

**ST. BERNARD CITY COUNCIL MEETING
MARCH 1, 2007**

The regular meeting of the St. Bernard City Council was held Thursday, March 1, 2007 in Council Chambers.

President of Council, Mr. Curtis Walden – The meeting was opened with a prayer followed by the Pledge of Allegiance.

Roll call showed that all members were present: Ms. Hausfeld, Mr. Asbach, Mr. Schildmeyer, Mr. Burkhardt, Mrs. Brickweg, Mr. Meier, Mr. Zix.

Mr. Burkhardt made a motion to dispense with the reading of the minutes. Mr. Asbach seconded the motion. Council agreed 7-0.

REPORTS OF CITY OFFICIALS

MAYOR, Mr. Estep – Before I read the report, there is a proclamation we'd like to make tonight for a very important group. I'll read it now.

WHEREAS, The Meals-On-Wheels Association of America in March, 2007, declares the Fifth Annual "National Mayors-For-Meals Campaign" intended to increase public awareness about the nutritional needs of seniors living at home; and,

WHEREAS, Wesley Community Services seeks to foster and support the independence, dignity and functioning of frail elderly individuals, including those who are low-income, and who seek to remain in their home for as long as possible; and,

WHEREAS, Wesley Community Services Meals-On-Wheels annually provides nearly 200,000 nutritious meals, including physician-prescribed therapeutic meals for seniors suffering from high blood pressure, diabetes and renal disease; and,

WHEREAS, On Wednesday, December 27th, 2006, Wesley Community Services Meals-On-Wheels delivered its 1,000,000th meal since 1999; and,

WHEREAS, In 2006 nearly 1,800 individuals received one or more services including: Homemaker/Housecleaning, Medical Transportation and Meals-On-Wheels.

On March 19, Wesley Community anticipates serving 900 meals to senior citizens.

NOW, THEREFORE, I, JOHN R. ESTEP, Mayor of the City of St. Bernard do hereby proclaim March 19th through March 23rd, 2007 as

**'MAYOR'S FOR MEALS WEEK' BENEFITING
WESLEY COMMUNITY SERVICES**

In Cincinnati.

Now for my report; On Wednesday March 7th at 7:30p.m. we need volunteers to help prepare for the Easter Egg Hunt coming up on April 7th. We have over 2,000 plastic eggs that need candy put inside them so any help will be appreciated. Again we meet in Centennial Hall on March 7th at 7:30p.m.

It's time to begin thinking about honoring our Veterans. We have some veteran names from previous years and those gathered from the senior citizens already in a database, however, please submit the names of any

newcomers to the community, or names of loved ones serving our country. This day is to honor our Armed Forces and their service to our country and we don't want to miss anyone. You can contact Glenna McCarty at 242-7770 ext. 11 with additions to our list.

In each Council Members box are the initial results of a survey the St Bernard Senior Citizens Club completed for us. We wanted to get their thoughts and feeling on senior housing. Perhaps due to the gloomy weather, attendance on the day I stopped by was lower than usual – so we collected only 26 completed surveys. So more people can participate additional surveys are available in the lobby at City Hall through the end of March. I think the thing that most impressed me is the fact that about 90 ½ % of those responding to the final question indicated they support and recognize the need for senior housing in St. Bernard.

With unanimous support from Council we have moved forward with the soil samples from Bertus Park and are awaiting the results.

During the month of February, the City's website had 1,183 visitors.

AUDITOR, Mr. St. Clair – The February Auditor's reports are prepared for tonight's meeting. The receipts report and the report showing year-to-date revenue and expenses by fund are derived from the Auditors report and they are given to Council and the Administration.

Payroll for the month of February: \$ 365,980.22

Payroll year to date: 815,418.79

Other expenditures for the month of February: \$ 254,477.41

Other expenditures as of February 28th: 444,816.70

Total expenditures through the end of February: \$1,260,235.49

Before Council tonight is Ordinance No. 8, 2007. As discussed at the COW, this Ordinance transfers funds from the General Fund to the following cash accounts; Capital Projects-Storm Sewer Fund, General Bond Retirement Fund, and the Employee Health Plan. It also increases appropriations to the General Fund Transfer Out, Drug Offender Fines Expense, and Criminal Act Forfeiture Expenses Line items.

I would just like to mention that the State Auditors for the State of Ohio will be starting their examination of our books and records next week.

Also, a little plug for the Kiwanis Club of St. Bernard, they are having their 29th annual Pancake Breakfast on Sunday, March 18, from 9:00a.m. to 1:00p.m. at the St. Bernard/Elmwood Place cafeteria. The proceeds from the pancake breakfast help with the T-ball program as well as scholarship for high school students.

DIRECTOR OF LAW, Mr. Geiser – No report.

TREASURER, Mr. Kathman – I do have the receipts report for the month of February 2007.

Receipts for the month of February: \$ 836,364.76

Receipts for the year through February 28th \$ 1,827,340.72

SAFETY DIRECTOR, Mr. Stuchell – I have some good news through the diligence of Lt. Bill Ungruhe, we have secured a commitment from the Ohio Association of chief's of Police to provide our agency with 4 new Dell Desktop computers, keyboards, 17' monitors, mouse and 4 printers. Software installed will be Windows XP Professional, Microsoft Office

professional and McAfee Antivirus. The total cost for hardware and software is covered by OACP. They will also provide a new record management system called LEOT, Law Enforcement Officer Toolkit. Lt. Ungruhe also secured a 3 year maintenance contract at no cost. This is all possible through a technology grant through the state for a Law Enforcement Sharing Network. Lt. Ungruhe should be commended for his effort, our agency will have state of the art technology at no additional cost to the City. Also, this last week we took down another know drug dealer here in St. Bernard. The police department has now taken down 4 drug traffickers in the last month and I want to commend them on their efforts to keep this community clean. Unfortunately, no matter what community you live in, there will be drugs but we will make the commitment to do our best to uphold a zero tolerance level here in St. Bernard.

SERVICE DIRECTOR, Mr. Kempe – I recommend adoption of Ordinance No. 9, 2007, authorizing the Service Director to purchase a new Case 521D Wheel Loader and trading in the old Case Wheel Loader and the 1998 International Flusher.

Also, tonight, I would like to acknowledge our citizens, businesses and the Service Department for their efforts in the City’s recycling program. In 2006, the Service Department picked up, through curbside recycling, 233.51 tons of recyclable material.

In addition, the department recycled the following:

105.96 tons of cardboard	2.78 tons of aluminum
67 tons of scrap steel	2 tons of cast iron
19 lbs. of lead	173 lbs. of brass
281 lbs. of copper	115 lbs. of stainless steel
31 car batteries	53 automobile tires
141 Christmas trees	

The following appliances were also recycled:

42 washing machines	34 dryers
81 water heaters	15 freezers
54 stoves	81 refrigerators
5 dish washers	11 furnaces
105 air conditioners	

The St. Bernard’s recycling program diverted 411.5 tons of material from going to the landfill in 2006. In addition, the City received funds for the above mentioned items and also from the Hamilton County Residential Recycling Incentive Program.

The City’s savings and receipt of funds are as follows:

Savings by diverting 411.5 tons from the landfill 1@ \$34.25/ton	\$14,093.88
Funds received from Service Dept. recycling	\$12,774.00
Funds from the Residential Recycling Incentive Program	<u>\$11,379.12</u>
	\$38,247.00

The Service Department encourages all our residents and businesses to recycle. Recycling helps our environment and saves the City money.

TAX COMMISSIONER, Mrs. Williams – No report.

REPORTS OF STANDING COMMITTEES

FINANCE, Mr. Zix – The Finance Committee recommends passage of Ordinance No. 8, 2007.

SAFETY, Mr. Burkhardt – No report.

SERVICE, Mr. Meier – The Service Department for February: there were 15 trucks placed at residencies, 2 dumpsters, 105 special pickups at residencies, 183 tons of garbage taken to the landfill. The recycling report for February: there were 15.7 tons of recycling material; 9.1 tons of cardboard; 145 tons of scrap aluminum; 175 lbs. of aluminum cans; 2,000 brass; 3,420 lbs. of cast iron; 6,560 lbs. of scrap metal; 8 lbs. of stainless steel; and 28 appliances were picked up. The City received \$1,177.00 for recycling in January of 2007 and the City received \$6,649.26 for the curbside residential recycling program for the last six months of 2006.

PUBLIC IMPROVEMENTS, Mr. Asbach – The committee met tonight with the new members of the CRA Committee to discuss various items. It was decided to discuss Ordinance No. 31, 2006, which created our CRA, Community Reinvestment Area and we will discuss that at the next COW.

LAWS, CONTRACTS AND CLAIMS, Ms. Hausfeld – My Committee recommends passing Ordinance No. 7 which updates our Ordinance on solicitors and canvas licenses, which our Ordinance right now is back dated to 1933 and 1957. This is just bringing us to where we should be.

BUSINESS AND INDUSTRY, Mr. Schildmeyer – I do want to commend Joe for the sidewalk work that was done up on Greenlee and Mitchell in that area and he got them working through the winter time and that was a good project and it looks good and its probably uncovered now for about a week and a half and it really came out nice and it was really needed up there and we appreciate that.

I'd like to be put on the docket for COW next week.

HIGHWAYS AND TRANSPORTATION, Mrs. Brickweg – On Monday, February 26th, Joe, Gerry and I attended the I-75 Implementation Committee meeting. Some new, updated designs were presented and discussed for various interchanges along the Millcreek Corridor and the first two interchanges on I-74. At this time in St. Bernard it appears there will no impact on any houses located on Bank St. or Clay St. The design to move the expansion of I-75 into Ross Park has been scrapped and the park will remain as is. This decision was based on what they heard at the public meetings and from all the comment cards the citizens sent in. Currently, the fire house will not be impacted, but that could change depending on the overpass design over Vine St. We will not know the future of the firehouse until they complete the engineering designs, do bore studies and visit the firehouse. There will be some houses and businesses impacted on W. Ross Ave. The service garage will be lost as will the other businesses on Oak St. There was a lot of discussion at the meeting regarding the impact of the changes in the Colerain, Beckman, Cumminsville and Northside interchange area. There have been new changes with added connector roads, lights and exits. They are currently doing a more detailed traffic study on these areas

and Trans Systems will continue to meet with the people in these communities to come up with solutions that will hopefully accommodate most.

Another part of the I-75 expansion plan includes versions that would include a future transit rail system. There is no funding for this but they will include it in part of the plans and build the highway so if there is ever future funding for a rail system the new highway could accommodate it.

At the meeting The Ohio Department of Transportation presented a tentative time line for the various phases of construction, which is as follows:

1st - 2010 Mitchell Ave. Interchange

2nd - 2010 Monmouth St. Overpass

3rd - 2011 Colerain Ave./Beckman St. Interchange

4th - 2011 Railroad Overpass just south of the Norwood Lateral

5th - 2012 Lane expansion from Western Hills Viaduct to Mitchell

6th - 2013 Lane expansion from Mitchell Ave. to Norwood Lateral

The project will run out of money near 2013 and that is why the project is not forecasted out further. We will have to wait and see what new Governor Strickland's and the new OKI Director, Brian Cunningham, have in their budgets to see if the entire I-75 project can be completed.

The right-of-way acquisition of property will begin two years prior to construction. Property acquisition in St. Bernard should begin in 2011. Another public meeting about the I-75 expansion from the western Hills viaduct to the Norwood lateral will take place here in St. Bernard on Thursday, March 29th from 4:00p.m. to 8:00p.m. in the Main Hall of the Municipal Building. This again will be an open house style meeting and people can stop in at any time. There will be plenty of personnel present to take comments or answer questions and display material, including a traffic simulator, showing the new designs. For additional information, please visit the website www.I75millcreekexpressway.com or call TranSystems Corporation at 614-336-8480.

Mr. Burkhardt – The COW report has been submitted to the Clerk.

Committee of the Whole

Feb. 22, 2007

1. Council approved the minutes of the Feb. 15th Council meeting as corrected, 7-0.
2. After a short discussion, Council agreed to stay with a part-time Mayor and look at possibly hiring an economic developer for Vine St.
3. Mayor John Estep, no report.
4. Auditor, Walter St. Clair
 - A. Council voted 7-0 to put an ord. on the table for certain transfers and additional appropriations.
5. Director of Law, Edward Geiser
 - A. Ed is looking into possibly strengthening are sexual offender laws to match that of Cincinnati's new law.
6. Safety Director, Jonathan Stuchell, no report.

7. Service Director, Joe Kempe
 - A. The City has contracted with the Payne Co. for a phase 1 environmental study of Bertus St. Park area.
 - B. Council voted 7-0 to put an ord. on the table to trade in the street flusher and purchase a new front loader for the City garage.
 8. Tax Commissioner, Sheri Williams, absent.
 9. Laws, Contracts, & Claims, Patty Hausfeld
 - A. Patty informed Council that the Soliciting Ord. would be on the table for the next Council Meeting.
 10. Public Improvements, Steve Asbach
 - A. Steve announced that the CRA Committee would meet next Thursday at 6:30 before the Council Meeting.
 11. Business & Industry, Mike Schildmeyer
 - A. Mike announced that he is still working with Bob Sawtell and the Chamber of Commerce.
 12. Safety, Billl Burkhardt
 - A. Bill asked the Safety Director and the Police Chief to look into the possible speeding on Church ST. near the Vine St. Park area.
- Highways & Transportation, Peggy Brickweg
- A. Peggy reported on the meeting with the CIC and Dr. Ramonos.
 - B. Peggy is also working on contacting two possible tenants for the Nu-Maid site.
14. Service, Kevin Meier, no report.
 15. Finance, Greg Zix, no report.
 16. Council then met in Executive Session to discuss the purchase of property and pending litigation.

Respectfully submitted,
 Bill Burkhardt
 President of Council, Pro-Tem

COMMUNICATIONS

2/14/07

To members of St. Bernard Council and Mayor Estep.

Thank you so much for the lovely proclamation for Madge Moedl Frank's 100th birthday. Many people told me that it was the nicest one they had ever heard.

Glenna was so kind and helpful. Thanks to her, also.
 Walt St. Clair brought it to the party and read it beautifully.
 It all helped to make Madge's birthday very special.

Sincerely,

Sue Owens

Motion by Mr. Burkhardt, seconded by Mr. Schildmeyer to receive and file the communication. Motion passed 7-0.

RESOLUTIONS AND ORDINANCES

Motion by Mr. Burkhardt, seconded by Mrs. Brickweg to read this evening's Ordinances by title only. Motion passed 7-0.

The third reading of Ordinance No. 4, 2007

ORDINANCE NO. 4, 2007, REPEALING SECTION 159.14 OF THE ST. BERNARD CODIFIED ORDINANCES, KNOWN AS THE RESIDENCY ORDINANCE, AND DECLARING AN EMERGENCY.

Motion by Mr. Burkhardt, seconded by Ms. Hausfeld to adopt Ordinance No. 4, 2007 as read. Motion passed 5-2, Mr. Zix and Mr. Asbach voting no.

ORDINANCE NO. 7, 2007. REPEALING THE CURRENT CHAPTER 739 OF ST. BERNARD'S CODIFIED ORDINANCES AND ENACTING A WHOLE NEW CHAPTER 739 AND DECLARING AN EMERGENCY

Motion by Ms. Hausfeld, seconded by Mrs. Brickweg to allow Ordinance No. 7, 2007 to take it's regular course. Motion passed 7-0.

ORDINANCE NO. 8, 2007. AUTHORIZING AND DIRECTING THE AUDITOR TO TRANSFER FUNDS AND TO PROVIDE ANDDITIONAL APPROPRIATIONS AND DECLARING AN EMERGENCY.

Motion by Mr. Burkhardt, seconded by Mr. Asbach to suspend with the second and third reading of Ordinance No. 8, 2007. Motion passed 7-0.

Motion by Mr. Burkhardt, seconded by Mr. Asbach to adopt Ordinance No.8, 2007 as read. Motion passed 7-0.

ORDINANCE NO. 9, 2007. AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A PROPER CONTRACT FOR THE PURCHASE OF A CASE 521D WHEEL LOADER AND FOR THE TRADE-IN OF A 1990 PAYLOADER AND A 1998 INTERNATIONAL FLUSHER THROUGH THE OFFICE OF STATE PURCHASING, OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES, AND DECLARING AN EMERGENCY

Motion by Mr. Burkhardt, seconded by Mr. Schildmeyer to suspend with the second and third of Ordinance no. 9, 2007. Motion passed 7-0.

Motion by Mr. Burkhardt, seconded by Ms. Hausfeld to adopt Ordinance No. 9, 2007 as read. Motion passed 7-0.

Ordinance No. 10, 2007, AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES OF ST. BERNARD, OHIO, REVISING THE TRAFFIC, GENERAL OFFENSES AND FIRE PREVENTION CODES TO COMPLY WITH STATE LAW, AND DECLARING AN EMERGENCY.

Motion by Mr. Burkhardt, seconded by Mr. Asbach to suspend with the second and third reading of Ordinance No. 10, 2007. Motion passed 7-0.

Motion by Mr. Burkhardt, seconded by Ms. Hausfeld to adopt Ordinance No. 10 2007 as read. Motion passed 7-0.

OLD BUSINESS

Mrs. Brickweg – On the January 4 Council Meeting I explained how the extra longevity pay works for some employees and how new City Hall employees hired makes the same salary as those leaving. City Hall employees do not have salary steps like the other departments have. These two practices have been discussed for over two years now and I really don't want to see them tossed aside any longer. Now is the time to make the changes since it is an election year and since we are always looking for ways to fun the City more efficiently. I would like to ask this to be on the COW agenda so we can get an update from the Finance Committee on what the progress is that they are supposed to be working on is.

Mr. Asbach – I'll call it old business because I'm hoping that we're through with snow for the year, but I was contacted by a resident who brought it to my attention that this being an older community was looking for some help from some of the younger men in the City that when it snowed they could go out and possibly shovel snow for some of the elderly people that can't get out and do it. She commented that both Roger Bacon and she didn't know about St. Bernard High School, but there are service requirements for all ages and that this could be a good way, they don't necessarily have to be compensated, but they could shovel the snow and get their service hours for volunteering and just have the residents sign off. Like I said, I hope we don't need this until next year but I told her I would bring it up.

NEW BUSINESS

Mrs. Brickweg – I would also like to add to the agenda for the COW, the Great American Clean Up is coming again in April and I've been contacted and I want to see if we do want to participate in that again and since the Service Dept. did do such a good job cleaning up the parks their wasn't a whole lot to do last year so I was thinking maybe at the COW we could also discuss, and maybe Joe and the Service Dept. could think about this for the next week, if maybe there is a project we could work on, like if the playground equipment needs staining or mulching or something like that, there didn't seem to be a lot of trash to clean up. I'm just wondering if maybe there is a project that we could all work on. I'd like that to be on the agenda for the COW.

AUDIENCE WISHING TO ADDRESS COUNCIL

Taylor Gruenwald, 4235 Zetta Ave. – I represent a group of residents who are against the City’s plan to develop Bertus Street Park. We are upset to hear that you are planning to build new houses where so many children, including me, play daily. This park holds special memories for many residents young and old. It doesn’t make sense that you are willing to take the park away from thousands of residents to build a few houses. There are already many houses for sale in St. Bernard for those who are interested in moving here. Once the park is gone, it’s not coming back. We believe that a little effort should be put into making the park nicer. With the right changes, it might be less attractive to the wrong crowd. If you get rid of the park instead of the problem, then the problem will just move to a different park. We have started a petition but are not ready to present it because we have not gone to every home yet. It’s very surprising how many residents are completely unaware of the City’s plans for the park. I am simply asking that you reconsider building houses on our park.

Mrs. Brickweg – Just to add to what she said, I received an email today from a resident and I thought she had a pretty good idea that if we do decide to keep the park, the possibility of putting cameras at the park and having them wired at the police station so that we can keep a better eye on what’s going on at the park. The Police Chief did email me back and apparently there are or there were some cameras at one time but they were in the older building and they’re ruined so I’m thinking maybe that’s something we might want to look into and that would help the security there.

Mr. Estep – I would just like to take a moment to commend Taylor for her efforts and it’s great to see the young people taking part in this process. I’d like to hear more and more from the names and Council. We’re not planning to build the homes, we’re just planning to get the lot cleared to develop up there and we won’t sell the homes up there if it gets to that point. We still have to wait on the soil samples to come back, probably hold another public meeting depending on those results and surely listen to the citizens, especially the young citizens if they have a petition out there. I like the idea of getting all the people involved and listen to everybody before we make any decision.

Norm Miller, 219 Washington Ave. – I’m going to start off by saying that I want to talk to the people that are watching this television and I want you to remember in the very near future a few months from now, four names, four names are Peggy Brickweg, Patty Hausfeld, Bill Burkhardt, Mr. Meier. At the last Council meeting it was a lot of frustration and a motion was made to do away with televising these Council meetings. The people of St. Bernard wanted these Council meetings and the motion was made to do away with them. The people reading I want you to remember these four names, these four names they want us to see these Council, they want us to know what’s going on at this Council. So remember, they’re not censoring our Council meetings, four of them. The other three voted against it, they don’t want us to know what’s going on in Council meetings unless you got the time to come down here and sit and listen to whatever they got to say.

The second thing I wanted to say to Mr. Schildmeyer, at the last meeting he made a remark that you’re sick of listening to this kind of Council meeting, you get calls from your friends even from Loveland that said, ‘we’re the Beverly Hillbillies’ you didn’t make it clear to me whether you up there are

the Beverly Hillbillies or me up here are the Beverly Hillbilly. I come down I look like a Beverly Hillbilly, I am part hillbilly, I look like that when I'm out on the street, I only clean up here so they don't know who I am when I come here so that Beverly Hillbilly don't set good with me, we put our pants on the same way your friends do in Loveland or wherever you're getting your emails from.

The other thing, and I'm not really clear on this, several meetings ago the Mayor brought up the, and this has been going on, the Council wanted the Solicitor to look into the legality of using the Bertus St. Park for residence, he spent a lot of time on that, week after week, meeting after meeting, he finally got a decision and we were clear on that and then we had an open forum and we heard the horror stories of the people who live there. Not people who live out in Chalet Village or over on the other end of Greenlee Ave. we heard from the people who live there and they were horror stories. We heard from the police dept., all the problems they have there so everybody was against building it, now all of a sudden we heard the horror stories at this meeting and everybody changes their mind now. It wasn't very long from that we have this open forum, I don't think anybody heard what these people said or that last meeting or probably two meetings ago, the Mayor asked all seven of you up there, do we want to move forward on this thing. I heard seven votes say, move forward on it. So the Mayor goes out to get these soil tests, Gerry Wiedman last meeting went through all the process, one, two, three what it takes. We invested \$2700.00 for the first soil test. At the next COW last week, it sounded to me like you're all against it now. So where are we on this, have you got any votes here, we had seven people up there that said, 'let's go forward, let the Mayor go forward' Gerry and Joe goes on the block and gets the people outside, gets the contract even signed and at the last COW meeting it sounds like nobody wants to put it up there. We had a commitment here, I think Mr. Meier says well, St. Clement is getting low on attendance, maybe people that come in from out of town and enroll at St. Clement, is that what you enroll into St. Clement for because we got a playground in the back or do you enroll for economic for your education. That's a poor excuse. Then you made excuses that we might get sued. Eddie Geiser seemed to think it was all clear. One excuse after the other, so where in the world are we, we going to do anything with it or what is it. It's several of you make remarks up there, we're on the right track, if we don't put a train on the track it isn't going to go nowhere. How do you expect to get Vine St. done if we can't even get this situation with the park done. I don't understand where you're coming from, that's one of the reasons that people, I think, they don't think I'm a dummy up there, I think there's some dummies up there that don't know what the heck is going on and meeting after meeting we approve something, we don't approve something, it's the same situation. Why don't we get together and get something done. I don't know how in the world we're going to get Vine St. done.

Mr. Zix – Yes, I was the one that proposed taking these meetings off TV. If you remember, Asbach, Schildmeyer and Zix voted not to censor the meeting that was censored. That was one of the reasons, Mr. Miller, we wanted to take them off. These people were acting in an unprofessional manner and they were censoring the broadcast. The rules have to stay the same. I'm happy these are on and the people get to see them and share the information. But if we can't control our own people, we can't have them on.

But yes, Asbach, Schildmeyer and Zix voted to put them on and that is the reason it was brought up because it wasn't under control.

Mr. Meier – Norm, I always appreciate your remarks, I would like to make one correction. There was never a 7-0 vote on here because I voted against it every single time, the one exception was one night I came into the meeting a little bit late and that was a 6-0 vote. One of the reasons, actually there are a couple of reasons why I am voting against putting anything on Bertus St. Park. One is, first of all the park is being used and in the opinion that Mr. Geiser brought back, the key to that is and this is the Ohio Supreme Court's ruling in the *State vs. Redick* and the power to vacate property owned by Municipal Corporation no longer needed by it for Municipal purposes is included within the powers of local self government conferred by Article 18 of the Ohio Constitution. That was *Babin vs. the City of Ashland*. In the second case which is *Hugger vs. the City of Ironton*, again it says, 'in this day and age when all cities and municipalities are more or less competing in obtaining for their inhabitants various industries, institutions and civic improvements, many times it becomes necessary to convey property not needed for municipal purposes in exchange for these various benefits'. Again, it says 'properties not needed for municipal purposes' and that's certainly not the case in what we have at the park. In the *City of Steubenville vs. Targoss*, and I'm taking these quotes directly from the legal opinion we had, the City of Steubenville had the authority to convey a wood of tract that was part of the municipal park in order to build a new school. We're not planning on building a new school. Again, a school is something that provides the entire City. In a quote *Miller vs. the Village of Brookville*, again, it quotes 'is no longer for municipal purposes and to dispose of such property were it not for the purpose of interest and advantage of the inhabitants of that municipal corporation.' Again, that is not what we're doing. In *Tacacs. the City of Euclid*, again, they wanted to sell a municipally owned housing facility on 33 acres that was no longer needed for municipal purposes for a condominium development. So they were taking an old housing facility that they were no longer using and exchanging it for a condominium, so they were exchanging houses for houses. In *Siebert vs. Columbus and Franklin County Metropolitan Park District*, again, it was held by the municipality in trust for public use, when a designated use is no longer practicable, the City may sell the land and use the proceeds for the public benefit, again, we're not using the proceeds for the public benefit. In additional considerations, 'the additional considerations for the land holders adjoining a property would have a right to bring actions challenging the sale of that park land'. Again, this is from the City of Steubenville. The reason that the adjoining landholders have a different order in the pecking order is, it says, I quote; "The adjacent owners of real estate had purchased their original lot at prices higher than comparable lot elsewhere in the development due to the presence of a park." The argument there was that those people may sustain an injury by the lose of their properties values and they have a right to sue. In the *Over-the-Rhine vs. the City of Cincinnati*, it's conceivable that property owners abutting the park would raise this theory of eminent domain and what they're talking about is, again this is a quote from the legal opinion, 'you should note cases under eminent domain principles finding for example that property owners who abut streets that are changed in a manner detrimental to them are entitled to damages resulting from substantial and unreasonable interference

with their rights of egression and ingressio. Again, our lawyer is saying that if we were to sell that park, that is where adjacent landowners or lot owners could sue the City. Again, a quote from the legal opinion, 'therefore if plaintiffs were able to frame the case as one involving eminent domain principals, significant legal hurdles could exist.' They are talking about significant legal hurdles to the City of Cincinnati. Again, in the end of this, 'if St. Bernard then decided to sell the land to a developer it would be critical for St. Bernard to have studied and determined, i.e. develop evidence and record, that such development was for a public purpose that would advantage the citizens of St. Bernard, even so as outlined above, St. Bernard's action would not be immune to legal challenge, especially by adjoining property owners. Although St. Bernard's legislative acts to sell the land would be entitled to deference, the outcome of litigation challenging the sale would be hard to predict.' So from a legal prospective what we're trying to do, I don't think we've met the standard for selling the park land. Again, when I talked about the children using it, there are children who use it on a daily basis. We've heard from seniors who use that to walk through. When I was talking about the possibility of people moving here, as schools are closing, there are people who very strongly would like a Parochial education for their children. If they are unable to get it where they're living now, there is a possibility that they move here. The park is not going to make a decision whether or not somebody would enroll in a particular school but it may very well make that school more attractive to somebody. Part of the problems that we have up there is that we have taken parts of that park away, we no longer use the tot lot, we never did anything with it, so we've made it, we've let it run down, we've made it attractive for the types of people that misusing the property. What I'd like for us to do is since we already went ahead with JMA, ask them to come up with a plan to divide that up into lots, I'd also like to see what JMA could do if we wanted to convert that to a usable park for all of the citizens and see what the cost of that would be and when we get that back then present everything to the citizens. I've heard from a number of people over and over again people say, I will vote the way the people want me to vote. Obviously there are a substantial number of people who do not want to put houses on that park land and again, I will continue, as long as we're voting, as long as we have people saying that we're not going to use it, it will never be a unanimous 7-0 vote to put houses on that property.

Mr. Schildmeyer – I agree with Kevin, Kevin and I have talked on this matter quite a bit. If you do recall the first time this was brought up, when John asked me how I felt about the park, I did tell him that I think we should look at improving the park for the all of the citizens. I encountered many discussions over the past couple weeks with senior citizens and from phone calls I received at home of people who are backing me on that comment. I did vote to go ahead with the soil samples. If we're going to do any kind of work on that park, we're going to need the soil samples anyway. If we're going to change the park or improve the park or if we're going to build on the park we're still going to need the soil samples, and that's basically why I voted yes on the soil samples to go ahead with them. It's needed in the future for any decisions that we make. I am really proud of the girls for getting up there and talking and for getting the article in the paper the way they did, I think it's good that all people know just what is happening on the

park area up there now and we need to discuss this a little bit further and get some decisions made and go in the right direction in the future.

Mr. Asbach – Just some comments on Mr. Miller’s remarks, the reason I voted with the motion to take the meetings off is because we were told way back when that you could not edit these tapes. I take offense to the fact that we’re trying to keep it from the residents, as Mr. Zix stated, the three of us, Mr. Schildmeyer, myself and Mr. Zix voted to keep that meeting on TV. The other four voted to take it off, it never did air. If we can’t act in a professional manner, I don’t feel that the meeting should be on TV. What was not talked about at the COW, since no one had changed their mind, was if we do take them off, I’m not trying to keep a thing from the residents, I’d like to go back to mailing, whether it be a synopsis minutes or regular minutes, back out if this is going to continue to be the three ring circus that it gets to be from time to time, that’s why I voted that way that night and I do take offense, I’m not trying to keep a thing from the residents.

Ms. Hausfeld – A couple of remarks for Mr. Miller. Mr. Miller, I was one of the Council people last week that in my own opinion I sound wishy washy about the park. I’m not wishy washy. I’m wholeheartedly for developing St. Bernard, be it the park, be it Vine St., be it whatever. St. Bernard needs developing, period. Developing for the park, is it houses or is it developing a new modern park. I’m not sure of that answer yet. I do know after last weeks meeting, no matter which way we decide to go, which we have not made a final decision yet, there’s still going to be open meetings, if memory serves correctly, there’s still going to be input from you guys, the citizens, and before we can go on rebuilding the park or building new homes, we need a couple testing done that are being done right now. That’s my opinion right now on the park. I do value the citizens’ opinion and I know, as a Council person, I am not going to make every single citizen happy, I know that but I want to hear from the citizens. Either for the development of the park with houses, for the development of the park for a new park, whatever your concerns are, feel free to email me, my email has been messed up, my last name changed, so if anybody want to personally email my home one, it’s phausfeldhowell@yahoo.com and no matter what your opinion is I will listen and from the remarks that I get from the citizens and what I feel would be best from the remarks from there and for the City input, then I will make my decision. But no final decision has been made yet until the studies come back and until we have more open meetings, at least one more open meeting about the park area.

Mr. Burkhardt – I also would like to say that we went ahead with the ground studies and we will have an open meeting after that, a town meeting if that is what you want to call it on that property. To this point I am still for putting the houses up there I think it’s a great idea, I grew up right across the street from that park and played in that park a lot and times have changed quite a bit up there and I don’t think the City should be bound having a recreation facility for the school itself. They have land that they can use if they so see fit. I just think this is still a ways off, we still have the ground study to get back and we still have the public hearing to go through and if we need a second public hearing after that, that can happen.

Mrs. Brickweg – I'd like to touch on both points with what Mr. Miller said. I will admit that I have been lopsided on this one and I'm not really sure on which side I'm going with with the park. I did vote to do the soil test because the soil test would have to be done because if we do even make it a park we have to take out the swimming pool and that building is probably going to go down too so we did need that either way. I will admit that when I went to the town meeting I was surprised at the amount of the people at the meeting that lived up by there that told a lot of the problems that were going on and I was shocked at some of that but like I had said before, I am having a difficult time with how the City chooses one time to follow Ohio Revised Code, one time to follow Home Rule, you know, which one are we going to pick and choose from and I did ask Ed some questions and I have not heard back from him and these I think are very important when making a decision. Just like Kevin said, when you read through legal documents we were given, one point is, Council will have to take a vote and we're going to have to vote to say if that park is needed for the public or not and I think I'm going to have a really hard time if I have a bunch of residents telling me they want that park and that means that park is needed for the public, I don't see how as a Council person I have the right to say that but that's going to be a interesting vote when we have to take that. I also asked Ed what is considered the adjacent property owners because I think that will take a good role in how we make our decision. I'm sorry I was writing down the notes as you were speaking. I also do not agree that in part of the laws, whatever would go in place of the park would have to be for public purpose, I don't see how three houses are for a public purpose so, you know right now after I really look at the laws that Eddie gave us, I still want to get his opinion but to be very honest right now I am leaning more towards keeping it a park because I don't see how we can say the park is not needed when you have all these people telling us they use it, it's needed. What gives us the right to say, oh sorry, it's not needed.

On the second part with the minutes, and I talked to you before the meeting, and I said this last week and the week before. I apologize for voting to take it off, there's only a few reasons why I did that, because I was badgered in between the meeting, Mr. Zix even stated that this was a good reason why it should never be on TV and he never wanted it on TV so I thought by letting a little part not be on that we could save the citizens from being able to see all of the meetings and I made a huge mistake there and I apologized to everyone for that mistake. I do not feel I was out of control, I do not feel I was unprofessional, the only reason I voted to actually take the minutes off is I was not embarrassed by what I said, I had the facts to back up what I said, I was embarrassed by the reaction of somebody and I did not want her to be embarrassed and it be seen on TV. I have no problem with what I said and the other thing is and I'm still waiting for an answer from anybody in the Administration or Council, I have asked over and over, everybody tells me this is not the forum to bring it to. I went to the Mayor, met with the Mayor, I was not told the truth, waited three weeks, nothing happened. I would love to know, what's the next step, nobody seems to have that answer. They tell me I did it wrong, but nobody has that answer when you're not told the truth, how do you get the truth.

Mr. Estep – Going back to the park issue, this was just an idea that a few of us talked about, came up with the idea of maybe revamping that area, to put some homes. It was an idea that we thought would bring some good

residents into our town, generate some revenue, we didn't see a problem, the first thing did was call Mrs. Stover at St. Clement to explain our tentative plan and she was in full support, she agreed and I think she has seen what happened up there before we took the basketball court down. Any time you have a topic that's going to impact the lives of some children, it's going to be very emotional and I hope that the very least that comes out of this, we're aware of what's going on up there and we are trying to do something about it and we're going to change, whether it's homes, revamp the park, just remember it's a public park, we can't pick and choose who uses that park and we're trying to do what's best for the residents here.

Norm Miller, 219 Washington – You know I was just sitting at home before I came down here, we've got nine parks in this town and we're one mile square. We got three major parks, swimming pool in one, three ball diamonds on another and a ball diamond where the swimming pool is, we got a soccer field. We got nine parks in this town and we're one mile square. I don't know whether you get the Ohio Magazine, Ohio Magazine got the front cover, Marrimont, I think Dr. Romanos spoke about Marrimont. They've got two parks, they're one mile square. Some reason we need nine parks in this town. Why don't you people and the way it sounds to me, you want a park there. Why don't you just say, we're going to do a park here and forget the rest. Why lead the Mayor on, Gerry on, Joe on, why lead them on, make a decision, you know in your mind what the decision is. Make the decision, we're going to work on a park and let's do the park. But don't lead everybody on with wishy washy stuff. Make your mind up and get it done.

Mrs. Brickweg – Mr. Miller I understand what you're saying that there are nine parks, but what I'm saying is, it might not be legal for us to get rid of a park. You might want to get rid of a park, but it might be against the law to do it and we really need to hear from Eddie what that law is. I mean, I'm not going to put our City in a situation of being sued. If you read all the laws and there must be a reason for this law, so cities can't just come in and take over a city park, we have to follow the law.

Samantha Brenner, 4228 Zetta Ave. – As you all know the City is trying to demolish Bertus St. Park. Many of us citizens do not want this to happen. We have been passing around a petition and have gotten a decent amount of signatures. I am very concerned in the future of plans for the park. We could work together for a completely better park with slides, new blacktop, basketball hoops and cameras. There are many houses for sale and vacant. I hope we can think about that. What exactly is the point of new housing for citizens who probably already live in the City and just might want a better house. That person who moves out will leave a whole other house for sale. Also, I do not attend St. Clement School but I do spend a lot of leisure time with my friends here. Where will St. Clement play when this is knocked down? Where will I play when this is knocked down? There are worse parks in this neighborhood than this one that could easily be used for housing. I hope everyone considers what we are trying to say.

Mr. Estep – Again, I want to thank Sam and Taylor, I coached those girls years ago in softball so I know not to fool them. They are tougher than me and again I commend you for going through that and like I asked you at the

town meeting, Taylor and Sam, when you get those names and get that petition, please call me, I'd like to sit down with you and have you in my office and I'd like to hear your side and I'm sure I can get some great ideas from you young ladies so thanks again.

Mr. Schildmeyer – I this time I would like to withdraw my request to be on the agenda at COW next week, with the discussions that just happened.

Mrs. Brickweg – Sorry Mike, I was just saying to Bill, I would like to put it on the COW for Eddie to give us some answers. That's what I think we need, we need answers to some of those questions so we can move on from there and make decisions, but I'd like to put it on the agenda for him to give us answers to these questions.

Mr. Burkhardt – The next COW will be Thursday, March 8, at 7:30p.m.

Motion by Mr. Zix, seconded by Mr. Kevin to adjourn. Motion passed 7-0.