIS AGREEMENT is entered into this 17th day of November, 2009, between the City of Piqua, Ohio, a municipal corporation, and Dayton Power & Light Co., owner of Parcel No. M40-400108 and located off of Hemm Road, Piqua, Ohio, ("Owner") for the City to have the right to enter the land for environmental exploration and to exercise an option to purchase.

WHEREAS, the City of Piqua is in need of land for expansion of a service center for its Power operations; and

WHEREAS, the City has identified the subject land and the adjoining parcel as a potential site for its expansion but environmental clearance is required prior to any purchase.

NOW THEREFORE, by Agreement, the City of Piqua is granted the right to enter the land for purposes of environmental exploration as defined herein and an option to purchase the land as well as a right of first refusal in accordance with the terms set forth herein.

TERMS

I. DEFINITIONS

- a. City of Piqua. The City of Piqua is a municipal corporation acting under the authority of a City Charter. The City includes any and all employees, officers, contractors or agents authorized to perform work or services under this Agreement or for purposes of carrying out the services to be performed under this Agreement. The City shall be referred to hereafter as "City".
- b. Owner. The Owner of the land is Dayton Power & Light Co. whose tax mailing address is 1065 Woodman Drive, Dayton, Ohio 45432. The Owner shall be referred to hereafter as "Owner".
- c. Land. The land is Parcel No. M40-400108 and located off of Hemm Road, Piqua, Ohio. The parcel consists of 3.497 acres; however, this Agreement only pertains to the western 1.24 acre tract that adjoins parcel no. N44-069800. The land shall be referred to hereinafter as the "Property".

II. OPTION TO EXPLORE

- a. City shall have the right to enter the Property to explore whether there is any environmental concerns which would prohibit the City from acquiring the property and using it for a service center for the Power System. The City would have a third party conduct the necessary environmental tests, which may include but not be limited to, the conducting of soil tests, engineering studies, land planning and

other testing and exploration work necessary or appropriate to ensure the Property is clear of all potential contaminants that would prohibit the City from using the Property for its intended use. City shall be granted the right of ingress and egress on and across the Property for purposes of exploration.

- b. Owner understands that the City may hire a contractor to conduct the testing and exploration on the Property and permits any needed personnel, employees or contractors and any necessary equipment on the Property to conduct the exploration.
- c. Execution of this Agreement serves as the written notice to Owner that the City desires to conduct exploration on the Property. Such exploration shall begin within ten (10) business days of this Agreement. Should exploration not be able to begin within ten business days of this Agreement, City shall notify Owner and the parties shall mutually agree on a date exploration may begin.
- d. Exploration shall be conducted in a manner causing the least possible disturbance to the Owner's possession. If the option to purchase is not exercised, the City agrees to compensate the Owner for any damage that may arise out of, or be incidental, to the exploration work. Should the option be exercised, the Owner waives any and all claims for damages that may have arisen from, or be incidental to, the exploration work.
- e. By executing this Agreement, Owner acknowledges that the Property has only been an abandoned railroad site and is unaware of any other use or of any hazards that may be present on or contained within the Property.

III. OPTION TO PURCHASE

- a. City shall pay Owner \$500.00, in consideration of its ability to exercise its option and right of first refusal to purchase the Property. In exchange for the consideration, City shall have the exclusive right and option to purchase the Property as described herein and shown on Exhibit A.
- b. The term of this option shall be one hundred eighty (180) calendar days, commencing on the date of execution of this Agreement. This term may be extended as needed by mutual agreement of the parties and in writing.
- c. The full purchase price will be a mutually agreeable price using the Miami County Auditor's appraised value as a starting basis. If a price cannot be mutually agreed upon then the City shall obtain an appraisal to establish fair market value. Owner shall not refuse a good faith offer based off of an appraisal and fair market value. The appraisal shall be conducted at the expense of the City. If Owner is not satisfied with the appraisal, Owner may elect to have an independent appraisal completed at Owner's expense.

- d. If City does not exercise its option prior to its expiration, the option will automatically and immediately terminate without notice upon the one hundred eighty (180) day term unless the term has been extended by mutual agreement in writing.
- e. Upon exercising its option to purchase, the parties shall enter into a written purchase agreement within forty-five (45) calendar days of the exercise, which shall include but not be limited to the following:
 - 1. At the closing, Owner shall deliver to City transferable, recordable limited warranty deed conveying to City marketable title to the Property in fee simple, free and clear of all liens and encumbrances whatsoever, except legal highways, easements and restrictions of record and real estate taxes not yet due and payable as of the date of closing.
 - 2. If the option is exercised, the closing and delivery of the deed shall be within forty-five (45) days after notice of exercise of the option to purchase.
 - 3. At closing, Owner shall pay or credit on the purchase price all real Property taxes and assessments which became due and payable prior to the closing and a pro rata share of real Property taxes and assessments becoming due and payable after the closing, in accordance with the customary method of prorating taxes in Miami County, Ohio. If the Property has been classified as agricultural land pursuant to Chapter 5713 of the Ohio Revised Code, Owner shall pay City at the closing a sum equal to the accrued savings which would become due and payable if the Property were immediately converted to nonagricultural use, or the sum may be deducted from the purchase price payable at closing.
- f. Should the City exercise its option, the consideration paid for the option shall be credited towards the purchase price at closing. Should the City not exercise its option prior to the expiration of this Agreement, Owner shall retain the option payment.
- g. City hereby puts notice on the Owner that even if the Property is deemed environmentally cleared, the City has no obligation to purchase the Property as the purchase is contingent on being able to successfully purchase the adjoining land from a different owner.

IV. RIGHT OF FIRST REFUSAL

- a. Should Owner desire to sell the Property prior to the City exercising its option, and within one year of expiration of the City's option, Owner shall first offer the Property for purchase to the City. City shall have fourteen (14) calendar days

from the date of notice of whether to purchase the Property before the Property is offered for sale to the public. This period of time may be extended upon mutual agreement of the parties.

- b. Should owner receive an offer to purchase from a third party, Owner shall disclose the terms of the purchase offer and the desired purchase price to the City in writing, within five (5) calendar days of receipt. The City shall then have five (5) calendar days to respond. If the City does not respond within five (5) days, Owner's liability with regards to the option or right of first refusal terminates and Owner may dispose of the Property as he desires.
- c. The City's right of first refusal, if not exercised prior to, shall terminate upon one year after expiration of the City's option to purchase.

V. OTHER

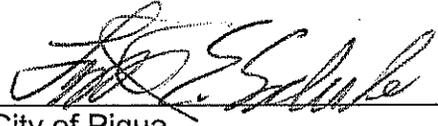
- a. Assignment. This Agreement is not assignable without prior written consent of City.
- b. Binding. This Agreement is binding on and will inure to the benefit of the parties here, their personal representatives, heirs, successors and assigns.
- c. Notice. All notices required by this Agreement shall be in writing and sent by regular U.S. mail to the following on behalf of the City:

Power Systems Director
City of Piqua
123 Bridge Street
Piqua, Ohio 45356
- d. Law. This Agreement shall be construed in accordance with the laws of the State of Ohio and any applicable law of the City of Piqua.
- e. Default. Should the Owner default on any obligation contained herein and said default is not cured within five (5) business days of written notice to Owner, Owner shall return the Option payment as a result of a breach of Owner's obligations. City may exercise all remedies it may have available for default.
- f. Time. Owner understands that time is of the essence for the City to be able to enter the Property and begin to conduct exploration. Time is a material part of this Agreement.

VII. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties. Any amendment hereto must be agreed upon by both parties and confirmed in writing as stated herein.

In witness whereof, the parties have set their hands hereto this 17th day of November, 2009, before a notary public.

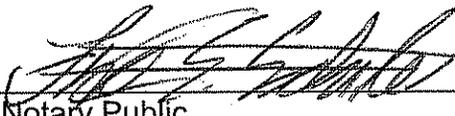


City of Piqua
Frederick E. Enderle
City Manager

Stacy M. Wall

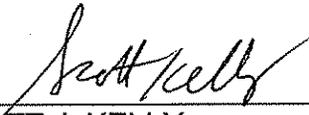
Witness

Sworn to and subscribed before me a Notary Public in and for Miami County, State of Ohio this 17th day of November, 2009.

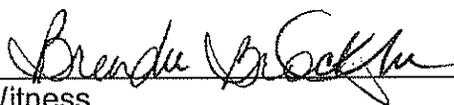


Notary Public

STACY M. WALL, Attorney at Law
Notary Public, State of Ohio
My Commission has no expiration date.
Section 147.03 O. R. C.

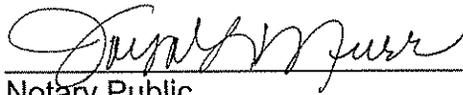


SCOTT J. KELLY,
Senior Vice President



Witness

Sworn to and subscribed before me a Notary Public in and for Montgomery County, State of Ohio this 9th day of NOVEMBER, 2009.



Notary Public

JOYA L. MURR, Notary Public
In and for the State of Ohio
My Commission Expires May 31, ~~2009~~ 2014



CITY COMMISSION MEETING REPORT

For the Regular Meeting of February 2, 2010

TO: Fred Enderle, City Manager
FROM: Ed Krieger, Power System Director
SUBJECT: Service Center Property Purchase

PURPOSE:

Approve Resolutions R-22-10 and R-23-10 allowing for the purchase of 1.24 acres of property from The Dayton Power & Light Company (DP&L) and 3.786 acres of property from Clifford A. Blacke. These properties are to be utilized for the site of a future consolidated Power System Service Center.

RECOMMENDATION:

Approval of Resolutions R-22-10 and R-23-10 authorizing the purchase of properties from DP&L (\$3,000) and Clifford A. Blacke (\$68,148) at a total cost of \$71,148.

BACKGROUND:

The Power System currently houses a majority of our operation in the decommissioned nuclear Power Plant (Dome) located at 123 Bridge Street. The Dome is currently owned by the Federal Government and the City of Piqua has an agreement to occupy the building until a yet to be determined future time when ownership will revert to the City of Piqua. The remaining Power System staff and materials are housed within or near the decommissioned coal-fired Power Plant at 919 S. Main Street.

Current plans (assuming pending and future Clean-Ohio Grant approvals) call for demolition of the coal-fired Power Plant in 2011. It is anticipated that the Underground Utilities department will move into the Dome after the new Power System Service Center is constructed in 2011 or 2012. Power System staff have evaluated available properties over the past several years and have determined the location bounded by Hemm and Basset Avenues to be ideal for the requirements of the Power System.

ALTERNATIVES:

- 1) Approve Resolutions R-22-10 and R-23-10 allowing for the purchase of two properties to be utilized as the site of the future consolidated Power System Service Center at a total cost of \$71,148.
- 2) Reject Resolutions R-22-10 and R-23-10 and purchase property or properties at another location in Piqua.
- 3) Reject Resolutions R-22-10 and R-23-10 and cancel future plans for construction of Power System Service Center.

DISCUSSION:

The Hemm/Bassett Avenue site is a combination of two properties located within an industrial/commercial setting. The 1.24 acre DP&L property is an abandoned railroad right-of-way and the 3.786 acre Blacke property is an undeveloped grass-covered lot which was previously the site of residential housing. A Phase I Environmental Site Assessment was completed by Professional Service Industries, Inc. on 12/16/10. This assessment revealed no evidence of Recognized Environmental Conditions (RECs) in connection with these properties.

Stacy Wall has secured purchase options and negotiated prices for both properties at levels which are considered competitive based on location and site specifics. Securing the options was approved during Executive Session of the December 21, 2009 Piqua City Commission meeting.

The approval of Resolution R-22-10 and R-23-10 will allow Power System staff to proceed with plans to construct a consolidated Power System Service Center. Based on the expected demolition of the coal-fired Power Plant in 2011, construction of the Service Center would take place in 2011 or 2012. The selected site is considered ideal due to the proximity of existing Power system assets, including two electrical substations and the dam. It is located within an existing industrial/commercial area along South Main Street which will allow for prompt emergency and outage response. The Energy Board unanimously approved recommending purchasing the two properties to the City Commission for \$71,148 at their January 26, 2010 regular meeting.

A possible alternative is to purchase property at another location. Over the past several years, other available sites were identified and discussed. However, the price of other locations was typically much higher and none offered the advantages of the location ultimately identified. Placing a consolidated service center near key Power System assets along a major thoroughfare ultimately directed us to the selected location.

Another possible alternative is to reject Resolutions R-22-10 and R-23-10 and cancel future plans for construction of the Power System Service Center. The benefit would obviously be a savings to the Power System of \$71,148. However, this option does nothing to address the long-range facility needs of the Power System or the Underground Utilities department.

FINANCIAL IMPACT:

Included in the 2010 Power System budget is \$100,000 for purchase of property to be utilized for the future construction of a consolidated Power System Service Center. The two properties total \$71,148, which is \$28,852 below budget.

COMMUNITY IMPACT:

Purchasing the two properties will allow for the future construction of a consolidated Power System Service Center. Consolidating Power System personnel, equipment, inventory and resources will significantly improve the operation's overall efficiency. The site of the properties is ideally located near key Power System infrastructure, include two electrical substations and the dam. The location along South Main Street will allow for quick emergency and outage response to any location within our service territory. The approval of Resolutions R-22-10 and R-23-10 will ultimately allow for an improved level of service to our electric customers.

CONFORMITY TO CITY PLANS & POLICIES:

The purchase of the properties and the related future construction of a consolidated Power System Service Center are included in the Power System's ten year capital plan. The purchase of the properties and construction of the consolidated Power System Service Center are consistent with the Power System's goals of providing cost-effective and efficient delivery of service, while also providing a high level of customer-service.