

Agenda
Sylvania City Council
April 18, 2011 7:30 p.m.

1. Roll call.
2. Pledge of Allegiance to the United States of America led by Mr. Milner.
3. Additions to the agenda.
4. Approval of the April 4 meeting minutes.
5. Presentation of Resolution No. 7-2011 to Southview Cougarettes Dance Team, and Coach Heather Smith commending their First Place finish in the Jazz Division in the state competition.
6. Proposed Ordinance 16-2011, authorizing a lease with New Cingular Wireless PCS for a portion of the water tower, and additional land at Burnham Park for communications fixtures. First Reading was April 4.
7. Proposed Ordinance 23-2011, approving, adopting, and enacting the current Replacement Pages to the Codified Ordinances.
8. Highland Meadows and Griffith Park improvements;
 - a. Service Director's report on the bids received;
 - b. proposed Ordinance 24-2011, accepting the bid of PHC, Inc., in the amount of \$1,275,701.35.
 - c. Service Director's report on inspection services proposals for the project;
 - d. proposed Ordinance 25-2011, accepting the proposal of Northwest Consultants, Inc., to provide construction inspection for the Highland Meadows and Griffith Park Improvements - East Phase in an amount not to exceed \$91,248.
9. Proposed Ordinance 26-2011, entering into a sanitary sewer cost recovery agreement with Stephen G. Scarvellis Builder, LLC relative to the connection of others to a sanitary sewer line constructed by developers along Corey Road.
10. Relocation of Monroe Street utility wires;
 - a. update, and letter from JDRM Engineering on the revised cost; and,
 - b. proposed Ordinance 27-2011, accepting the proposal of JDRM Engineering to provide engineering design in an amount not to exceed \$75,000.
11. Fee increases as recommended by the Safety Committee;
 - a. proposed Ordinance 28-2011, amending Chapter 735.03 - Sales on Private Property;
 - b. proposed Ordinance 29-2011, amending Chapter 755.05 - False Alarms; and,
 - c. proposed Ordinance 30-2011, amending Chapter 351.20 - Offenses and Fines.

12. Proposed Ordinance 31-2011, entering into an agreement with the Lucas County Commissioners to participate in the Suburban Court Services program.
13. Planning Commission's recommendation on the proposed zoning code changes. Set the public hearing date - the earliest date is June 6, and authorize the clerk to advertise for same.
14. Planning Commission's recommendation on PD-1-2011, amend the planned development of Tam O'Shanter. Set the public hearing date - the earliest date is June 6, and authorize the clerk to advertise for same.
15. Committee reports.
16. Committee referrals.

Information

- A. March bank reconciliation.
- B. Meeting minutes from the special Planning Commission meeting on April 7.
- C. Meeting minutes from the April 13 Planning Commission meeting.
- D. Meeting minutes from the April 13 Board of Architectural Review meeting.
- E. 2011 Replacement Pages for the Codified Ordinances.

Minutes of the Meeting of Council
April 4, 2011

The Council of the City of Sylvania, Ohio met in regular session on Monday, April 4, 2011 at 7:30 p.m. with Mayor Craig A. Stough in the chair. Roll was called with the following members present: V. Michael Brown, Doug Haynam, Sandy Husman, Mark Luetke, Todd Milner, Mary J. Westphal (6); absent: Katie Cappellini, excused by Mayor Stough (1).

Roll call:
Cappellini absent,
excused.

Mr. Luetke led the Pledge of Allegiance to the United States of America.

Pledge of Alleg.

Mayor Stough stated that Council will now consider agenda item 3.

Requests were made for the following additions to the agenda:

Amendments to
the agenda.

- 4a. Report on the 7:15 public hearing.
- 4b. Chamber awards.
- 5. Withdrawn.
- 8. Extension of the 45 day report back from the Planning Commission.
- 10a. Rite Aid liquor permit transfer.
- 12a. Safety Committee report.
- 14a. Update on the Highland Meadows/Griffith Park street paving project.
- 14b. Waterline repair on Convent Blvd.

Mr. Haynam moved, Mrs. Westphal seconded, to approve the agenda as amended; roll call vote being: Brown, Haynam, Husman, Luetke, Milner, Westphal (6) yeas; (0) nays. The motion carried.

Mayor Stough stated that Council will now consider agenda item 4.

Mr. Milner presented the March 21 minutes. Mr. Milner moved, Mr. Haynam seconded, that since the Mayor, members of Council, and others had been furnished copies of these minutes prior to this meeting, Council dispense with the reading of these minutes at this time, and the journal of the minutes of the regular meeting of March 21, 2011 be approved as submitted, provided there are no amendments from other members of Council; roll call vote being: Haynam, Husman, Luetke, Milner, Westphal, Brown (6) yeas; (0) nays. The motion carried.

Approval of the
March 21
minutes.

Mr. Haynam reported that no one present at the public hearing for SUP-1-2011 objected to designating the Kingston Care Center, 4121 and 4125 King Road, a special use of the property. The change will correct the zoning classification that was not maintained when the property was annexed into the City. Mr. Haynam presented and read aloud by title only, proposed Ordinance No. 22-2011, a written copy of same having been previously furnished to each member of Council, "Granting a Special Use

Ordinance 22-
2011, "Granting a
special use permit
...Kingston Care
Center..."

Minutes of the Meeting of Council
April 4, 2011

permit to allow the operation of an assisted living facility at 4121 and 4125 King Road, Sylvania, Ohio on the application of Kent A. Libbe, Vice President of Kingston Care Center of Sylvania, LLC, on the recommendation of the Municipal Planning Commission; and declaring an emergency.” Mr. Haynam moved, Mr. Milner seconded, that Council dispense with the Second and Third Readings of said Ordinance; roll call vote being: Husman, Luetke, Milner, Westphal, Brown, Haynam (6) yeas; (0) nays. The motion carried.

Mr. Haynam moved, Mr. Luetke seconded, that Ordinance No. 22-2011 be enacted as an emergency measure as declared therein; roll call vote being: Luetke, Milner, Westphal, Brown, Haynam, Husman (6) yeas; (0) nays. The motion carried.

Mayor Stough reported that the Chamber of Commerce awarded the City the Non-Profit Chamber Champion of the year at the Chamber Expo’s preview. The City will also be honored at the April 5 meeting as the Organization of the Month.

Chamber awards.

Since item 5 had been withdrawn by Ms. Gootte Mayor Stough stated that Council will now consider agenda item 6.

Assistant Law Director Leslie Brinning explained the changes made to the Cingular Wireless lease. Mr. Haynam requested more time to review it since Council received the revised lease today. After discussion, Mr. Brown presented and read aloud by title only, for the First Reading, proposed Ordinance No. 16-2011, a written copy of same having been previously furnished to each member of Council, “Authorizing a lease between the City of Sylvania, as lessor, and New Cingular Wireless PCS, LLC, a Delaware Limited Liability Company, as lessee, of a portion of the water tower within Burnham Park and additional land in Burnham Park, for the purpose of installing, constructing, maintaining, repairing, operating, altering, inspecting and removing communications fixtures, determining said City owned property not to be needed for municipal purposes during the time of the proposed lease; authorizing the Mayor and Director of Finance to sign such a lease on behalf of the City of Sylvania, Ohio; and declaring an emergency.”

First Reading of Ordinance 16-2011, Cingular Wireless lease agreement.

Mayor Stough stated that Council will now consider agenda item 7.

Service Director Jeffrey Ballmer’s report on the demolition proposals received was placed on file. Mrs. Husman presented and read aloud by title only, proposed Ordinance No. 21-2011, a written copy of same having been previously furnished to each member of Council, “Accepting the proposal of Paschal Bihn and Sons Excavating to demolish the existing structures at 6715 Maplewood and 6453 Monroe; appropriating funds therefore in the amount of \$18,720; and declaring an emergency.”

Ordinance 21-2011, “Accepting the proposal of Paschal Bihn... demolish...”

Minutes of the Meeting of Council
April 4, 2011

Mrs. Husman moved, Mr. Milner seconded, that Council dispense with the Second and Third Readings of said Ordinance; roll call vote being: Milner, Westphal, Brown, Haynam, Husman, Luetke (6) yeas; (0) nays. The motion carried.

Mrs. Husman moved, Mrs. Westphal seconded, that Ordinance No. 21-2011 be enacted as an emergency measure as declared therein; roll call vote being: Westphal, Brown, Haynam, Husman, Luetke, Milner (6) yeas; (0) nays. The motion carried.

Mayor Stough stated that Council will now consider agenda item 8.

Mayor Stough presented the Planning Commission's report on their review of the final draft of the zoning code amendments. The commission requests an extension of the 45 day report back deadline, and will have their recommendation to Council by the April 18 meeting. Mr. Haynam objected to the extension and encouraged the Planning Commission to submit their report by April 11. Zoning code amendments.

Mayor Stough stated that Council will now consider agenda item 9.

Mr. Haynam presented zoning ordinance amendment petition no. PD-1-2011, a request from Tom Cline, Sylvania Tam O'Shanter, to amend the existing planned development of the property at 7060 Sylvania Avenue to allow for an addition for office space and storage. Mr. Haynam moved, Mrs. Westphal seconded, to refer PD-1-2011 to the Municipal Planning Commission for review and recommendation; roll call vote being: Brown, Haynam, Husman, Luetke, Milner, Westphal (6) yeas; (0) nays. The motion carried. PD-1-2011 to Planning Comm.

Mayor Stough stated that Council will now consider agenda item 10.

Mrs. Westphal moved, Mr. Milner seconded, not to request a hearing on liquor permit no. 4619131, a transfer of the C1, C2, and D6 liquor permit from Sylvan Pantry, Ltd, d/b/a Sylvan Pantry, 4900 McCord Rd., Unit B6 to Khodal India, LLC, d/b/a Sylvan Pantry, 4900 McCord Rd., Unit B6; roll call vote being: Haynam, Husman, Luetke, Milner, Westphal, Brown (6) yeas; (0) nays. The motion carried. No hearing requested for liquor permit transfer, Sylvan Pantry.

Mrs. Westphal moved, Mr. Luetke seconded, not to request a hearing on liquor permit no. 50093602390, a transfer of the C2, C2X liquor permit from Rite Aid of Ohio, Inc., d/b/a Rite Aid 2354, 4018 N. McCord Rd., to Lane Drug Company, d/b/a Rite Aid 2354, 4018 N. McCord Rd.; roll call vote being: Husman, Luetke, Milner, Westphal, Brown, Haynam (6) yeas; (0) nays. The motion carried. No hearing requested for Rite Aid liquor permit transfer.

Mayor Stough stated that Council will now consider agenda item 11.

Minutes of the Meeting of Council
April 4, 2011

Mayor Stough gave an update on the TMACOG Water Study. He said that committee meetings are ongoing, and the Policy Committee meets on April 13. Water study update.

Mayor Stough stated that Council will now consider agenda item 12.

Mrs. Westphal reported on the April 1 Safety Committee meeting. The committee discussed the Police Department fee schedule. Mrs. Westphal moved, Mr. Milner seconded, to authorize legislation increasing the fees and penalties for the code as described by Mrs. Westphal; roll call vote being: Luetke, Milner, Westphal, Brown, Haynam, Husman (6) yeas; (0) nays. The motion carried. Legislation authorized, increase fees in Police Dept.

Mrs. Westphal said that the committee also considered juvenile curfew times. They recommend no action on this based on the Police Chief's report that a review of the past six months of records show no juvenile crime problem. Safety Comm.

There were no items for 13 and Mayor Stough stated that Council will now consider agenda item 14.

Mayor Stough said the Highland Meadows/Griffith Park Phase 1 street improvement project was not completed before winter, and some settling in driveways and other places has occurred. These areas will be restored, and the paving will be done and trees will be planted by the end of the month. Street project update.

The Mayor also reported that Convent Blvd. is closed until Thursday due to a waterline repair. The break occurred at a fire hydrant. Convent Blvd. waterline repair.

There was a brief discussion on the anticipated cuts in local government funds and its effect on the budget.

Mayor Stough stated that all items on the agenda had been considered. Mrs. Westphal moved, Mr. Luetke seconded, that this meeting adjourn; all present voting yea (6); (0) nays. The motion carried and the meeting adjourned at 8:25 p.m. Adjournment.

Clerk of Council

Mayor

Resolution

5

NO. 7-2011

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SYLVANIA
COMMENDING SYLVANIA SOUTHVIEW HIGH SCHOOL'S COUGARETTES
DANCE TEAM ON ITS FIRST PLACE FINISH IN THE JAZZ DIVISION IN THE
OHIO ASSOCIATION OF SECONDARY SCHOOL ADMINISTRATORS STATE
CHEERLEADING AND DANCE TEAM CHAMPIONSHIP; AND DECLARING
AN EMERGENCY.**

WHEREAS, the 2011 Ohio Association of Secondary School Administrators State Cheerleading and Dance Team Championship was held February 26, 2011 at St. John's Arena on The Ohio State University campus; and,

WHEREAS, Sylvania Southview High School's Cougarettes Dance team finished first in the Jazz Division and finished second in the Pom Division at the State Cheerleading and Dance Team Championship; and,

WHEREAS, congratulations to **Marisa Kruszewski, Kristen Darah, Amy Horwitz, Ellie Bostwick, Alexandria Bieringer, Kassie Bishop, Stephanie Meyer, Lauren Gant, Elise Conklin, Emily Micsko, Lizzy Barmash, Paige Galecki, Taylor Lumm, Rachel Dawson, Mariana Parisca and Taylor Zaborski**, the members of the Cougarettes Dance Team, for their outstanding performance at the State Championship; and,

WHEREAS, congratulations also to coach **Heather Smith** whose talent, creativity, enthusiasm and dedication led her team to a State Championship in the Jazz Division and runner-up in the Pom Division.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Sylvania, Lucas County, Ohio, 7 members elected thereto concurring:

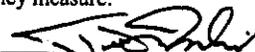
SECTION 1. That this Council recognizes the accomplishments and talents of the Sylvania Southview High School Cougarettes Dance team and its achievement in placing first in the Jazz Division and placing second in the Pom Division.

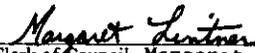
SECTION 2. That the Clerk of Council is hereby directed to present **THE SYLVANIA SOUTHVIEW HIGH SCHOOL COUGARETTES DANCE TEAM** with a certified copy of this Resolution and to proudly post a copy of this Resolution in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Section 12, of the Charter of this City.

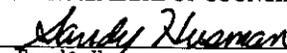
SECTION 3. That this Resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that this Resolution is a necessary step in commending the Sylvania Southview Cougarettes Dance Team for their outstanding performance at the OASSA State Cheerleading and Dance Team Championship and therefore this Resolution should be effective immediately. Provided this Resolution receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

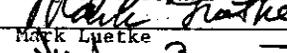
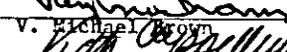
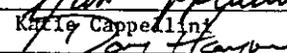
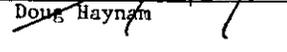
Vote dispensing with the second and third readings: Yeas 7 Nays 0

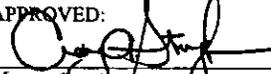
Passed, March 21, 2011, as an emergency measure.

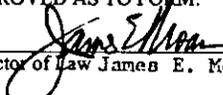

President of Council **Todd R. Milner**

ATTEST:

Clerk of Council **Margaret Lintner**

OTHER MEMBERS OF COUNCIL:

Sandy Husman

Mary J. Westphal

Mark Luetke

V. Michael Brown

Katie Cappelloni

Doug Haynam

APPROVED:

Mayor **Craig A. Stough**
Date March 21, 2011

APPROVED AS TO FORM:

Director of Law **James E. Moan**

ORDINANCE NO. 16 -2011

AUTHORIZING A LEASE BETWEEN THE CITY OF SYLVANIA, AS LESSOR, AND NEW CINGULAR WIRELESS PCS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AS LESSEE, OF A PORTION OF THE WATER TOWER WITHIN BURNHAM PARK AND ADDITIONAL LAND IN BURNHAM PARK, FOR THE PURPOSE OF INSTALLING, CONSTRUCTING, MAINTAINING, REPAIRING, OPERATING, ALTERING, INSPECTING AND REMOVING COMMUNICATIONS FIXTURES, DETERMINING SAID CITY OWNED PROPERTY NOT TO BE NEEDED FOR MUNICIPAL PURPOSES DURING THE TIME OF THE PROPOSED LEASE; AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE TO SIGN SUCH A LEASE ON BEHALF OF THE CITY OF SYLVANIA, OHIO; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Sylvania acquired and is the owner of the real estate at Burnham Park, located in the City of Sylvania, Ohio; and,

WHEREAS, Ordinance No. 176-97, passed December 15, 1997, authorized a Lease Between the City of Sylvania, as Lessor, and Sprint Spectrum L.P., a Delaware Corporation, as Lessee, of the Water Tower within Burnham Park and Additional Land in Burnham Park, for the purpose of installing, constructing, maintaining, repairing, operating, altering, inspecting and removing equipment, and,

WHEREAS, New Cingular Wireless PCS, LLC, a Delaware Limited Liability Company, has proposed to lease at Burnham Park, space on the water tower and additional land to construct a radio equipment shelter and fencing around the building, located in the City of Sylvania, Ohio, for the initial term of sixty (60) months with four additional sixty (60) month lease terms under financial terms set forth in said lease, with rental for the initial term to be One Hundred Eighty-

Three Thousand Eight Hundred Seventy-Five Dollars (\$183,875.00); and,

WHEREAS, a copy of said lease is attached hereto as "Exhibit A" and made a part hereof.

NOW, THEREFORE BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____ members elected thereto concurring:

SECTION 1. That the City of Sylvania owns the water tower and adjacent land at Burnham Park and attached additional land located in the City of Sylvania, Ohio which is hereby determined not to be needed for municipal purposes.

SECTION 2. That the municipal property described in Section 1 hereof is hereby authorized to be leased by the City of Sylvania as Lessor, to New Cingular Wireless, PCS, LLC, a Delaware Limited Liability Company, as Lessee, for the initial term of sixty (60) months with four additional sixty (60) month lease terms under financial terms set forth in said lease, with rental for the initial term to be at One Hundred Eighty-Three Thousand Eight Hundred Seventy-Five Dollars (\$183,875.00), with the rent payable on the first day of each month in advance and with the lease containing other customary provisions for such a lease as are approved by the Director of Law. A copy of said lease is attached hereto as "Exhibit A", and made a part hereof.

SECTION 3. That the Mayor and Director of Finance be, and they hereby are, authorized to enter into a lease on behalf of the City of Sylvania, Ohio, as Lessor, as authorized in Section 2 hereof for the property described in Section 1 hereof.

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Sections 11 and 12, of the Charter of this City.

SECTION 6. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that the providing of improved communications technology to our citizens enhances the development and growth of the City of Sylvania. Provided this Ordinance receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings:

Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

President of Council

ATTEST:

APPROVED AS TO FORM:

Clerk of Council

Director of Law

APPROVED:

Mayor

Date

Market: NOH/WPA
Cell Site Number: OH5986
Cell Site Name: Sylvania-Monroe & Erie
Fixed Asset Number: 10146861

OPTION AND STRUCTURE LEASE AGREEMENT

THIS OPTION AND STRUCTURE LEASE AGREEMENT ("**Agreement**"), dated as of the latter of the signature dates below (the "**Effective Date**"), is entered into by and between the City of Sylvania, Ohio, an Ohio municipal corporation, having a mailing address of 6730 Monroe St., Sylvania, OH 43560, (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "**Tenant**").

BACKGROUND

Landlord owns or controls that certain plot, parcel or tract of land, improved with a structure (the "Water Tower"), together with all rights and privileges arising in connection therewith, located at 6940 Maplewood Avenue, in the City of Sylvania, in the County of Lucas, State of Ohio (collectively, the "**Property**"). Tenant desires to use a portion of the Property in connection with its federally licensed communications business. Landlord desires to grant to Tenant the right to use a portion of the Property in accordance with this Agreement.

The parties agree as follows:

1. OPTION TO LEASE.

(a) Landlord grants to Tenant an option (the "**Option**") to lease a portion of the Property consisting of: (i) approximately five hundred ten (510) square feet of ground space for the placement of Tenant's radio cabinets plus the airspace above such spaces; and

(ii) space for any structural steel or other improvements to support Tenant's equipment (collectively, the "**Equipment Space**"); and

(iii) that certain space on the Water Tower, as generally depicted on **Exhibit 1** annexed hereto and made a part hereof, where Tenant shall have the right to install its antennas and related equipment (collectively, the "**Antenna Space**"); and

(iv) those certain areas where Tenant's conduits, wires, cables, cable trays and other necessary connections are located between the Equipment Space and the Antenna Space, and between the Equipment Space and the electric power, telephone, and fuel sources for the Property (hereinafter collectively referred to as "**Connections**"). Landlord agrees that Tenant shall have the right to install Connections between Tenant's equipment in the Equipment Space and Antenna Space; and between Tenant's equipment in the Equipment Space and the electric power, telephone, and fuel sources for the Property, and any other improvements. Landlord further agrees that Tenant shall have the non-exclusive right for ingress and egress to the Premises (as hereinafter defined), seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, over such portion of the Premises as may be designated by the Landlord extending from the nearest public right-of-way to the Premises, together with the right to install, replace and maintain utility wires, poles, cables, conduits, pipes and other necessary connections over or along any right-of-way extending from the aforementioned public right-of-way to the Premises. Notwithstanding the foregoing, Tenant, to the extent feasible, shall locate all wires, conduits and cables on existing poles extending from the roadway into Landlord's Property. The Equipment Space, Antenna Space, and Connections are hereinafter collectively referred to as the "**Premises**."

(b) During the Option Term (as defined below), and during the term of this Agreement, Tenant and its agents, engineers, surveyors and other representatives will have the right to enter upon the Property to inspect, examine, conduct soil borings, drainage testing, material sampling, radio frequency testing and other geological or engineering tests or studies of the Property (collectively, the "**Tests**"), to apply for and obtain licenses, permits,

8-10-07

approvals, or other relief required of or deemed necessary or appropriate at Tenant's sole discretion for its use of the Premises and include without limitation applications for zoning variances, zoning ordinances, amendments, special use permits, and construction permits (collectively, the "**Government Approvals**"), initiate the ordering and/or scheduling of necessary utilities, and otherwise to do those things on or off the Property that, in the opinion of Tenant, are necessary in Tenant's sole discretion to determine the physical condition of the Property, the environmental history of the Property, Landlord's title to the Property and the feasibility or suitability of the Property for Tenant's Permitted Use, all at Tenant's expense. Tenant will not be liable to Landlord or any third party on account of any pre-existing defect or condition on or with respect to the Property, whether or not such defect or condition is disclosed by Tenant's inspection. Tenant will restore the Property to its condition as it existed at the commencement of the Option Term (as defined below), reasonable wear and tear and casualty not caused by Tenant excepted. In addition, Tenant shall indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or claims arising directly out of Tenant's Tests.

(c) In consideration of Landlord granting Tenant the Option, Tenant agrees to pay Landlord the sum of Five Hundred and No/100 Dollars (\$500.00) within thirty (30) business days of the Effective Date. The Option will be for an initial term of six (6) months, commencing on the Effective Date (the "**Option Term**").

(d) The Option may be sold, assigned or transferred at any time by Tenant to Tenant's Affiliate or to any third party agreeing to be subject to the terms hereof. Otherwise, the Option may not be sold, assigned or transferred without the written consent of Landlord, such consent not to be unreasonably withheld, conditioned or delayed. From and after the date the Option has been sold, assigned or transferred by Tenant to a third party agreeing to be subject to the terms hereof, Tenant shall immediately be released from any and all liability under this Agreement, including the payment of any rental or other sums due, without any further action.

(e) During the Option Term, Tenant may exercise the Option by notifying Landlord in writing. If Tenant exercises the Option then Landlord leases the Premises to the Tenant subject to the terms and conditions of this Agreement. If Tenant does not exercise the Option during the Option Term, this Agreement will terminate and the parties will have no further liability to each other.

(f) If during the Option Term, or during the term of this Agreement if the Option is exercised, Landlord decides to subdivide, sell, or change the status of the zoning of the Premises, Property or any of Landlord's contiguous, adjoining or surrounding property (the "**Surrounding Property**," which includes (without limitation) the remainder of the Water Tower) or in the event of foreclosure, Landlord shall immediately notify Tenant in writing. Any sale of the Property shall be subject to Tenant's rights under this Agreement. Landlord agrees that during the Option Term, or during the Term of this Agreement if the Option is exercised, Landlord shall not initiate or consent to any change in the zoning of the Premises, Property or Surrounding Property or impose or consent to any other restriction that would prevent or limit Tenant from using the Premises for the uses intended by Tenant as hereinafter set forth in this Agreement.

2. **PERMITTED USE.** Tenant may use the Premises for the transmission and reception of communications signals and the installation, construction, maintenance, operation, repair, replacement and upgrade of its communication fixtures and related equipment, cables, accessories and improvements, which may include a suitable support structure, associated antennas, I beams, equipment shelters or cabinets and fencing and any other items necessary to the successful and secure use of the Premises (collectively, the "**Communication Facility**"), as well as the right to test, survey and review title on the Property; Tenant further has the right, but not the obligation, to add, modify and/or replace equipment in order to be in compliance with any current or future federal, state or local mandated application, including, but not limited to, emergency 911 communication services, at no additional cost to Tenant or Landlord (collectively, the "**Permitted Use**"). Landlord and Tenant agree that any portion of the Communication Facility that may be conceptually described on **Exhibit 1** will not be deemed to limit Tenant's Permitted Use. If **Exhibit 1** includes drawings of the initial installation of the Communication Facility, Landlord's execution of this Agreement will signify Landlord's approval of **Exhibit 1**. For a period of ninety (90) days following the start of construction, Landlord grants Tenant, its subtenants, licensees and sublicensees, the right to use such portions of Landlord's Surrounding Property, as may reasonably be required during construction and installation of the Communications Facility. Tenant has the right to install and operate transmission cables from the equipment shelter or cabinet to the antennas, electric lines from the main feed to the equipment shelter or cabinet and communication lines from the main entry point to the equipment shelter or

cabinet, and to make Property improvements, alterations, upgrades or additions appropriate for Tenant's use ("**Tenant Changes**"). Tenant Changes include the right to construct a fence around the Premises and undertake any other appropriate means to secure the Premises at the Tenant's expense. Tenant agrees to comply with all applicable governmental laws, rules, statutes and regulations, relating to its use of the Communication Facility on the Property. Tenant has the right to modify, supplement, replace, upgrade, expand the equipment, increase the number of antennas or relocate the Communication Facility within the Premises at any time during the term of this Agreement. Tenant will be allowed to make such alterations to the Property in order to accomplish Tenant's Changes or to insure that Tenant's Communication Facility complies with all applicable federal, state or local laws, rules or regulations. In the event Tenant desires to modify or upgrade the Communication Facility, and Tenant requires an additional portion of the Property (the "**Additional Premises**") for such modification or upgrade, Landlord agrees to lease to Tenant the Additional Premises, upon the same terms and conditions set forth herein, except that the Rent shall increase, in conjunction with the lease of the Additional Premises by a reasonable amount consistent with rental rates then charged for comparable portions of real property being in the same area. Landlord agrees to take such actions and enter into and deliver to Tenant such documents as Tenant reasonably requests in order to effect and memorialize the lease of the Additional Premises to Tenant.

3. TERM.

(a) The initial lease term will be five (5) years ("**Initial Term**"), commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of the Option (the "**Term Commencement Date**"). The Initial Term will terminate on the fifth (5th) anniversary of the Term Commencement Date.

(b) This Agreement will automatically renew for four (4) additional five (5) year term(s) (each five (5) year term shall be defined as an "**Extension Term**"), upon the same terms and conditions unless the Tenant notifies the Landlord in writing of Tenant's intention not to renew this Agreement at least sixty (60) days prior to the expiration of the existing Term.

(c) If, at least sixty (60) days prior to the end of the final Extension Term, either Landlord or Tenant has not given the other written notice of its desire that the term of this Agreement end at the expiration of the final Extension Term, then upon the expiration of the final Extension Term this Agreement shall continue in force upon the same covenants, terms and conditions for a further term of one (1) year, and for annual terms thereafter until terminated by either party by giving to the other written notice of its intention to so terminate at least six (6) months prior to the end of any such annual term. Monthly rental during such annual terms shall be equal to the rent paid for the last month of the final Extension Term increased by seven percent (7%) over the Rent paid during the prior Term. If Tenant remains in possession of the Premises after the termination of this Agreement then Tenant will be deemed to be occupying the Premises on a month to month basis (the "**Holdover Term**"), subject to the terms and conditions of this Agreement.

(d) The Initial Term, any Extension Term and the Holdover Term are collectively referred to as the Term ("**Term**").

4. RENT.

(a) Commencing on the first day of the month following the date that Tenant commences construction (the "**Rent Commencement Date**"), Tenant will pay the Landlord a monthly rental payment of Two Thousand Four Hundred Ninety Two and No/100 Dollars (\$2,492.00) ("**Rent**"), at the address set forth above, on or before the fifth (5th) day of each calendar month in advance. In partial months occurring after the Rent Commencement Date, Rent will be prorated. The initial Rent payment will be forwarded by Tenant to Landlord within thirty (30) days after the Rent Commencement Date.

(b) In year two (2), and in every year throughout the Agreement, monthly rent will increase by three percent (3%) over the monthly rent paid during the previous year. The above notwithstanding, in the final Renewal Term, the monthly rent for each year thereafter will be the monthly rent in effect for the previous year increased by five (5.0%) percent, see Rent Schedule attached as Exhibit 2.

(c) All charges payable under this Agreement such as utilities and taxes shall be billed by Landlord within one (1) year from the end of the calendar year in which the charges were incurred; any charges beyond

such period shall not be billed by Landlord, and shall not be payable by Tenant. The foregoing shall not apply to monthly Rent which is due and payable without a requirement that it be billed by Landlord. The provisions of the subsection shall survive the termination or expiration of this Agreement.

(d) In addition, within 60 days after Tenant commences construction, Tenant shall pay to Landlord the sum of Twenty-Six Thousand Three Hundred Seventy Five and No/100 (\$26,375.00) Dollars which shall represent a one-time maintenance fee for the Tower.

5. APPROVALS.

(a) Landlord agrees that Tenant's ability to use the Premises is contingent upon the suitability of the Premises for Tenant's Permitted Use and Tenant's ability to obtain and maintain all Government Approvals. Landlord authorizes Tenant to prepare, execute and file all required applications to obtain Government Approvals for Tenant's Permitted Use under this Agreement and agrees to reasonably assist Tenant with such applications and with obtaining and maintaining the Government Approvals.

(b) Tenant has the right to obtain a title report or commitment for a leasehold title policy from a title insurance company of its choice and to have the Property surveyed by a surveyor of Tenant's choice. In the event Tenant determines, in its sole discretion, due to the title report results or survey results, that the condition of the Premises is unsatisfactory, Tenant will have the right to terminate this Agreement upon notice to Landlord.

(c) Tenant may also perform and obtain, at Tenant's sole cost and expense, soil borings, percolation tests, engineering procedures, environmental investigation or other tests or reports on, over, and under the Property, necessary to determine if the Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations or Government Approvals.

6. TERMINATION. This Agreement may be terminated, without penalty or further liability, as follows:

(a) by either party on thirty (30) days prior written notice, if the other party remains in default under Paragraph 15 of this Agreement after the applicable cure periods;

(b) by Tenant upon written notice to Landlord, if Tenant is unable to obtain, or maintain, any required approval(s) or the issuance of a license or permit by any agency, board, court or other governmental authority necessary for the construction or operation of the Communication Facility as now or hereafter intended by Tenant or if Tenant determines in its sole discretion that the cost of or delay in obtaining or retaining the same is commercially unreasonable;

(c) by Tenant upon written notice to Landlord for any reason at any time prior to commencement of construction by Tenant; or

(d) by Tenant upon sixty (60) days prior written notice to Landlord for any reason or no reason, so long as Tenant pays Landlord a termination fee equal to three (3) months Rent, at the then current rate; provided, however, that no such termination fee will be payable on account of the termination of this Agreement by Tenant under any one or more of Paragraphs 5(a), 5(b), 6(a), 6(b), 6(c), 8, 11(d), 18, 19 or 24(j) of this Agreement.

7. INSURANCE.

Tenant will carry during the Term, at its own cost and expense, the following insurance: (i) "All Risk" property insurance for its property's replacement cost; (ii) Workers' Compensation Insurance as required by law; and (iii) commercial general liability insurance (CGL) with respect to its activities on the Property, such insurance to afford minimum protection of Two Million Five Hundred Thousand Dollars (\$2,500,000) combined single limit per occurrence and in the aggregate, providing coverage for bodily injury and property damage. Tenant's CGL insurance shall contain a provision including Landlord as an additional insured to the extent of the indemnity provided by Tenant under this Agreement. Notwithstanding the foregoing, Tenant shall have the right to self-insure against the risks for which Tenant is required to insure against in this Section.

8. INTERFERENCE.

(a) Where there are existing radio frequency user(s) on the Property, the Landlord will provide Tenant with a list of all existing radio frequency user(s) on the Property to allow Tenant to evaluate the potential for interference. Tenant warrants that its use of the Premises will not interfere with existing radio frequency

user(s) on the Property so disclosed by Landlord, as long as the existing radio frequency user(s) operate and continue to operate within their respective frequencies and in accordance with all applicable laws and regulations.

(b) In the event Landlord desires to have any additional wireless communication providers ("Other Users") lease space on the Property or the Water Tower, Landlord shall notify Tenant, and Landlord shall comply with the provisions of this Section. In the event any Other User requests that Landlord construct and/or permit an additional platform on the Water Tower that will accommodate Tenant and Other Users, Tenant shall not object to being relocated on such new platform, provided that:

(i) Such relocation occurs at no expense to Tenant;

(ii) Any Other User shall not cause interference with Tenant operations or rights hereunder;

(iii) Any such new platform, and/or Tenant's placement thereon, shall be in the same location on the Water Tower as Tenant's initial location;

(iv) Tenant's ongoing ability to provide service to its customers shall not be disturbed in any manner by and/or during such relocation to a new platform; and

(v) Tenant, reserves the right to approve, in writing, any and all parties who may, in any manner, come in contact with its Communication Facility during such relocation to a new platform, but such approval shall not be unreasonably withheld by Tenant.

(c) Landlord will not use, nor will Landlord permit its employees, tenants, licensees, invitees or agents to use, any portion of the Property in any way which interferes with the Communication Facility, the operations of Tenant or the rights of Tenant under this Agreement. Landlord will cause such interference to cease within twenty-four (24) hours after receipt of notice of interference from Tenant. In the event any such interference does not cease within the aforementioned cure period, Landlord shall cease all operations which are suspected of causing interference (except for intermittent testing to determine the cause of such interference) until the interference has been corrected.

9. INDEMNIFICATION.

(a) Tenant agrees to indemnify, defend and hold Landlord harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the installation, use, maintenance, repair or removal of the Communication Facility or Tenant's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Landlord, its employees, agents or independent contractors.

(b) Landlord agrees to indemnify, defend and hold Tenant harmless from and against any and all injury, loss, damage or liability (or any claims in respect of the foregoing), costs or expenses (including reasonable attorneys' fees and court costs) arising directly from the actions or failure to act of Landlord or its employees or agents, or Landlord's breach of any provision of this Agreement, except to the extent attributable to the negligent or intentional act or omission of Tenant, its employees, agents or independent contractors.

(c) Notwithstanding anything to the contrary in this Agreement, Tenant and Landlord each waives any claims that each may have against the other with respect to consequential, incidental or special damages.

10. WARRANTIES.

(a) Tenant and Landlord each acknowledge and represent that it is duly organized, validly existing and in good standing and has the right, power and authority to enter into this Agreement and bind itself hereto through the party set forth as signatory for the party below.

(b) Landlord represents and warrants that: (i) Landlord solely owns the Property as a legal lot in fee simple, or controls the Property by lease or license and solely owns the Water Tower; (ii) the Property is not encumbered by any liens, restrictions, mortgages, covenants, conditions, easements, leases, or any other agreements of record or not of record, which would adversely affect Tenant's Permitted Use and enjoyment of the Premises under this Agreement; (iii) as long as Tenant is not in default then Landlord grants to Tenant sole, actual, quiet and peaceful use, enjoyment and possession of the Premises; (iv) Landlord's execution and performance of this Agreement will not violate any laws, ordinances, covenants or the provisions of any mortgage, lease or other agreement binding on the Landlord; and (v) if the Property is or becomes encumbered

by a deed to secure a debt, mortgage or other security interest, Landlord will provide promptly to Tenant a mutually agreeable Subordination, Non-Disturbance and Attornment Agreement.

11. ENVIRONMENTAL.

(a) Landlord represents and warrants that the Property is free of hazardous substances as of the date of this Agreement, and, to the best of Landlord's knowledge, the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation. Landlord and Tenant agree that each will be responsible for compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene condition or other matters as may now or at any time hereafter be in effect, that are now or were related to that party's activity conducted in or on the Property.

(b) Landlord and Tenant agree to hold harmless and indemnify the other from, and to assume all duties, responsibilities, and liabilities at the sole cost and expense of the indemnifying party for, payment of penalties, sanctions, forfeitures, losses, costs, or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding which is related to (i) the indemnifying party's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect, or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property and activities conducted by the party thereon, unless the environmental conditions are caused by the other party; or (iii) such party's breach of its obligations or representations under this Section.

(c) The indemnifications of this Paragraph 11 specifically include reasonable costs, expenses and fees incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Paragraph 11 will survive the expiration or termination of this Agreement.

(d) In the event Tenant becomes aware of any hazardous materials on the Property, or any environmental or industrial hygiene condition or matter relating to the Property that, in Tenant's sole determination, renders the condition of the Premises or Property unsuitable for Tenant's use, or if Tenant believes that the leasing or continued leasing of the Premises would expose Tenant to undue risks of government action, intervention or third-party liability, Tenant will have the right, in addition to any other rights it may have at law or in equity, to terminate the Agreement upon notice to Landlord.

12. ACCESS. At all times throughout the Term of this Agreement, and at no additional charge to Tenant, Tenant and its employees, agents, and subcontractors, will have twenty-four (24) hour per day, seven (7) day per week pedestrian and vehicular access to and over the Property, from an open and improved public road to the Premises, for the installation, maintenance and operation of the Communication Facility and any utilities serving the Premises. Landlord grants to Tenant an easement for such access and Landlord agrees to provide to Tenant such codes, keys and other instruments necessary for such access at no additional cost to Tenant as shown on **Exhibit 1**. Landlord acknowledges that in the event Tenant cannot access the Premises, Tenant shall incur significant damage. If Landlord fails to provide the access granted by this Paragraph 12, such failure shall be a default under this Agreement. In connection with such default, in addition to any other rights or remedies available to Tenant under this Agreement or at law or equity, Landlord shall pay Tenant, as liquidated damages and not as a penalty, \$500.00 per day in consideration of Tenant's damages, including, but not limited to, its lost profits, until Landlord cures such default. Landlord and Tenant agree that Tenant's damages in the event of a denial of access are difficult, if not impossible, to ascertain, and the liquidated damages set forth herein are a reasonable approximation of such damages. Upon Tenant's request, Landlord will execute a separate recordable easement evidencing this right. In the event any public utility is unable to use the access or easement provided to Tenant then the Landlord agrees to grant additional access or an easement either to Tenant or to the public utility, for the benefit of Tenant, at no cost to Tenant. Upon Tenant's request, Landlord shall execute a letter granting Tenant access to the Property substantially in the form attached as **Exhibit 12** attached hereto.

13. REMOVAL/RESTORATION. All portions of the Communication Facility brought onto the Property by Tenant will be and remain Tenant's personal property and, at Tenant's option, may be removed by Tenant at any time during the Term, except for the fencing, which shall remain and become the property of the Landlord when the Tenant removes the remainder of Tenant's Communication Facility. Landlord covenants and agrees that no part of the Communication Facility constructed, erected or placed on the Premises by Tenant will become, or be considered as being affixed to or a part of, the Property, it being the specific intention of the Landlord that all improvements of every kind and nature constructed, erected or placed by Tenant on the Premises will be and remain the property of the Tenant and may be removed by Tenant at any time during the Term, except for the fencing which shall remain and become the property of the Landlord. Within one hundred twenty (120) days of the termination of this Agreement, Tenant will remove all of Tenant's above-ground improvements and Tenant will, to the extent reasonable, restore the Premises to its condition at the commencement of the Agreement, reasonable wear and tear and loss by casualty or other causes beyond Tenant's control excepted. Notwithstanding the foregoing, Tenant will not be responsible for the replacement of any trees, shrubs or other vegetation, nor will Tenant be required to remove from the Premises or the Property any structural steel any foundations or underground utilities.

14. MAINTENANCE/UTILITIES.

(a) Tenant will keep and maintain the Premises in good condition, reasonable wear and tear and damage from the elements excepted. Landlord will maintain and repair the Property and access thereto, the Water Tower, and all areas of the Premises where Tenant does not have exclusive control, in good and tenantable condition, subject to reasonable wear and tear and damage from the elements.

(b) Tenant will be responsible for paying on a monthly or quarterly basis all utilities charges for electricity, telephone service or any other utility used or consumed by Tenant on the Premises. In the event Tenant cannot secure its own metered electrical supply, Tenant will have the right, at its own cost and expense, to submeter from the Landlord. When submetering is required under this Agreement, Landlord will read the meter and provide Tenant with an invoice and usage data on a monthly basis. Landlord agrees that it will not include a markup on the utility charges. Landlord further agrees to provide the usage data and invoice on forms provided by Tenant and to send such forms to such address and/or agent designated by Tenant. Tenant will remit payment within thirty (30) days of receipt of the usage data and required forms. Failure by Landlord to perform this function will limit utility fee recovery by Landlord to a 12-month period. If Tenant submeters electricity from Landlord, Landlord agrees to give Tenant at least 24 hours advanced notice of any planned interruptions of said electricity. Landlord acknowledges that Tenant provides a communication service which requires electrical power to operate and must operate twenty-four (24) hour per day, seven (7) day per week. If the interruption is for an extended period of time, in Tenant's reasonable determination, the Landlord agrees to allow Tenant the right to bring in a temporary source of power for the duration of the interruption. Landlord will fully cooperate with any utility company requesting an easement over, under and across the Property in order for the utility company to provide service to the Tenant. Landlord will not be responsible for interference with, interruption of or failure, beyond the reasonable control of Landlord, of such services to be furnished or supplied by Landlord.

15. DEFAULT AND RIGHT TO CURE.

(a) The following will be deemed a default by Tenant and a breach of this Agreement: (i) non-payment of Rent if such Rent remains unpaid for more than thirty (30) days after receipt of written notice from Landlord of such failure to pay; or (ii) Tenant's failure to perform any other term or condition under this Agreement within forty-five (45) days after receipt of written notice from Landlord specifying the failure. No such failure, however, will be deemed to exist if Tenant has commenced to cure such default within such period and provided that such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Tenant. If Tenant remains in default beyond any applicable cure period, Landlord will have the right to exercise any and all rights and remedies available to it under law and equity.

(b) The following will be deemed a default by Landlord and a breach of this Agreement: (i) failure to provide access to the Premises or to cure an interference problem within twenty-four (24) hours after receipt of

written notice of such default; or (ii) Landlord's failure to perform any term, condition, or breach of any warranty or covenant under this Agreement within forty-five (45) days after receipt of written notice from Tenant specifying the failure. No such failure, however, will be deemed to exist if Landlord has commenced to cure the default within such period and provided such efforts are prosecuted to completion with reasonable diligence. Delay in curing a default will be excused if due to causes beyond the reasonable control of Landlord. If Landlord remains in default beyond any applicable cure period, Tenant will have the right to exercise any and all rights available to it under law and equity, including the right to cure Landlord's default and to deduct the costs of such cure from any monies due to Landlord by Tenant.

16. **ASSIGNMENT/SUBLEASE.** Tenant will have the right to assign this Agreement or sublease the Premises and its rights herein, in whole or in part, without Landlord's consent. Upon notification to Landlord of such assignment, Tenant will be relieved of all future performance, liabilities and obligations under this Agreement.

17. **NOTICES.**

(a.) All notices, requests, demands and communications hereunder will be given by first class certified or registered mail, return receipt requested, or by a nationally recognized overnight courier, postage prepaid, to be effective when properly sent and received, refused or returned undelivered. Notice will be addressed to the parties as follows:

If to Tenant: New Cingular Wireless PCS, LLC
 Attn: Network Real Estate Administration
 Re: Cell Site # OH5986; Cell Site Name: Sylvania-Monroe & Erie (OH)
 Fixed Asset No: 10146861
 12555 Cingular Way, Suite 1300
 Alpharetta, GA 30004

With a copy to: New Cingular Wireless PCS, LLC
 Attn.: Legal Department
 Re: Cell Site #: OH5986; Cell Site Name: Sylvania-Monroe & Erie (OH)
 Fixed Asset No: 10146861
 15 East Midland Ave.
 Paramus, NJ 07652

The copy sent to the Legal Department is an administrative step which alone does not constitute legal notice.

If to Landlord: City of Sylvania
 6730 Monroe St.
 Sylvania, OH 43560
 Attn: Scott S. Smith, Director of Finance

With a copy to: James E. Moan, Director of Law
 4930 Holland-Sylvania Rd.
 Sylvania, OH 43560

Either party hereto may change the place for the giving of notice to it by thirty (30) days prior written notice to the other as provided herein.

(b) In the event of a change in ownership, transfer or sale of the Property, within ten (10) days of such transfer, Landlord will send the below documents (in section 17(b)(i) to Tenant. In the event Tenant does not receive such appropriate documents, Tenant shall not be responsible for any failure to pay the current landlord

- (i) a. Old deed to Property
- b. New deed to Property
- c. Bill of Sale or Transfer
- d. Copy of current Tax Bill
- e. New W-9
- f. New Payment Direction Form
- g. Full contact information for new Landlord including all phone numbers

18. **CONDEMNATION.** In the event Landlord receives notification of any condemnation proceedings affecting the Property, Landlord will provide notice of the proceeding to Tenant within forty-eight (48) hours. If a condemning authority takes all of the Property, or a portion sufficient, in Tenant's sole determination, to render the Premises unsuitable for Tenant, this Agreement will terminate as of the date the title vests in the condemning authority. The parties will each be entitled to pursue their own separate awards in the condemnation proceeds, which for Tenant will include, where applicable, the value of its Communication Facility, moving expenses, prepaid Rent, and business dislocation expenses, provided that any award to Tenant will not diminish Landlord's recovery. Tenant will be entitled to reimbursement for any prepaid Rent on a prorata basis.

19. **CASUALTY.** Landlord will provide notice to Tenant of any casualty or other harm affecting the Property within forty-eight (48) hours of the casualty or other harm. If any part of the Communication Facility or Property is damaged by fire or other casualty or harm so as to render the Premises unsuitable, in Tenant's sole determination, then Tenant may terminate this Agreement by providing written notice to the Landlord, which termination will be effective as of the date of such damage or destruction. Upon such termination, Tenant will be entitled to collect all insurance proceeds payable to Tenant on account thereof and to be reimbursed for any prepaid Rent on a prorata basis. If notice of termination is given, or if Landlord or Tenant undertake to rebuild the Water Tower or Communication Facility, as applicable, Landlord agrees to use its reasonable efforts to permit Tenant to place temporary transmission and reception facilities on the Property at no additional Rent until such time as Tenant is able to activate a replacement transmission facility at another location or the reconstruction of the Communication Facility is completed.

20. **WAIVER OF LANDLORD'S LIENS.** Landlord waives any and all lien rights it may have, statutory or otherwise, concerning the Communication Facility or any portion thereof. The Communication Facility shall be deemed personal property for purposes of this Agreement, regardless of whether any portion is deemed real or personal property under applicable law, and Landlord consents to Tenant's right to remove all or any portion of the Communication Facility from time to time in Tenant's sole discretion and without Landlord's consent.

21. **TAXES.** Landlord shall be responsible for payment of all ad valorem taxes levied upon the lands, improvements and other property of Landlord. Tenant shall be responsible for all taxes levied upon Tenant's leasehold improvements (including Tenant's equipment building and tower) on the Premises. Landlord shall provide Tenant with copies of all assessment notices on or including the Premises immediately upon receipt, along with sufficient written documentation detailing any assessment increases attributable to the leasehold improvements. If Landlord fails to provide such notice, Landlord shall be responsible for all increases in taxes for the year covered by the assessment and all subsequent years to the extent (a) Landlord continues to fail in providing notice, or (b) Tenant is precluded from challenging such assessment with the appropriate government authorities. Tenant shall have the right to contest, in good faith, the validity or the amount of any tax or assessment levied against the Premises by such appellate or other proceedings as may be appropriate in the jurisdiction, and may defer payment of such obligations, pay same under protest, or take such other steps as Tenant may deem appropriate. This right shall include the ability to institute any legal, regulatory or informal action in the name of Landlord, Tenant, or both, with respect to the valuation of the Premises. Landlord shall cooperate in the institution and prosecution of any such proceedings and will execute any documents required therefore. The expense of any such proceedings shall be borne by Tenant and any refunds or rebates secured as a result of Tenant's action shall belong to Tenant.

22. SALE OF PROPERTY/RIGHT OF FIRST REFUSAL.

(a) If Landlord, at any time during the Term of this Agreement, decides to sell, subdivide or rezone any of the Premises, all or any part of the Property, to a purchaser other than Tenant, Landlord shall promptly notify Tenant in writing, and such sale, subdivision or rezoning shall be subject to this Agreement and Tenant's rights hereunder. In the event the Property is transferred, the new landlord shall have a duty at the time of such transfer to provide Tenant with a completed IRS Form W-9, or its equivalent, and other related paperwork to effect a transfer in Rent to the new Landlord. The provisions of this Paragraph 22 shall in no way limit or impair the obligations of Landlord under Paragraph 8 above.

(b) intentionally omitted

23. MISCELLANEOUS.

(a) **Amendment/Waiver.** This Agreement cannot be amended, modified or revised unless done in writing and signed by an authorized agent of the Landlord and an authorized agent of the Tenant. No provision may be waived except in a writing signed by both parties. The failure by a party to enforce any provision of this Agreement or to require performance by the other party will not be construed to be a waiver, or in any way affect the right of either party to enforce such provision thereafter.

(b) **Memorandum/Short Form Lease.** Either party will, at any time upon fifteen (15) business days prior written notice from the other, execute, acknowledge and deliver to the other a recordable Memorandum or Short Form of Lease. Either party may record this Memorandum or Short Form of Lease at any time, in its absolute discretion.

(c) **Bind and Benefit.** The terms and conditions contained in this Agreement will run with the Property and bind and inure to the benefit of the parties, their respective heirs, executors, administrators, successors and assigns.

(d) **Entire Agreement.** This Agreement and the exhibits attached hereto, all being a part hereof, constitute the entire agreement of the parties hereto and will supersede all prior offers, negotiations and agreements with respect to the subject matter of this Agreement.

(e) **Governing Law.** This Agreement will be governed by the laws of the state in which the Premises are located, without regard to conflicts of law.

(f) **Interpretation.** Unless otherwise specified, the following rules of construction and interpretation apply: (i) captions are for convenience and reference only and in no way define or limit the construction of the terms and conditions hereof; (ii) use of the term "including" will be interpreted to mean "including but not limited to"; (iii) whenever a party's consent is required under this Agreement, except as otherwise stated in the Agreement or as same may be duplicative, such consent will not be unreasonably withheld, conditioned or delayed; (iv) exhibits are an integral part of the Agreement and are incorporated by reference into this Agreement; (v) use of the terms "termination" or "expiration" are interchangeable; (vi) reference to a default will take into consideration any applicable notice, grace and cure periods; and (vii) to the extent there is any issue with respect to any alleged, perceived or actual ambiguity in this Agreement, the ambiguity shall not be resolved on the basis of who drafted the Agreement.

(g) **Estoppel.** Either party will, at any time upon twenty (20) business days prior written notice from the other, execute, acknowledge and deliver to the other a statement in writing (i) certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying this Agreement, as so modified, is in full force and effect) and the date to which the Rent and other charges are paid in advance, if any, and (ii) acknowledging that there are not, to such party's knowledge, any uncured defaults on the part of the other party hereunder, or specifying such defaults if any are claimed. Any such statement may be conclusively relied upon by any prospective purchaser or encumbrance of the Premises. The requested party's failure to deliver such a statement within such time will be conclusively relied upon by the requesting party that (i) this Agreement is in full force and effect, without modification except as may be properly represented by the requesting party, (ii) there are no uncured defaults in either party's performance, and (iii) no more than one month's Rent has been paid in advance.

(h) **W-9.** Landlord agrees to provide Tenant with a completed IRS Form W-9, or its equivalent, upon execution of this Agreement and at such other times as may be reasonably requested by Tenant.

(i) **No Electronic Signature/No Option.** The submission of this Agreement to any party for examination or consideration does not constitute an offer, reservation of or option for the Premises based on the terms set forth herein. This Agreement will become effective as an Agreement only upon the handwritten legal execution, acknowledgment and delivery hereof by Landlord and Tenant.

(j) **Severability** If any term or condition of this Agreement is found unenforceable, the remaining terms and conditions will remain binding upon the parties as though said unenforceable provision were not contained herein. However, if the invalid, illegal or unenforceable provision materially affects this Agreement then the Agreement may be terminated by either party on ten (10) business days prior written notice to the other party hereto.

(k) **Counterparts.** This Agreement may be executed in two (2) or more counterparts, all of which shall be considered on and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties. It being understood that all parties need not sign the same counterpart.

(l) **Affiliates.** All references to "Tenant" shall be deemed to include any Affiliate of New Cingular Wireless PCS, LLC using the Premises for any Permitted Use or otherwise exercising the rights of Tenant pursuant to this Agreement. "Affiliate" means with respect to a party to this Agreement, any person or entity that (directly or indirectly) controls, is controlled by, or under common control with, that party. "Control" of a person or entity means the power (directly or indirectly) to direct the management or policies of that person or entity, whether through the ownership of voting securities, by contract, by agency or otherwise.

(m) **WAIVER OF JURY TRIAL.** EACH PARTY, TO THE EXTENT PERMITTED BY LAW, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING UNDER ANY THEORY OF LIABILITY ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT OR THE TRANSACTIONS IT CONTEMPLATES.

24. LANDLORD'S LIABILITY FOR MARKING AND LIGHTING STRUCTURE.

(a) Landlord represents, warrants and agrees that the Structure and the Property are and will remain during the term of this Agreement in compliance with all federal, state and local laws and regulations applicable to the Structure and the Property ("Legal Requirements"), including federal (including without limitation, Federal Aviation Administration ("FAA") and Federal Communications Commission ("FCC")), state and local marking, lighting, monitoring and any other regulatory obligations. Landlord's failure to comply with the foregoing obligations of this Section shall be a material default for which Tenant may terminate this Agreement immediately upon written notice to Landlord. Landlord further acknowledges that, to the extent such Legal Requirements are applicable, it is subject to forfeitures assessed by the FCC, the FAA and/or any state or local regulatory agencies for violations of such rules and requirements. Landlord shall forward to Tenant a written copy of any notices of violation/apparent liability or forfeitures in connection with its regulatory obligations referenced in this Section within five (5) business days of receipt.

(b) If the Structure is subject to the FAA/FCC antenna structure marking and lighting requirements, Landlord agrees (i) to allow Tenant to bridge into Landlord's automatic alarm system ("Alarm") which monitors the lighting of the Structure so as to permit a parallel alarm system and Tenant shall be permitted continuous access to make repairs and inspections to its bridge, or (ii) if Landlord currently does not have an Alarm, to cause to be installed such an Alarm which can accommodate a bridge-in by Tenant, at Landlord's cost and expense, and to allow Tenant, at Tenant's own cost and expense, to bridge into the Alarm and for Tenant to have continuous access to make repairs and inspections to its bridge. Landlord, at its own expense, shall be responsible for the monitoring and for maintaining the Alarm in good operating condition as required by any and all Legal Requirements. Tenant shall, at its own expense, be responsible for the maintenance and repair of its bridge.

(c) Nothing contained herein shall obligate Tenant to maintain Landlord's Alarm and Landlord acknowledges that it, and not Tenant, shall be solely liable and responsible for compliance with all such antenna structure marking and lighting requirements. Furthermore, should Tenant be cited by any agency with regulatory authority over the Structure because the Structure is not in compliance, Tenant may terminate this Agreement immediately upon written notice to Landlord.

(d) If for any reason, Landlord fails to maintain any required marking and/or lighting on the Structure, and Tenant has reason to believe that the Structure is not in compliance with the applicable regulations, Landlord acknowledges and agrees that Tenant may (i) notify Landlord, any Landlord site management company and the FCC thereof; and (ii) notwithstanding any other provision of this Agreement, take immediate corrective action to ensure that the Structure is brought into compliance and deduct the cost of such corrective action from any monies due to Landlord from Tenant.

[SIGNATURES APPEAR ON THE NEXT PAGE]

IN WITNESS WHEREOF, the parties have caused this Agreement to be effective as of the last date written below.

"LANDLORD"

The City of Sylvania, OH
an Ohio municipal corporation

By: _____
Print Name: Craig A. Stough
Its: Mayor
Date: _____

“TENANT”

New Cingular Wireless PCS, LLC
By: AT&T Mobility Corporation
Its: Manager

By: _____
Print Name: Thomas Proctor
Its: Real Estate & Construction Manager
Date: _____

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

TENANT ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 2011, before me personally appeared Thomas Proctor, and acknowledged under oath that he is the Real Estate & Construction Manager of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the limited liability company named in the attached instrument, and as such was authorized to execute this instrument on behalf of the limited liability company.

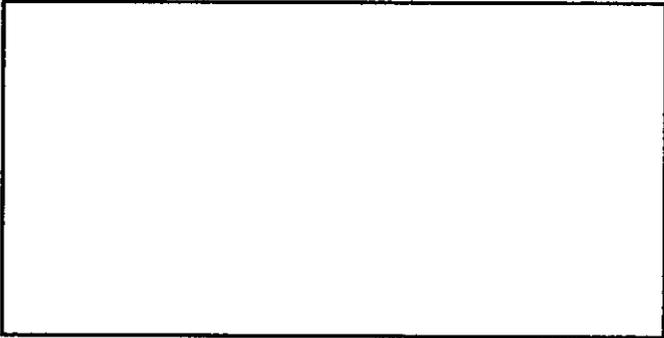
Notary Public: _____
My Commission Expires: _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Craig A. Stough is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Sylvania, an Ohio municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notary stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT 1

DESCRIPTION OF PREMISES

Page _____ of _____

to the Agreement dated _____, 2011, by and between The City of Sylvania, OH, an Ohio municipal corporation, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company as Tenant.

The Premises are described and/or depicted as follows:

Notes:

1. This Exhibit may be replaced by a land survey and/or construction drawings of the Premises once received by Tenant.
2. Any setback of the Premises from the Property's boundaries shall be the distance required by the applicable governmental authorities.
3. Width of access road shall be the width required by the applicable governmental authorities, including police and fire departments.
4. The type, number and mounting positions and locations of antennas and transmission lines are illustrative only. Actual types, numbers and mounting positions may vary from what is shown above.

8-10-07

Option Structure Lease
2007

EXHIBIT 2

Rent Schedule

1st year	\$2,492/month
2nd year	\$2,567/month
3rd year	\$2,644/month
4th year	\$2,723/month
5th year	\$2,805/month
6th year	\$2,889/month
7th year	\$2,976/month
8th year	\$3,065/month
9th year	\$3,157/month
10th year	\$3,252/month
11th year	\$3,350/month
12th year	\$3,451/month
13th year	\$3,555/month
14th year	\$3,662/month
15th year	\$3,772/month
16th year	\$3,885/month
17th year	\$4,002/month
18th year	\$4,122/month
19th year	\$4,246/month
20th year	\$4,373/month
21th year	\$4,592/month
22nd year	\$4,822/month
23rd year	\$5,063/month
24th year	\$5,316/month
25th year	\$5,582/month

Exhibit 3
MEMORANDUM OF LEASE

Prepared by:

John R. Sindyla, Esq.
Sindyla & Associates
7425 Royalton Road
North Royalton, Ohio 44133

Return to:

New Cingular Wireless PCS, LLC
12555 Cingular Way, Suite 1300
Alpharetta, Georgia 30004
Attn: Network Real Estate Administration

Cell Site # OH5986; Cell Site Name: Sylvania-Monroe & Erie
Fixed Asset No: 10146861
State: Ohio
County: Lucas

**MEMORANDUM
OF
LEASE**

This Memorandum of Lease is entered into on this ____ day of _____, 2011, by and between the City of Sylvania, OH, an Ohio municipal corporation, having a mailing address of 6730 Monroe St., Sylvania, OH 43560, (hereinafter referred to as "**Landlord**") and New Cingular Wireless PCS, LLC, a Delaware limited liability company, having a mailing address of 12555 Cingular Way, Suite 1300, Alpharetta, GA 30004 (hereinafter referred to as "**Tenant**").

1. Landlord and Tenant entered into a certain Option and Structure Lease Agreement ("**Agreement**") on the ____ day of _____, 2011, for the purpose of installing, operating and maintaining a communications facility and other improvements. All of the foregoing are set forth in the Agreement.
2. The initial lease term will be five (5) years ("**Initial Term**") commencing on the effective date of written notification by Tenant to Landlord of Tenant's exercise of the Option, with four (4) successive automatic five (5) year options to renew.
3. The portion of the land being leased to Tenant (the "**Premises**") is described in **Exhibit 1** annexed hereto.
4. This Memorandum of Lease is not intended to amend or modify, and shall not be deemed or construed as amending or modifying, any of the terms, conditions or provisions of the Agreement, all of which are hereby ratified and affirmed. In the event of a conflict between the provisions of this Memorandum of Lease and the provisions of the Agreement, the provisions of the Agreement shall control. The Agreement shall be binding upon and inure to the benefit of the parties and their respective heirs, successors, and assigns, subject to the provisions of the Agreement.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Lease as of the day and year first above written.

"LANDLORD"
The City of Sylvania, OH,
an Ohio municipal corporation

By: _____
Name: Craig A. Stough
Its: Mayor
Date: _____

“TENANT”

New Cingular Wireless PCS, LLC
By: AT&T Mobility Corporation
Its: Manager

By: _____
Name: Thomas Proctor
Its: Real Estate & Construction Manager
Date: _____

[ACKNOWLEDGMENTS APPEAR ON THE NEXT PAGE]

TENANT ACKNOWLEDGMENT

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____, 2011, before me personally appeared Thomas Proctor, and acknowledged under oath that he is the Real Estate & Construction Manager of AT&T Mobility Corporation, the Manager of New Cingular Wireless PCS, LLC, the limited liability company named in the attached instrument, and as such was authorized to execute this instrument on behalf of the limited liability company.

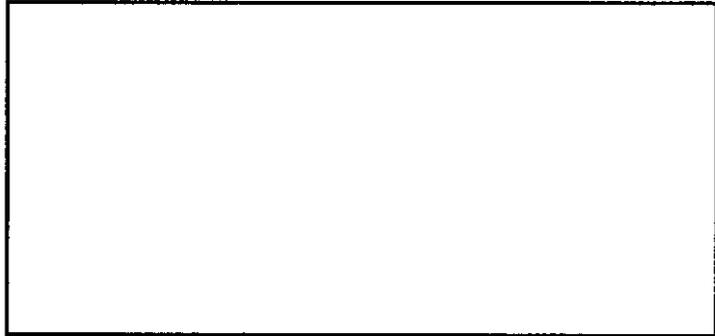
Notary Public: _____
My Commission Expires: _____

LANDLORD ACKNOWLEDGMENT

STATE OF _____)
) ss.
COUNTY OF _____)

I certify that I know or have satisfactory evidence that Craig A. Stough is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Mayor of the City of Sylvania, an Ohio municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____



(Use this space for notary stamp/seal)

Notary Public
Print Name _____
My commission expires _____

EXHIBIT 1

DESCRIPTION OF PREMISES

Page ____ of ____

to the Agreement dated _____, 2011, by and between The City of Sylvania, OH, an Ohio municipal corporation, as Landlord, and New Cingular Wireless PCS, LLC, a Delaware limited liability company as Tenant.

The Premises are described and/or depicted as follows:

ORDINANCE NO. 23 -2011

AN ORDINANCE TO APPROVE, ADOPT AND ENACT CURRENT REPLACEMENT PAGES TO THE CODIFIED ORDINANCES; TO REPEAL ORDINANCES IN CONFLICT THEREWITH; TO PUBLISH THE ENACTMENT OF NEW MATTER; AND DECLARING AN EMERGENCY.

WHEREAS, certain provision within the Codified Ordinances should be amended to conform with current State law as required by the Ohio Constitution; and,

WHEREAS, various ordinances of a general and permanent nature have been passed by Council which should be included in the Codified Ordinances; and,

WHEREAS, Council has heretofore entered into a contract with the Walter H. Drane Company to prepare and publish such revision; and,

WHEREAS, the codification of such ordinances, together with the new matter to be adopted, the matters to be amended and those to be repealed are before the Council.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____members elected thereto concurring:

SECTION 1. That the ordinances of the City of Sylvania, Ohio, of a general and permanent nature, as revised, recodified, rearranged and consolidated into component codes, titles, chapters and sections with the 2011 Replacement Pages to the Codified Ordinances are hereby approved and adopted.

SECTION 2. That the following sections and chapters are hereby added, amended or repealed as respectively indicated in order to comply with current State law:

Traffic Code

- 331.01 Driving or Physical Control While Under the Influence. (Amended)
- 333.031 Approaching a Public Safety, Emergency or Road Service Vehicle. (Amended)
- 335.01 Driver’s License or Commercial Driver’s License Required. (Amended)
- 335.02 Permitting Operation Without a Valid License. (Amended)
- 335.07 Driving Under License Suspension or Restriction. (Amended)
- 335.072 Driving Under Financial Responsibility Law Suspension or Cancellation. (Amended)
- 335.10 Expired or Unlawful License Plates. (Amended)
- 335.12 Stopping After Accident Upon Streets. (Amended)

- 335.13 Stopping After Accident Upon Property Other Than Street. (Amended)
- 337.28 Use of Sunscreening Materials. (Amended)
- 337.29 Bumper Heights. (Amended)

General Offenses Code

- 501.01 Definitions. (Amended)
- 501.13 Conspiracy. (Added)
- 501.99 Penalties for Misdemeanors. (Amended)
- 517.01 Gambling Definitions. (Amended)
- 517.02 Gambling. (Amended)
- 517.06 Methods of Conducting a Bingo Game. (Amended)
- 517.07 Instant Bingo Conduct. (Amended)
- 529.07 Open Container Prohibited. (Amended)
- 537.10 Telecommunication Harassment. (Amended)
- 537.11 Threatening or Harassing Telephone Calls. (Repealed)
- 537.14 Domestic Violence. (Amended)
- 537.15 Temporary Protection Order. (Amended)

Fire Prevention Code

- 1519.04 Possession, Sale or Discharge Prohibited. (Amended)

A summary of the amendments to the sections listed above is set forth in Appendix A which is attached to this ordinance.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Sections 11(c) and 12, of the Charter of this City.

SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that there exists an imperative necessity for the earliest publication and distribution of current Replacement Pages to the officials and residents of the City, so as to facilitate administration, daily operation and avoid practical and legal entanglements. Provided this Ordinance receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency issue.

President of Council

ATTEST:

Clerk of Council

APPROVED:

Mayor

Date

APPROVED AS TO FORM:

Director of Law

333.01 Driving or Physical Control While Under the Influence. (Adds "an emergency medical technician - intermediate, an emergency medical technician-paramedic" in subsections (e)(1)B., C. and (g))

333.031 Approaching a Stationary Public Safety, Emergency, or Road Service Vehicle. (Adds to section requirements for a driver approaching an emergency or road service vehicle.)

335.01 Driver's License or Commercial Drivers' License Required. (Modifies the penalty for repeat offenders under "operating a motor vehicle without a valid license" who never have held a valid driver's or commercial driver's license or permit, and to clarify the manner of sentencing for that offense.)

335.02 Permitted Operation Without Valid License. (Clarifies the manner of sentencing for this offense when it is an unclassified misdemeanor.)

335.07 Driving Under Suspension or License Restriction. (Clarifies the manner of sentencing for this offense when it is an unclassified misdemeanor.)

335.072 Driving Under Financial Responsibility Law Suspension or Cancellation. (Makes a violation of section an unclassified misdemeanor.)

335.10 Expired or Unlawful License Plates. (Changes penalty classification for subsections (c) to (e) to that of a minor misdemeanor for all offenses.)

335.12 Stopping After Accident Upon Streets. (Substitutes "accident or collision" for "violation" in subsection (b).)

335.13 Stopping After Accident Upon Property Other Than Street. (Substitutes "accident or collision" for "violation" in subsection (b).)

337.28 Use of Sunscreening and Nontransparent Reflectorized Materials. (Changes penalty to a minor misdemeanor for all offenses.)

337.29 Bumper Heights. Revises subsection (c) to comply with state law and modifies the penalty to establish a two-tier misdemeanor classification system for offenders.)

501.01 Definitions. (Adds Ohio R.C. reference to subsection (i)(1); adds new subsections (n) and (o) and renumbers subsequent subsections.)

501.13 Conspiracy. (Adds new section establishing the offense of conspiracy to commit a crime.)

501.99 Penalties for Misdemeanors. (Authorizes judicial release of offenders who are serving jail sentences with notification to the prosecutor in subsection (b)(2).)

517.01 Gambling Definitions. (Deletes "has been in continuous existence in this state for at least two years" in subsections (k) and (m); redefines "raffle" in subsection (hh); adds subsection (ll)(12); adds "or an instant bingo dispenser" in subsection (vv)(2).)

517.02 Gambling. (Changes “four times” to “twelve times” in subsection (d)(1)C.)

517.06 Methods of Conducting a Bingo Game. (Added “or from the landlord of a premises where bingo is conducted” in subsection (a)(1); changed “one charitable organization” to “three charitable organizations” and “two bingo sessions” to “nine bingo sessions” in subsection (b)(1); changed “two bingo sessions” to “three bingo sessions” in subsection (c)(4); changed “\$3,500” to “\$6,000” in subsection (c)(5).)

517.07 Instant Bingo Conduct. (Rewrote subsection (a)(12)B.; deleted subsection (a)(16) and renumbered (17) as (16); added subsection (b)(2).)

529.07 Open Container Prohibited. (Added D-5n and D-5o permits to subsection (c)(1)A.)

537.10 Telecommunication Harassment. (Deletes two references in subsection (d) to Ohio R.C. 4931.31 which has been repealed.)

537.11 Threatening or Harassing Telephone Calls. (Former Ohio R.C. 4931.31 from which Section 537.11 was derived was repealed by Senate Bill 162, effective September 13, 2010.)

537.14 Domestic Violence. (Adds “foster parents” to the definition of “family or household member”.)

537.15 Temporary Protection Order. (Adds references to Ohio R.C. 2151.34 allowing a juvenile court to issue a protection order against a child who is alleged to have committed certain offenses or domestic violence against the person to be protected.)

1519.04 Application. (Expands offenses under subsection (d) involving a person under eighteen years of age, deletes former subsection (e) involving 1.4 G fireworks and renumbers subsection (f) as subsection (e).)



8a

City Of Sylvania

DEPARTMENT OF PUBLIC SERVICE
JEFFREY P. BALLMER, PE. PS. DIRECTOR

April 13, 2011

To: The Mayor and Members of Sylvania City Council

Re: Highland Meadows and Griffith Park Improvements

Dear Mr. Mayor and Council Members:

Bids for the above-mentioned were opened on April 13, 2011. The list of bidders and their bid prices is as follows:

PHC, Inc.	\$1,275,701.35
Anderzack-Pitzen Construction, Inc.	1,285,998.35
Gleason Construction Co., Inc.	1,305,920.40
Diversified Road and Pipe, Inc.	1,335,859.50
Underground Utilities, Inc.	1,339,685.40
E. R. Zeiler Excavating, Inc.	1,360,935.50
B and J Concrete	1,419,419.00
Crestline Paving and Excavating Co., Inc.	1,445,022.98
Ed Kelly and Sons, Inc.	1,498,552.80
Hank's Plumbing and Heating Company	1,675,838.50

The estimated cost was \$1,655,381.

We would recommend that the bid of PHC, Inc., 3611 King Road, Toledo, Ohio 43617 in the amount of \$1,275,701 (\$154,675 for water works and \$187,230 for sanitary sewers) be accepted and that they be awarded the contract for Highland Meadows and Griffith Park Improvements.

Very truly yours,


 Jeffrey P. Ballmer
 Director of Public Service
 tid

86

ORDINANCE NO. 24 -2011

ACCEPTING THE BID OF PHC, INC. AND AWARDING THE CONTRACT FOR THE HIGHLAND MEADOWS AND GRIFFITH PARK IMPROVEMENTS PROJECT TO SAME; AUTHORIZING THE EXPENDITURE FOR THE IMPROVEMENTS IN THE AMOUNT OF \$1,275,701.35; APPROPRIATING FUNDS THEREFORE; AND DECLARING AN EMERGENCY.

WHEREAS, plans for the Highland Meadows and Griffith Park Improvement Project have been completed and are now on file with the Clerk of this Council; and,

WHEREAS, the Clerk of Council was authorized to advertise for bids at the March 7, 2011 Council meeting and thereafter the Clerk advertised for bids, and the bids were opened on April 13, 2011, and thereafter, the Director of Public Service, by report dated April 13, 2011, stated that the total estimate for the Highland Meadows and Griffith Park Improvement Project was \$1,655,381 and the following bids were received:

<u>BIDDERS</u>	<u>BID PRICE</u>
PHC, Inc.	\$1,275,701.35
Anderzack-Pitzen Construction, Inc.	1,285,998.35
Gleason Construction Co., Inc.	1,305,920.40
Diversified Road and Pipe, Inc.	1,335,859.50
Underground Utilities, Inc.	1,339,685.40
E.R. Zeiler Excavating, Inc.	1,360,935.50
B & J Concrete	1,419,419.00
Crestline Paving and Excavating, Co., Inc.	1,445,022.98
Ed Kelly and Sons, Inc.	1,498,552.80
Hank's Plumbing and Heating Company	1,675,838.50

WHEREAS, the ten (10) bids offered by the above bidders meet all of the City's specifications and the Director of Public Service, by report dated April 13, 2011, has recommended acceptance of the low bid of PHC, Inc. and that the contract for the Highland Meadows and Griffith Park Improvement Project be awarded to same.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____ members elected thereto concurring:

SECTION 1. That the bid of PHC, Inc. for said Highland Meadows and Griffith Park Improvement Project, in the amount of One Million Two Hundred Seventy-Five Thousand Seven Hundred One and 35/100 Dollars (\$1,275,701.35), is hereby determined to be the best bid received and the same is hereby accepted.

SECTION 2. That the Mayor and Director of Finance be, and hereby are, authorized and directed to execute a contract with the bidder named in Section 1 above for the furnishing of such labor and materials in accordance with said bid.

SECTION 3. That to provide funds for said improvements hereby authorized, there is hereby appropriated from the **CAPITAL IMPROVEMENT FUND** from funds therein not heretofore appropriated to **Account No. 401-7610-53603 – Highland Meadows, Griffith Park, Phase 2 (East)**, the total sum of One Million Two Hundred Seventy-Five Thousand Seven Hundred One and 35/100 Dollars (\$1,275,701.35).

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 5. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Section 12, of the Charter of this City.

SECTION 6. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that the bid of PHC, Inc. should be accepted immediately so as to make the improvements possible at the earliest possible time. Provided this Ordinance receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

President of Council



8c

City Of Sylvania

DEPARTMENT OF PUBLIC SERVICE

JEFFREY P. BALLMER, PE. PS. DIRECTOR

April 13, 2011

To: The Mayor and Members of Sylvania City Council

Re: **Highland Meadows and Griffith Park Improvements - East Phase**

Dear Mr. Mayor and Council Members:

We have received a proposal from NCI to perform daily construction inspection and construction for the above-mentioned project. The proposal covers the cost of an inspector ten hours a day for the length of the project and the preparation of daily inspection reports, review of change orders, preparation of periodic estimates and as liaison with the contractor's superintendent.

NCI has provided inspection on previous projects for the City and is the design consultant for this project.

We would recommend that the proposal from NCI in the amount not-to-exceed of \$91,248 for inspection services be accepted.

Very truly yours,

Jeffrey P. Ballmer
Director of Public Service
tid

8d

ORDINANCE NO. 25 -2011

ACCEPTING THE PROPOSAL OF NORTHWEST CONSULTANTS, INC. TO PROVIDE CONSTRUCTION INSPECTION FOR THE HIGHLAND MEADOWS AND GRIFFITH PARK IMPROVEMENTS – EAST PHASE; APPROPRIATING FUNDS THEREFORE IN AN AMOUNT NOT TO EXCEED \$91,248; AND DECLARING AN EMERGENCY.

WHEREAS, as in years past, the City of Sylvania has several road construction projects underway at the same time and our inspector has retired; and

WHEREAS, the Department of Public Service has solicited a proposal from Northwest Consultants, Inc. (“NCI”) to provide construction inspection for the Highland Meadows and Griffith Park Improvements – East Phase at a cost not to exceed Ninety-One Thousand Two Hundred Forty-Eight Dollars (\$91,248.00); and,

WHEREAS, NCI has provided inspection services previously with the City of Sylvania with excellent results and for the Highland Meadows and Griffith Park Improvements – East Phase they will provide an inspector ten hours a day for the length of the project and the preparation of daily inspection reports, review of change order, preparation of periodic estimates and act as liaison with the contractor’s superintendent; and

WHEREAS, the Director of Public Service, by report dated April 13, 2011, has recommended the acceptance of above proposal.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____ members elected thereto concurring:

SECTION 1. That the proposal of Northwest Consultants, Inc. for an amount not to exceed the total sum of Ninety-One Thousand Two Hundred Forty-Eight Dollars (\$91,248.00) for providing construction inspection for the Highland Meadows and Griffith Park Improvements – East Phase, is hereby accepted.

SECTION 2. That the Director of Public Service shall promptly give notice to said consultant to proceed under the proposal hereby approved and accepted.

SECTION 3. That to provide funds for said consultant services hereby authorized, there is hereby appropriated from the **CAPITAL IMPROVEMENT FUND** from funds therein not heretofore appropriated to **Account No. 401-7610-53603 – Highland Meadows, Griffith Park Phase 2 (East)** the total sum of Ninety-One Thousand Two Hundred Forty-Eight Dollars (\$91,248.00).

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Section 12, of the Charter of this City.

SECTION 6. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that the City should provide for the construction inspection of the Highland Meadows and Griffith Park Improvements-East Phase at the earliest possible time. Provided this Ordinance receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

President of Council

ATTEST:

APPROVED AS TO FORM:

Clerk of Council

Director of Law

APPROVED:

Mayor

Date

ORDINANCE NO. 26 -2011

AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE, ON BEHALF OF THE CITY OF SYLVANIA, OHIO, TO ENTER INTO AN AGREEMENT WITH STEPHEN G. SCARVELLIS BUILDER, LLC, DEVELOPERS IN SYLVANIA TOWNSHIP, LUCAS COUNTY, OHIO, RELATIVE TO THE CONNECTION OF OTHERS TO A SANITARY SEWER LINE CONSTRUCTED BY DEVELOPER ALONG COREY ROAD; AND DECLARING AN EMERGENCY.

WHEREAS, Stephen G. Scarvellis Builder, LLC, hereinafter referred to as "Developer" has constructed in the City of Sylvania Sanitary Sewer Service Area, in Sylvania Township, Lucas County, Ohio, pursuant to plans and specifications on file in the Office of the Director of Public Service of the City of Sylvania, at the sole cost of said Developer, a certain sanitary sewer line along Corey Road in Sylvania Township, Lucas County, Ohio, which extends by lands of others not served by a sanitary sewer; and,

WHEREAS, said sanitary sewer line has been connected to the City of Sylvania Sanitary Sewer System and the same has been dedicated to the City of Sylvania, Ohio; and,

WHEREAS, the cost of constructing said sanitary sewer along Corey Road, extending by land of others on Corey Road in the City of Sylvania Sanitary Sewer Service Area, in Sylvania Township, Lucas County, Ohio, should be reimbursed to the Developer by the owners of lots and lands previously unserved by a sanitary sewer line for the proportion of the cost of such line construction allocable to such previously unserved land; and,

WHEREAS, a proposed sanitary sewer line cost recovery agreement between the Developer, Stephen G. Scarvellis Builder, LLC and the City of Sylvania, Ohio, marked "Exhibit 1" is attached hereto and made a part hereof; and,

WHEREAS, the Developer has executed the proposed sanitary sewer line cost recovery agreement and asks that the City of Sylvania do likewise through its appropriate officers.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____ members elected thereto concurring:

SECTION 1. That it is hereby determined to be in the best interest of the public and this City to have had said sanitary sewer line so constructed pursuant to plans and specifications and to provide a means of reimbursement to the installer thereof for the prorated costs thereof which are properly allocable to benefitted land fronting on Corey Road described in "Exhibit B" to "Exhibit 1" attached hereto along which said sanitary sewer now exists.

SECTION 2. That the Mayor and Director of Finance be, and they hereby are, authorized to execute on behalf of this City, the proposed sanitary sewer line cost recovery agreement referred to hereinabove as "Exhibit 1" subject to any changes therein required by the Director of Law in the interest of this City and the Director of Law's approval on the executed agreement shall be sufficient evidence that the required changes were made or that none were required.

SECTION 3. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Section 12, of the Charter of this City.

SECTION 5. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that an immediate plan for cost recovery of the sanitary sewer line construction costs on a prorated basis to the installer thereof should be provided prior to the request of owners of benefitted land for connection to said sanitary sewer line so installed and therefore this Ordinance should be effective immediately. Provided this Ordinance receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by this Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

President of Council

ATTEST:

APPROVED AS TO FORM:

Clerk of Council

Director of Law

APPROVED:

Mayor

Date

SANITARY SEWER COST RECOVERY AGREEMENT

THIS AGREEMENT made this 11th day of April, ~~2010~~ ²⁰¹¹ by and between Stephen G. Scarvellis Builder (Developer) and THE CITY OF SYLVANIA, OHIO ("Sylvania").

Developer is the developer of property along Corey Road which parcel comprises the land located in the Township of Sylvania more fully described on Exhibit "A" attached hereto and hereby by reference incorporated herein.

In connection with the development of the Parcel, it is necessary for Developer, at its expense, to extend a sanitary sewer to the Parcel across certain land abutting Corey Road in Sylvania Township, Lucas County, Ohio.

NOW THEREFORE, in consideration of the construction of the sanitary sewer by Developer at its expense and the dedication hereby to Sylvania, it is agreed by and between Developer and Sylvania as follows:

(1) In any instance where the sanitary sewer is tapped into to serve any of the property listed on Exhibit "A", Sylvania shall collect and return to Developer a prorated share of the cost of the sanitary sewer outside of said parcel by the party permitted to tap and Developer's cost of such sanitary sewer outside of said parcel, the charge to be determined in accordance with the Reimbursement Schedule attached hereto as Exhibit "B" and hereby by reference incorporated herein. An extension of the sanitary sewer is not considered a tap within the cost recovery agreement.

(2) A copy of the resolution or ordinance of the Council of the City of Sylvania approving this Agreement together with a copy of this Agreement shall be filed in the Office of the Service Director of the City of Sylvania and such filing shall constitute constructive notice thereof to all affected parties.

(3) This agreement shall inure to the benefit of and be binding upon Developer and Sylvania and their successors and assigns for a period of seven (7) years from the date hereof.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed and delivered by their duly authorized officers as of the date first above written.

Witnesses for Stephen G. Scarvellis Builder, LLC

by: [Signature]

by: [Signature]

Witnesses for CITY OF SYLVANIA

by: _____

by: _____

Stephen G. Scarvellis Builder, LLC

by: [Signature]

by: _____

CITY OF SYLVANIA

by: _____
Craig A. Stough, Mayor

by: _____
Scott S. Smith, Director of Finance

STATE OF OHIO)
)
COUNTY OF LUCAS) SS:

The foregoing agreement (Page 1 of 4 Pages) was acknowledged before me this 11th
day of April, ~~2010~~₂₀₁₁, by Stephen G. Scarvellis of Stephen G. Scarvellis Builder, LLC.

Anne M. Pyle
Notary Public

STATE OF OHIO)
)
COUNTY OF LUCAS) SS:



ANNE M. PYLE
Notary Public, State of Ohio
My Commission Expires Oct. 8, 2012

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by Craig A. Stough, Mayor, and Scott S. Smith, Director of Finance, of the City of Sylvania, a State of Ohio municipal corporation, on behalf of the corporation.

James E. Moan
Notary Public, State of Ohio
My Commission has no expiration date.

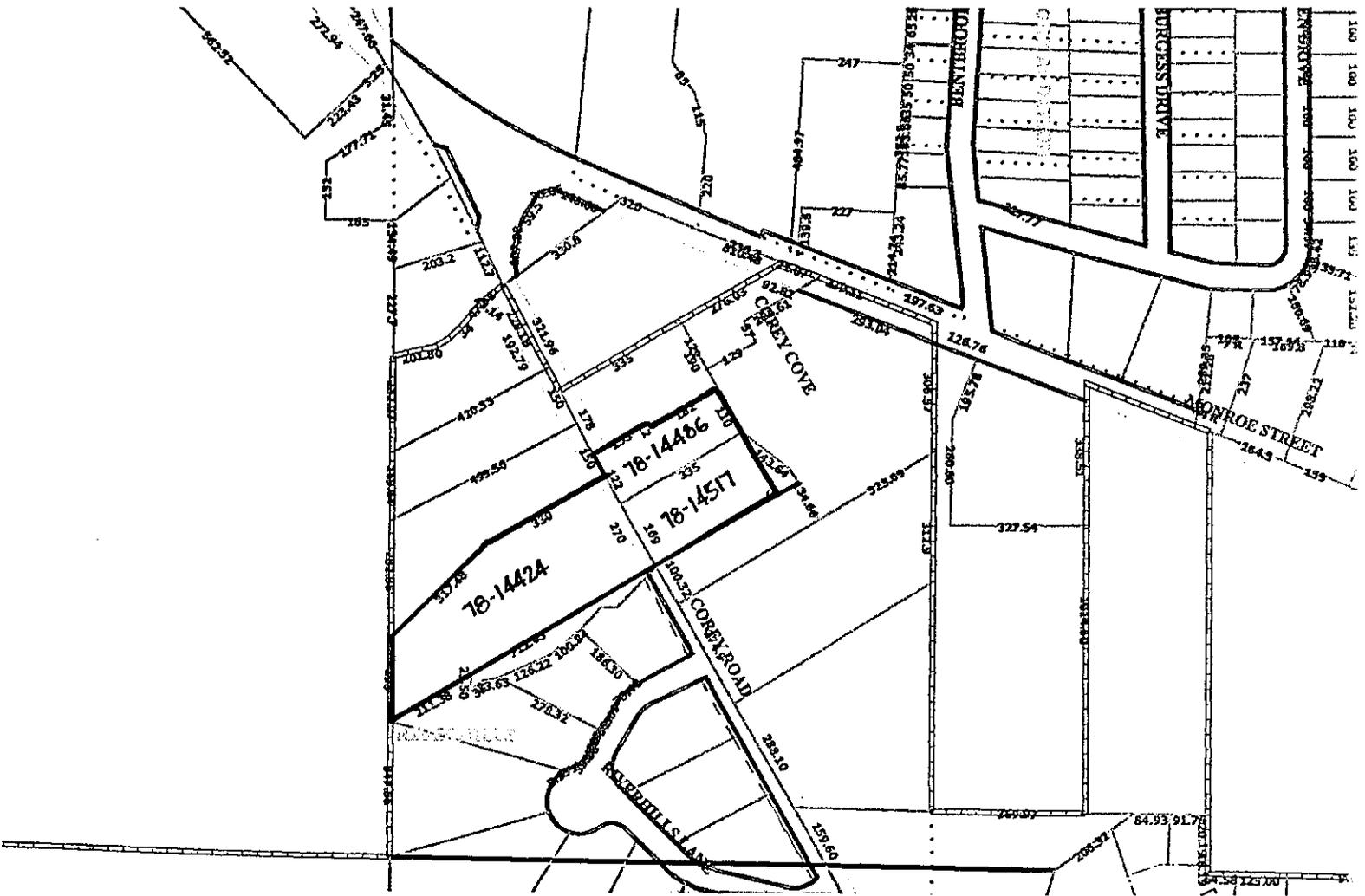
Approved as to form and content:

James E. Moan, Director of Law Date _____

Accepted by the Council of the City
of Sylvania, Ohio, by Ordinance
No. ____-____ of _____

Margaret T. Rauch, Clerk of Council
of the City of Sylvania, Ohio

Exhibit A



“EXHIBIT B”

COREY ROAD SANITARY SEWER COST RECOVERY

I. BENEFITTED AREA

See Attached “Exhibit A”

II. PROJECT COST

Construction	\$ 38,660.27
Design Engineering & Staking	\$ 2,650.00
OEPA Fees	\$ 343.00
Total Cost	\$ 41,653.27

III. COST RECOVERY FEE

78-14486	5136 Corey Road	\$ 27,768.85
78-14517	5124 Corey Road	\$ 0
78-14424	5121 Corey Road	\$ 13,884.42



JDRM Engineering, Inc.

10a

5604 N. MAIN STREET, SUITE 200 + SYLVANIA, OHIO 43560 + PH. (419) 824-2400 + FAX (419) 824-2409

April 12, 2011

Mr. William D. Sanford
Economic Development/Administrative Services
City of Sylvania
6730 Monroe Street
Sylvania, Ohio 43560

Re: Relocation of Utility Services

Dear Bill:

The revised cost to complete the utility relocation estimate is Seventy-Five Thousand Dollars (\$75,000.00). This cost will complete the detailed estimating phase of the overall project.

The project scope has increased due to a number of causes, which have slowed down the process of finalizing a cost estimate for the project.

The addition of Time Warner as a fourth utility to work with, and the subsequent effort to prepare an estimate to bury their new cables through the Monroe Street corridor ambushed everyone's progress. In doing so, it brought to light a number of additional concerns that are now included in the scope of work.

The new scope of the project extends from US 23 on the east, Main Street on the west, and south on Harroun Road to the river. There will be crossings under the Main Street River bridge and the Monroe Street 10 Mile Creek bridge.

The effort to work through the Time Warner issues brought to light the additional surveying needs as well as ground sensing radar to identify hidden obstructions.

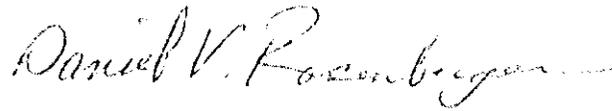
Additionally, due to the intense difficulty of the directional bore installation, we now have a directional bore contractor/electrical contractor assisting with estimating efforts so we are assured of providing the City with a very accurate estimate of the total cost of this proposed project.

After the estimates are presented to the City and decisions are made as to the final construction scope of work, we will submit our proposal to prepare final construction drawings and contract administration, seeing the project through final completion.

Mr. William D. Sanford
City of Sylvania
Relocation of Utility Services
April 12, 2011
Page 2

If you have any questions regarding our revised fee proposal, please contact me at your convenience.

Sincerely,

A handwritten signature in cursive script that reads "Daniel V. Rosenberger". The signature is written in black ink and is positioned above the printed name.

Daniel V. Rosenberger

DVR/mk

cc: File

102

ORDINANCE NO. 27 -2011

ACCEPTING THE PROPOSAL OF JDRM ENGINEERING, INC. TO PROVIDE ENGINEERING DESIGN FOR THE MONROE STREET UTILITIES RELOCATION PROJECT; APPROPRIATING FUNDS THEREFORE IN AN AMOUNT NOT TO EXCEED \$75,000; AND DECLARING AN EMERGENCY.

WHEREAS, since 2006, the City has been working with JJR to improve the Gateway and our downtown into the City of Sylvania; and,

WHEREAS, Ordinance No. 102-2010, passed December 6, 2010, accepted the proposal of JDRM Engineering, Inc. to provide engineering design for the Monroe Street Utilities Relocation Project and appropriated funds therefore in the amount of \$55,260; and,

WHEREAS, since that proposal was accepted, the scope of the project has increased to include Time Warner as an additional utility to work with and the project now extends from US 23 on the east, Main Street on the west, and south on Harroun Road to Ten Mile Creek; and,

WHEREAS, the increased scope of the project also requires additional surveying work as well as a directional bore contractor/electrical contractor; and,

WHEREAS, the Economic Development Director has received a proposal encompassing the new scope of work from JDRM Engineering, Inc. to assist the City is working with the public utilities to relocate the overhead services crossing Monroe Street to underground in an amount not to exceed \$75,000, for a total project amount of \$130,260.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____ members elected thereto concurring:

SECTION 1. That the proposal of JDRM Engineering, Inc., 5604 N. Main St., Ste. 200, Sylvania, OH 43560 for an amount not to exceed the total sum of Seventy-Five Thousand Dollars (\$75,000.00) for providing engineering design for the Monroe Street Utility Relocation Project, is hereby accepted.

SECTION 2. That the Economic Development Director shall promptly give notice to said consultant to proceed under the proposal hereby approved and accepted.

SECTION 3. That to provide funds for said consultant services hereby authorized, there is hereby appropriated from the **CAPITAL IMPROVEMENT FUND** from funds therein not heretofore appropriated to **Account No. 401-7610-53544 – Downtown Streetscape Project** an amount not to exceed Seventy-Five Thousand Dollars (\$75,000.00).

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Section 12, of the Charter of this City.

SECTION 6. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that the City should provide for the engineering design of the Monroe Street Utility Relocation Project at the earliest possible time. Provided this Ordinance receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

President of Council

ATTEST:

APPROVED AS TO FORM:

Clerk of Council

Director of Law

APPROVED:

Mayor

Date

the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

ATTEST:

President of Council
APPROVED AS TO FORM:

Clerk of Council

Director of Law

APPROVED:

Mayor

Date

735.03 SALES ON PRIVATE PROPERTY; LICENSE; REGISTRATION.

* * *

(b) Application; Fee; License; Registration.

* * *

- (3) Each applicant shall pay a nonrefundable license application fee of twenty-five dollars (\$25.00), which fee shall be paid at the time the application is submitted.

* * *

(Ord. ____-2011. Passed ____-2011.)

"Exhibit A"

11 b

ORDINANCE NO. 29-2011

AMENDING CHAPTER 755 OF THE SYLVANIA CODIFIED ORDINANCES BY AMENDING SECTION 755.05 – FALSE ALARMS; FEES; EXCEPTIONS; AND DECLARING AN EMERGENCY.

WHEREAS, the Chief of Police recommended that the fees for responding to more than two false alarms be increased, as these fees have not been increased since 1998 and to align our fines with surrounding communities; and,

WHEREAS, the Safety Committee met on April 1, 2011 to consider the Chief of Police’s recommendations regarding the fee increase and, at the April 4, 2011 meeting of Sylvania City Council, the Chair of the Safety Committee reported that the Safety Committee recommended the fine increases as set forth in the attached “Exhibit A.”

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____ members elected thereto concurring:

SECTION 1. That Section 755.05 – False Alarms; Fees; Exceptions, of the Codified Ordinances of Sylvania, 1979, be, and the same hereby is, amended to read as set forth on “Exhibit A.”

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Section 12, of the Charter of this City.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that this ordinance must be immediately effective to provide for the amendments to the false alarm fees and to make necessary changes to the Codified Ordinances. Provided this Ordinance receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the

Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

ATTEST:

President of Council
APPROVED AS TO FORM:

Clerk of Council

Director of Law

APPROVED:

Mayor

Date

755.05 FALSE ALARMS; FEES; EXCEPTIONS.

* * *

(b) The false alarm fee schedule for false alarms during a calendar year shall be as follows:

First and Second False Alarm	No Fee
Third False Alarm	\$30.00
Fourth False Alarm	\$60.00
Fifth False Alarm	\$90.00
Sixth False Alarm	\$120.00
Seventh and Each Subsequent False Alarms	\$120.00 or file criminal charges pursuant to Section 755.04

(Ord. ____-2011. Passed _____-2011.)

“Exhibit A”

11c

ORDINANCE NO. 30-2011

AMENDING CHAPTER 351 OF THE SYLVANIA CODIFIED ORDINANCES BY AMENDING SECTION 351.20 – OFFENSES AND FINES FOR WHICH PAYMENT MAY BE MADE TO CITY UNDER CERTAIN CONDITIONS; AND DECLARING AN EMERGENCY.

WHEREAS, the Chief of Police recommended that the parking violation fines be increased, as most had not been increased since 1995, and also to align our fines with surrounding communities; and,

WHEREAS, the Safety Committee met on April 1, 2011 to consider the Chief of Police's recommendations regarding the fee increase and, at the April 4, 2011 meeting of Sylvania City Council, the Chair of the Safety Committee reported that the Safety Committee recommended the fee increases as set forth in the attached "Exhibit A."

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____ members elected thereto concurring:

SECTION 1. That Section 351.20 – Offenses and Fines for Which Payment May be Made to City under Certain Conditions, of the Codified Ordinances of Sylvania, 1979, be, and the same hereby is, amended to read as set forth on "Exhibit A."

SECTION 2. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 3. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Section 12, of the Charter of this City.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that this ordinance must be immediately effective to provide for the amendments to the parking violation fines and to make necessary changes to the Codified Ordinances. Provided this Ordinance receives the affirmative vote of five (5) or more members

elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

ATTEST:

President of Council
APPROVED AS TO FORM:

Clerk of Council

Director of Law

APPROVED:

Mayor

Date

ORDINANCE NO. 31 - 2011

AUTHORIZING THE MAYOR AND DIRECTOR OF FINANCE TO ENTER INTO AN AGREEMENT ON BEHALF OF THE CITY OF SYLVANIA BETWEEN THE CITY OF SYLVANIA AND THE BOARD OF LUCAS COUNTY COMMISSIONERS FOR THE SUBURBAN COURT SERVICES PROGRAM; AGREEING TO PARTICIPATE IN FUNDING A PORTION OF THE LOCAL SHARE FOR SUBURBAN COURTS' SERVICES; APPROPRIATING \$25,000 THEREFORE; AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance No. 169-97 approved the application by the Suburban Court Services to the Victims of Crime Assistance (hereinafter "VOCA") grant and authorized the City of Sylvania to share one-third of the 25% match required by the grant; and,

WHEREAS, said Ordinance authorized the expenditure of up to \$12,622.00 for Sylvania's local share of this grant; and,

WHEREAS, Ordinance No. 56-99, passed May 17, 1999, approved the Suburban Court Services grant application for federal funds under the Victims of Crime Act ("VOCA") through the office of the Ohio Attorney General's Office and agreed to participate in funding a portion of the local share up to \$15,056.34 for Sylvania's share of this grant; and,

WHEREAS, by Ordinance No. 17-2001, passed February 20, 2001, the City of Sylvania agreed to participate in a portion of the local share funding of Suburban Court Services which portion of funding increased to \$36,568.14 for the year 2001 due to the expiration of funding through the Byrne Memorial Grant and also included a three percent per year increase over the duration of the Agreement through September 30, 2003; and,

WHEREAS, by Ordinance No. 25-2004, passed March 15, 2004, the City of Sylvania agreed to participate in a portion of the local share funding of Suburban Court Services from October 1, 2003 through September 30, 2004 in the amount of \$38,795.14; and,

WHEREAS, by Ordinance No. 94-2004, passed November 15, 2004, the City of Sylvania agreed to participate in a portion of the local share funding of Suburban Court Services from October 1, 2004 through September 30, 2005 in the amount of \$38,795.14; and,

WHEREAS, by Ordinance No. 97-2006, passed October 2, 2006, the City of Sylvania agreed to participate in a portion of the local share funding of Suburban Court Services from October 1, 2006 through September 30, 2007 in the amount of \$9,635.00, which price decrease was a result of the City now providing office space and supplies; and,

WHEREAS, by Ordinance No. 33-2008, passed April 7, 2008, the City of Sylvania agreed to participate in a portion of the local share funding of Suburban Court Services from October 1, 2007 through September 30, 2008 in the amount of \$25,000; and,

WHEREAS, by Ordinance No. 63-2009, passed June 15, 2009, the City of Sylvania agreed to participate in a portion of the local share funding of Suburban Court Services from October 1, 2008 through September 30, 2009 in the amount of \$25,000; and,

WHEREAS, by Ordinance No. 27-2010, passed April 5, 2010, the City of Sylvania agreed to participate in a portion of the local share funding of Suburban Court Services from October 1, 2009 through September 30, 2010 in the amount of \$25,000; and,

WHEREAS, the City of Sylvania has received a request for funding Suburban Court Services in the amount of \$25,000.00 for October 1, 2010 through September 30, 2011.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Sylvania, Lucas County, Ohio, _____ members elected thereto concurring:

SECTION 1. That City of Sylvania hereby agrees to participate in funding a portion of the local share in an amount of not to exceed Twenty-Five Thousand Dollars (\$25,000.00) for the year 2011.

SECTION 2. That the Mayor and Director of Finance be, and they hereby are, authorized to evidence such approval and agreement by signing such documents as may be necessary and the Clerk of this Council is hereby authorized and directed to certify a copy of this Ordinance and provide such certified copy to Judge Ramey.

SECTION 3. That to provide funds for said services hereby authorized, there is hereby appropriated from the **GENERAL FUND** from funds therein not heretofore appropriated to **Account No. 110-7740-51295 - LCCPC Board Services** the total sum of Twenty-Five Thousand Dollars (\$25,000.00).

SECTION 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 5. That the Clerk of Council is hereby directed to post a copy of this Ordinance in the Office of the Clerk of Council in the Municipal Building pursuant to ARTICLE III, Section 12, of the Charter of this City.

SECTION 6. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, property and welfare and for the further reason that funding for Suburban Court Services should be provided for immediately. Provided this Ordinance receives the affirmative vote of five (5) or more members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force thirty (30) days after it is approved by the Mayor or as otherwise provided by the Charter.

Vote dispensing with the second and third readings: Yeas _____ Nays _____

Passed, _____, 2011, as an emergency measure.

ATTEST:

Clerk of Council

APPROVED:

Mayor

Date

President of Council

APPROVED AS TO FORM:

Director of Law

AGREEMENT BETWEEN THE CITY OF SYLVANIA AND THE BOARD OF LUCAS COUNTY COMMISSIONERS FOR THE SUBURBAN COURT SERVICES PROGRAM

This agreement executed this ____ day of _____ by an between the City of Sylvania, Ohio, a charter municipal corporation organized under the laws of the State of Ohio and the Board of Lucas County Commissioners (Lucas County), a political subdivision of the State of Ohio.

WHEREAS, since 1997 the parties have participated in the Suburban Court Services Program which provides victim advocacy services to victims and witnesses of misdemeanor crimes in the participating courts; and,

WHEREAS, all parties desire to continue the Suburban Court Services Program;

NOW, THEREFORE, the parties to this contract agree to the following terms and conditions:

1. The Board of Lucas County Commissioners shall administer the program through the Lucas County Prosecutor's Office.
2. Subject to the provisions of paragraph 5, the term of the Suburban Court Services Program shall be from October 1, 2010 through September 30, 2011, coinciding with the funding from the Victims of Crime Act.
3. The City of Sylvania shall pay the Board of Lucas County Commissioners the sum of \$25,000.00 to be used as matching dollars for the VOCA grant and for the use of the services of the program during the contract period.
4. The matching dollars need are to coincide with a federal funding period which is October 1, 2010 through September 30, 2011.
5. Lucas County may cancel or modify this agreement, without prior notification, if there is a termination or change in the amount of funding from the Victims of Crime Act. Lucas County may cancel the agreement, after having given the other parties 60 days written notice. The municipality may terminate its participation in this agreement, after having given the other parties 60 days written notice.

IN WITNESS WHEREOF, this contract has been executed by the parties as of the day and year first written above. This contract contains two (2) pages.

LUCAS COUNTY BOARD OF COMMISSIONERS

Date _____

Commissioner Gerken

Commissioner Wozniak

Commissioner Contrada

CITY OF SYLVANIA

Date _____

Mayor

Approved as to form:

Finance Director

Law Director

Judge of the Municipal Court



City Of Sylvania

MUNICIPAL PLANNING COMMISSION

April 8, 2011

To: Mayor and Members of City Council

Re: **City of Sylvania Zoning Code Update -
Final Review Draft Zoning Amendments**

Dear Mayor and Members:

Following is an excerpt from the minutes of the special meeting of the Sylvania Municipal Planning Commission of April 7, 2011, regarding a request for review and recommendation for proposed City of Sylvania Zoning Code Update - Final Review Draft Zoning Amendments:

... "Mayor Stough, stated to ensure the work ability of the zoning code and to maintain the planning intent and goals of our code, he made the motion to recommend approval of the City of Sylvania Zoning Code Update - Final Review Draft Zoning Amendments subject to the recommendations discussed at our four (4) meetings of March 16, 2011, March 22, 2011, March 29, 2011, and April 7, 2011, Mr. Marciniak seconded the motion. The recommendations, with commentary in italics, being:

Any place Zoning Inspector appears in the code change it to Zoning Administrator.
This is to be consistent in the code.

Add two items into the zoning code so that they apply in all zoning districts.

- (a) No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties or waterways.
- (b) Drainage or other waters from roof areas, driveways, parking lots and other sectors of the lot or project may not be permitted to flow onto or accumulate on any adjoining lot or property.

Chapter 1101 Definitions

1101.10 Agriculture - Definition be amended to include: Horses owned by occupants, as pets, are permitted on large lots, five acres or larger.

There are residents who have horses on their property, the new code would prevent them from selling their property as a horse property, it would prevent anyone from adding a horse on their property.

1101.13 Billboard - The last sentence "A billboard is also a board, panel, or tablet used for the display of posters, printed or painted advertising matter, either illuminated or non-illuminated, that directs attention to goods, merchandise, entertainment, or services offered elsewhere that the premises where the sign is located." be deleted from the definition.

This would prohibit the display of advertising for functions such as the Sylvania Firemen's Pancake Breakfast, Northview and Southview Garage Sales, Festirama, Shred Day, etc.

1101.52 Home Occupation - "The occupation shall be conducted wholly within the dwelling or an accessory building" be added to the restrictions.

Chapter 1109 Site Plan and Development Plans

In all occurrences, except Section 1109.10, change the Zoning Administrator to Service Director or his designee.

It is ultimately the Service Director who has the responsibility to approve site and development plans. A Zoning Administrator may not be an engineer and have the knowledge necessary to review plans.

1109.04 Site Plan Submittal Requirements. -

(2) Change builder to owner / developer.

The builder for a project may not be selected prior to approval of a site plan and the project may not have even gone out for bids.

(7) The vicinity map at a scale of 1" = 400' shall show:

A list of what is to be shown on the Vicinity Map or there should be a period after 400'.

1109.05 Action on Site Plans. -

(a) Approval - Increase the approval time from six (6) months to one (1) year.

Six months may not be enough time for the bidding process and for obtaining necessary financing approval.

(b) Disapproval - Change Planning Commission to Service Director or his designee.

The Planning Commission may not need to see all site plans and if they do not review the site plan a disapproval letter should be written by whoever reviewed the plan.

Chapter 1110 Traffic Impact Studies / Access Management

1110.06 Access Drives and Section 1110.07 Curb Cuts, Signals - Change City of Sylvania to Service Director for the City of Sylvania.

Chapters 1117 through 1127 R-1, R-1A, R-2, R-2A, R-3, and R-4 Districts

1117.02, 1119.02, 1121.02, 1123.02, 1125.03, and 1127.03 Minimum Requirements - All the minimum requirements for the residential districts revert back to the former requirements.

Agree with the comments from the public meeting that the minimum requirements go back to the old code. Suggest that for new subdivisions we should use the larger lot requirements, and implement that by adding a new zoning district with suburban lot designation for new single family residential development.

Chapter 1127 R-4 Multiple Dwelling Medium High Density District

1127.12 Accessory Buildings and Uses - Paragraph (c) be deleted and replaced with:

"(c) Recreational Vehicle, Utility Trailers and Equipment Storage.
Recreational equipment may be parked or maintained in a R-4 District for a period of time not exceeding seventy-two hours, unless housed within a garage."

This would be for the higher density multiple dwelling district such as Stonehenge and Regis Park. There is not sufficient space for storage of recreational equipment without interfering with other owners or residents in the buildings.

Chapter 1135 B-1-B Modified Business and Office District

1135.07 Permitted Uses - Uses permitted in the B-1-B District: Add "Restaurants with drive-through window service"

This district was originally adopted to allow for restaurants such as McDonald's and Taco Bell. All of these businesses rely heavily on their drive-through customers.

Chapter 1139 B-3 Central Business District

1139.05 Performance Standards - Delete (a) and (c).

- (a) *Not allowing outside storage or activity is in conflict with permitted uses for Restaurant, with outdoor customer dining area and Sidewalk café.*
- (c) *In the B-3 there are existing businesses with drive-through window service. Would it be unfair to prohibit drive-through window service for a new business such as a coffee shop, ice cream parlor, or other business to not be able to have a drive-through window.*

1139.06 Yard Requirements - Make the front yard requirement of no greater than twelve feet and may be as little as zero feet, applicable to the downtown block of Main Street between Monroe Street and Maplewood Avenue.

Many buildings in the B-3 Central Business District would be non-conforming which could make it difficult to finance a purchase or a loan for improvements for new businesses.

1139.09 Transparency - Add front to read "A minimum of 60 percent of the street-facing front building facade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space or product display areas."...

When a building is situated on a corner lot, the street-facing side building facade may be storage space, office space, restrooms and other spaces that business owner would not want on view to pedestrians or people driving past the building.

Chapter 1141 B-4 Shopping Center District

1141.06 Design Standards - (1) Eliminate the sentence "All sides of a building open to view by the public, whether viewed from public or private property, shall display a similar level of quality and architectural interest." The preference would be to have the similar quality of building materials on all sides of the building so we do not have a large expanses of concrete block walls visible to the public.

Requiring some architectural features on side and rear walls to create visual interest would be preferred, however that may not be practicable due to security and cost effectiveness.

1141.09 Delay in Construction - Return this section to the code.

1141.10 Development - Return this section to the code.

Maybe the two sections should be renumbered so that the development comes before the delay in construction section. These sections are applicable to rezoned land and maybe with the restriction on the location for B-4 zoning these sections may not be necessary.

Chapter 1145 M-1 Light Industrial District

1145.03 Yard Requirements - Return the front yard and side yard requirements to the old code.

A large portion of the M-1 Light Industrial District is located in Whetstone Park, the lots are mostly 40 feet wide and 116 feet deep requiring a front yard of 50 feet would take almost half of the lot depth and two side yards of 10 feet would take half of a single lot width so the lots are too small for the new requirement.

Chapter 1149 Flood Plain Districts

1149.01 Definitions -

- (c) **Amend the definition to reference the latest Flood Insurance Study and not the one dated October 6, 2000.**

The maps have been updated for 2011 and the flood insurance study may change to reflect the new maps and keep the Base flood water elevation to the latest standard.

- (ii) (2) Amend the paragraph to read: Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or

This was probably just a typographical error.

1149.33 Change in watercourse.

1149.34 Alteration of community boundaries.

1149.99 Penalty.

Restore these three sections to the code.

Chapter 1150 Neighborhood Conservation Overlay District

1150.01 Purpose of the Neighborhood Conservation Overlay Zoning District - Eliminate the next to last sentence; "While some structures within this Overlay District have obvious historic qualities, others may lack sufficient historical, architectural or cultural significance to be designated as a more formal Historic District."

This may impede the enforcement of the section.

1150.02 Application of Neighborhood Conservation Overlay Zoning District. - District to be defined as: Starting at Monroe Street at the railroad tracks, west along Monroe Street from the railroad tracks to Parkwood Boulevard, then north to Maplewood Avenue, then east to the east property line of Burnham Park, then north to Erie Street, east to Garden Park Drive and encompassing both sides of the street, then north to the south boundary of Memorial Field, then east to the rear property lines of the lot on Colonial Court, then south to end of Colonial Court, then east to the North Branch of Ten Mile Creek, then south to the north side of Erie Street, then west to the railroad tracks, and then south to Monroe Street.

Set the district boundaries to preserve the character of the neighborhoods. The area immediately north and west of the downtown area. A map of the area is attached.

1150.03 Requirements -

- (d) Eliminate the "all" so it reads "Building Materials: No less than 75 percent of the exterior building materials used for the construction and/or renovation of a principal structure shall be materials also found on the exterior of structures along the same block."

Not all houses in a block may have the same exterior materials, there will be a lot of wood siding and maybe one or two houses with brick exteriors, requiring the use of materials found on all structures may change the character of the dwelling. This would not allow an owner to side their house with aluminum or vinyl siding.

- (g) Amend the paragraph to read: "Lot combinations: To help preserve and protect the historic character of the neighborhood lot combinations is discouraged. Whenever applications are made to construct a new principal structure, or add to an existing principal structure, on two or more separate or combined parcels, such an application shall be first reviewed by the Planning Commission. This review shall include consideration of proposed building mass and scale in the context of neighboring property. Plan approval may include conditions requiring measures to reduce the visual mass of the building to make it compatible with established residences. "

This would prevent building an overly large house that would disrupt the fabric of the neighborhood.

- (h) Add that "Garage doors facing the street and not set back from the front of the dwelling are limited to 30% of the front facade."

This would eliminate houses where all you seem to see are the garage doors with the front door set back from the front of the house.

1150.03 Demolition - Make the waiting period ninety (90) days.
This would conform to the standard for conservation districts.

1150.06 Landmark Houses - Establish a Landmark House designation in cooperation with the owners of the property for houses of historic significance.
Preserve the houses that are significant in the history of Sylvania. The character of some neighborhoods has already changed and some houses have not been maintained so they may not be able to be preserved.

1150.99 Penalty - Set the penalty for demolition of a structure prior to the issuance of a zoning permit at \$1,000.00.
This may discourage owners from demolishing a structure.

Chapter 1151 Downtown Overlay District

Clarify the boundaries for the Downtown Overlay District.
Should the area be the B-3 Central Business District or should it be north of Monroe Street?

Chapter 1160 Landscaping

Was this chapter reviewed by the City Forest and the Special Project Coordinator? They should review the chapter since projects are referred to them for review.

Chapter 1165 Satellite Dish Receiving Stations

1165.01 Size Requirements and Location - Add a restriction to prohibit satellite dishes in the required front yard in residential districts.
This will get a satellite dish back from the sidewalk and have the satellite dish closer to the dwelling, so that it would be less likely to be damaged and less of an eye sore.

Chapter 1187 Architectural Districts

1187.02 District Boundaries. - The Regulated Architectural District be expanded to include all commercial properties in the city. All references to the Unregulated Architectural District be eliminated from the code.
*The old boundaries are based on the fire district, the city has grown and the boundaries have not been adjusted to include new properties. The board has been fortunate that they have been able to talk applicants into building their project to a higher standard but with the unregulated district they can only make suggestions and have no real enforcement powers.
Vote being: Backus, Lindsley, Marciniak, Stough (4) aye; (0) nay. Motion passed by a 4 to 0 vote."*

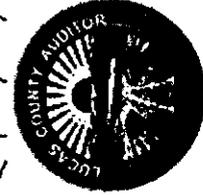
Very truly yours,



Barbara Taylor, Secretary
Municipal Planning Commission

attachment

2020R





City Of Sylvania

MUNICIPAL PLANNING COMMISSION

April 14, 2011

To: Mayor and Members of City Council

Re: **PD-1-2011, Planned Development,
Tam O'Shanter**

Dear Mayor and Members of Council:

Following is an excerpt from the minutes of the April 13, 2011 regular meeting of the Municipal Planning Commission regarding a petition to amend the Planned Development for Tam O'Shanter, 7060 Sylvania Avenue, Sylvania:

..."Mr. Marciniak moved, Dr. Backus seconded to recommend approval of PD-1-2011, amending the existing Planned Development, for the storage and office addition and the upgraded air conditioning, for Tam O'Shanter, 7060 Sylvania Avenue, as discussed. Vote being: Backus, Lindsley, Stough, Marciniak (4) aye; (0) nay. Motion passed by a 4 to 0 vote."...

Very truly yours,

Barbara Taylor, Secretary
Municipal Planning Commission

Sylvania Municipal Planning Commission

Minutes of the special meeting of April 7, 2011. Mr. Lindsley called the meeting to order.

Members present: Read Backus, Ken Marciniak (arrived late), Thomas Lindsley, Mayor Craig Stough, (4) present. Robert Oberly present.

Item 2 - Council Referral of the City of Sylvania Zoning Code Update - Final Review Draft Zoning Amendments for review and recommendation. Mayor Stough reported that city council did not extend the 45-day report back period at the April 4, 2011 council meeting. The planning commission needed to have another special meeting so they could give their recommendation to city council. We received an e-mail from Mr. Luetke asking the planning commission to consider some additional changes to the proposed neighborhood conservation district. Mr. Oberly stated that we need to consider changing the north boundary of the district and move it south from the state line to south of Colonial Court. Mr. Marciniak arrived at this time. Mayor Stough mentioned that there are old buildings that are not historical. He would like to keep the period for demolition at 90 days and have the penalty for demolition prior to issuance of a permit to be \$1,000.00. He does have the authority to waive the waiting time for demolition so if some was tearing down an accessory building they would not need to wait the entire 90 days. He has resources of the Historical Society, the Sylvania Historical Survey, and information from Dr. Ted Ligibel to determine if a structure has historical significance and should not be demolished prior to the 90-day waiting period. They would like to add a provision that would discourage people from buying two or three houses on small lots and combining them into one lot to build a larger house, this disrupt the fabric of the neighborhood.

Mayor Stough, stated to ensure the work ability of the zoning code and to maintain the planning intent and goals of our code, he made the motion to recommend approval of the City of Sylvania Zoning Code Update - Final Review Draft Zoning Amendments subject to the recommendations discussed at our four (4) meetings of March 16, 2011, March 22, 2011, March 29, 2011, and April 7, 2011, Mr. Marciniak seconded the motion. The recommendations, with commentary in italics, being:

Any place Zoning Inspector appears in the code change it to Zoning Administrator.
This is to be consistent in the code.

Add two items into the zoning code so that they apply in all zoning districts.

- (a) No erosion, by either wind or water, shall be permitted which will carry objectionable substances onto neighboring properties or waterways.
- (b) Drainage or other waters from roof areas, driveways, parking lots and other sectors of the lot or project may not be permitted to flow onto or accumulate on any adjoining lot or property.

Chapter 1101 Definitions

1101.10 Agriculture - Definition be amended to include: Horses owned by occupants, as pets, are permitted on large lots, five acres or larger.

There are residents who have horses on their property, the new code would prevent them from selling their property as a horse property, it would prevent anyone from adding a horse on their property.

1101.13 Billboard - The last sentence "A billboard is also a board, panel, or tablet used for the display of posters, printed or painted advertising matter, either illuminated or non-illuminated, that directs attention to goods, merchandise, entertainment, or services offered elsewhere that the premises where the sign is located." be deleted from the definition.

This would prohibit the display of advertising for functions such as the Sylvania Firemen's Pancake Breakfast, Northview and Southview Garage Sales, Festirama, Shred Day, etc.

1101.52 Home Occupation - "The occupation shall be conducted wholly within the dwelling or an accessory building" be added to the restrictions.

Chapter 1109 Site Plan and Development Plans

In all occurrences, except Section 1109.10, change the Zoning Administrator to Service Director or his designee.

It is ultimately the Service Director who has the responsibility to approve site and development plans. A Zoning Administrator may not be an engineer and have the knowledge necessary to review plans.

1109.04 Site Plan Submittal Requirements. -

(2) Change builder to owner / developer.

The builder for a project may not be selected prior to approval of a site plan and the project may not have even gone out for bids.

(7) The vicinity map at a scale of 1" = 400' shall show:

A list of what is to be shown on the Vicinity Map or there should be a period after 400'.

1109.05 Action on Site Plans. -

(a) Approval - Increase the approval time from six (6) months to one (1) year.

Six months may not be enough time for the bidding process and for obtaining necessary financing approval.

(b) Disapproval - Change Planning Commission to Service Director or his designee.

The Planning Commission may not need to see all site plans and if they do not review the site plan a disapproval letter should be written by whoever reviewed the plan.

Chapter 1110 Traffic Impact Studies / Access Management

1110.06 Access Drives and Section 1110.07 Curb Cuts, Signals - Change City of Sylvania to Service Director for the City of Sylvania.

Chapters 1117 through 1127 R-1, R-1A, R-2, R-2A, R-3, and R-4 Districts

1117.02, 1119.02, 1121.02, 1123.02, 1125.03, and 1127.03 Minimum Requirements - All the minimum requirements for the residential districts revert back to the former requirements.

Agree with the comments from the public meeting that the minimum requirements go back to the old code. Suggest that for new subdivisions we should use the larger lot requirements, and implement that by adding a new zoning district with suburban lot designation for new single family residential development.

Chapter 1127 R-4 Multiple Dwelling Medium High Density District

1127.12 Accessory Buildings and Uses - Paragraph (c) be deleted and replaced with:

- “(c) Recreational Vehicle, Utility Trailers and Equipment Storage.
Recreational equipment may be parked or maintained in a R-4 District for a period of time not exceeding seventy-two hours, unless housed within a garage.”

This would be for the higher density multiple dwelling district such as Stonehenge and Regis Park. There is not sufficient space for storage of recreational equipment without interfering with other owners or residents in the buildings.

Chapter 1135 B-1-B Modified Business and Office District

1135.07 Permitted Uses - Uses permitted in the B-1-B District: Add “Restaurants with drive-through window service”

This district was originally adopted to allow for restaurants such as McDonald’s and Taco Bell. All of these businesses rely heavily on their drive-through customers.

Chapter 1139 B-3 Central Business District

1139.05 Performance Standards - Delete (a) and (c).

- (a) *Not allowing outside storage or activity is in conflict with permitted uses for Restaurant, with outdoor customer dining area and Sidewalk café.*
- (c) *In the B-3 there are existing businesses with drive-through window service. Would it be unfair to prohibit drive-through window service for a new business such as a coffee shop, ice cream parlor, or other business to not be able to have a drive-through window.*

1139.06 Yard Requirements - Make the front yard requirement of no greater than twelve feet and may be as little as zero feet, applicable to the downtown block of Main Street between Monroe Street and Maplewood Avenue.

Many buildings in the B-3 Central Business District would be non-conforming which could make it difficult to finance a purchase or a loan for improvements for new businesses.

1139.09 Transparency - Add front to read “A minimum of 60 percent of the street-facing front building facade between two feet and eight feet in height must be comprised of clear windows that allow views of indoor space or product display areas.”...

When a building is situated on a corner lot, the street-facing side building facade may be storage space, office space, restrooms and other spaces that business owner would not want on view to pedestrians or people driving past the building.

Chapter 1141 B-4 Shopping Center District

1141.06 Design Standards - (1) Eliminate the sentence “All sides of a building open to view by the public, whether viewed from public or private property, shall display a similar level of quality and architectural interest.” The preference would be to have the similar quality of building materials on all sides of the building so we do not have a large expanses of concrete block walls visible to the public.

Requiring some architectural features on side and rear walls to create visual interest would be preferred, however that may not be practicable due to security and cost effectiveness.

1141.09 Delay in Construction - Return this section to the code.

1141.10 Development - Return this section to the code.

Maybe the two sections should be renumbered so that the development comes before the delay in construction section. These sections are applicable to rezoned land and maybe with the restriction on the location for B-4 zoning these sections may not be necessary.

Chapter 1145 M-1 Light Industrial District

1145.03 Yard Requirements - Return the front yard and side yard requirements to the old code.

A large portion of the M-1 Light Industrial District is located in Whetstone Park, the lots are mostly 40 feet wide and 116 feet deep requiring a front yard of 50 feet would take almost half of the lot depth and two side yards of 10 feet would take half of a single lot width so the lots are too small for the new requirement.

Chapter 1149 Flood Plain Districts

1149.01 Definitions -

- (c) Amend the definition to reference the latest Flood Insurance Study and not the one dated October 6, 2000.

The maps have been updated for 2011 and the flood insurance study may change to reflect the new maps and keep the Base flood water elevation to the latest standard.

- (ii) (2) Amend the paragraph to read: Any alteration of a historic structure, provided that the alteration will not preclude the structure's continued designation as a "historic structure"; or

This was probably just a typographical error.

1149.33 Change in watercourse.

1149.34 Alteration of community boundaries.

1149.99 Penalty.

Restore these three sections to the code.

Chapter 1150 Neighborhood Conservation Overlay District

1150.01 Purpose of the Neighborhood Conservation Overlay Zoning District - Eliminate the next to last sentence; "While some structures within this Overlay District have obvious historic qualities, others may lack sufficient historical, architectural or cultural significance to be designated as a more formal Historic District."

This may impede the enforcement of the section.

1150.02 Application of Neighborhood Conservation Overlay Zoning District. - District to be defined as: Starting at Monroe Street at the railroad tracks, west along Monroe Street from the railroad tracks to Parkwood Boulevard, then north to Maplewood Avenue, then east to the east property line of Burnham Park, then north to Erie Street, east to Garden Park Drive and encompassing both sides of the street, then north to the south boundary of Memorial Field, then east to the rear property lines of the lot on Colonial Court, then south to end of Colonial Court, then east to the North Branch of Ten Mile Creek, then south to the north side of Erie Street, then west to the railroad tracks, and then south to Monroe Street.

Set the district boundaries to preserve the character of the neighborhoods. The area immediately north and west of the downtown area. A map of the area is attached.

1150.03 Requirements -

- (d) Eliminate the “all” so it reads “Building Materials: No less than 75 percent of the exterior building materials used for the construction and/or renovation of a principal structure shall be materials also found on the exterior of structures along the same block.”

Not all houses in a block may have the same exterior materials, there will be a lot of wood siding and maybe one or two houses with brick exteriors, requiring the use of materials found on all structures may change the character of the dwelling. This would not allow an owner to side their house with aluminum or vinyl siding.

- (g) Amend the paragraph to read: “Lot combinations: To help preserve and protect the historic character of the neighborhood lot combinations is discouraged. Whenever applications are made to construct a new principal structure, or add to an existing principal structure, on two or more separate or combined parcels, such an application shall be first reviewed by the Planning Commission. This review shall include consideration of proposed building mass and scale in the context of neighboring property. Plan approval may include conditions requiring measures to reduce the visual mass of the building to make it compatible with established residences. “

This would prevent building an overly large house that would disrupt the fabric of the neighborhood.

- (h) Add that “Garage doors facing the street and not set back from the front of the dwelling are limited to 30% of the front facade.”

This would eliminate houses where all you seem to see are the garage doors with the front door set back from the front of the house.

1150.03 Demolition - Make the waiting period ninety (90) days.

This would conform to the standard for conservation districts.

1150.06 Landmark Houses - Establish a Landmark House designation in cooperation with the owners of the property for houses of historic significance.

Preserve the houses that are significant in the history of Sylvania. The character of some neighborhoods has already changed and some houses have not been maintained so they may not be able to be preserved.

1150.99 Penalty - Set the penalty for demolition of a structure prior to the issuance of a zoning permit at \$1,000.00.

This may discourage owners from demolishing a structure.

Chapter 1151 Downtown Overlay District

Clarify the boundaries for the Downtown Overlay District.

Should the area be the B-3 Central Business District or should it be north of Monroe Street?

Chapter 1160 Landscaping

Was this chapter reviewed by the City Forest and the Special Project Coordinator? They should review the chapter since projects are referred to them for review.

Chapter 1165 Satellite Dish Receiving Stations

1165.01 Size Requirements and Location - Add a restriction to prohibit satellite dishes in the required front yard in residential districts.

This will get a satellite dish back from the sidewalk and have the satellite dish closer to the dwelling, so that it would be less likely to be damaged and less of an eye sore.

Chapter 1187 Architectural Districts

1187.02 District Boundaries. - The Regulated Architectural District be expanded to include all commercial properties in the city. All references to the Unregulated Architectural District be eliminated from the code.

The old boundaries are based on the fire district, the city has grown and the boundaries have not been adjusted to include new properties. The board has been fortunate that they have been able to talk applicants into building their project to a higher standard but with the unregulated district they can only make suggestions and have no real enforcement powers.

Vote being: Backus, Lindsley, Marciniak, Stough (4) aye; (0) nay. Motion passed by a 4 to 0 vote.

Dr. Backus moved, Mr. Lindsley seconded to adjourn the meeting. All present voted aye. Meeting adjourned.

Submitted by,



Barbara Taylor, Secretary
Municipal Planning Commission

C

Sylvania Municipal Planning Commission

Minutes of the regular meeting of April 13, 2011. Mr. Lindsley called the meeting to order.

Members present: Read Backus, Ken Marciniak, Thomas Lindsley, Mayor Craig Stough, (4) present. Mr. Robert Oberly present.

Dr. Backus moved, Mayor Stough seconded to approve the Minutes of the March 16, 2011, meeting as submitted. Vote being: Lindsley, Marciniak, Stough, Backus (4) aye; (0) nay. Motion passed by a 4 to 0 vote.

Mayor Stough moved, Dr. Backus seconded to approve the Minutes of the April 7, 2011, special meeting as submitted. Vote being: Marciniak, Backus, Lindsley, Stough (4) aye; (0) nay. Motion passed by a 4 to 0 vote.

Item 4 - Council Referral - PD-1-2011 a request from Tam O'Shanter to amend the existing planned development to allow for an addition for office space and storage at 7060 Sylvania Avenue, Sylvania. Mr. Tom Cline present. The materials from Children's Wonderland and youth soccer league that SAJARD took over, has put a crimp in the storage and office space. The office space will also have a larger conference room that can seat up to 30 people. The proposed addition will be approximately 3,500 square feet, 1,000 used for storage and 2,500 for office space. The eave height of the addition will be twelve to fourteen feet and will have the mechanical systems on the roof, they will screen the mechanical units from the neighbors. The siding on the storage portion will match the existing building and the office space will be split face block and steel siding to match the front of the building. They will lose three parking space for the addition. The neighbors will not be looking at anything different from what they see now. They will also be supplementing the air conditioning for the exhibition hall area. They will need to remove five trees for the construction but those trees will be replanted. The project may be phased in the fourth quarter. They will probably start construction is October and it should take about six months to complete. Mr. Marciniak moved, Dr. Backus seconded to recommend approval of PD-1-2011, amending the existing Planned Development, for the storage and office addition and the upgraded air conditioning, for Tam O'Shanter, 7060 Sylvania Avenue, as discussed. Vote being: Backus, Lindsley, Stough, Marciniak (4) aye; (0) nay. Motion passed by a 4 to 0 vote.

Mayor Stough moved, Mr. Marciniak seconded to adjourn the meeting. All present voted aye. Meeting adjourned.

Submitted by,



Barbara Taylor, Secretary
Municipal Planning Commission

Board of Architectural Review

Minutes of the regular meeting of April 13, 2011. Mr. Lindsley called the meeting to order.

Members present: Read Backus, Ken Marciniak, Thomas Lindsley, Mayor Craig Stough, (4) present. Mr. Robert Oberly present.

Dr. Backus moved, Mr. Marciniak seconded to approve the Minutes of the March 16, 2011, meeting as submitted. Vote being: Marciniak, Lindsley, Backus, Stough (4) aye; (0) nay. Motion passed by a 4 to 0 vote.

Item 4 - Regulated Sign - app. no. 9-2011 requested by Toledo Sign for Sweet Cheeks, 5577 Monroe Street, Sylvania. Ms. Amanda Emch and Ms. Myra Gueli present. They plan to open on May 3 they will be selling green baby products, cloth diapers, baby wearing apparel, baby strollers, car seats and anything you would need for babies. They have some local people who will be making items for the store. The sign will be located back in the corner between Hamways and Koto Buki. The sign will be internally illuminated. Mr. Oberly said the sign is consistent with other signs in the shopping plaza. Dr. Backus moved, Mr. Marciniak seconded to grant a Certificate of Appropriateness for a new wall sign for Sweet Cheeks, 5577 Monroe Street, as depicted on the drawing submitted with app. no. 9-2011. Vote being: Backus, Stough, Marciniak, Lindsley (4) aye; (0) nay. Motion passed by a 4 to 0 vote.

Item 3 - Regulated Sign - app. no. 8-2011 requested by Harmon Sign Co. for White Family Collision Center, 5328 Alexis Road, Sylvania. Mr. Scott Brady present. They will be removing all old aluminum panels and consolidate it into one single sign in the middle of the building. The White Family Collision Center and the red strip will be internally illuminated, but the dealership names and the Du Pont will not be illuminated. Mayor Stough mentioned that this is not in the regulated district and he thinks it is appropriate for the area. The sign does conform to the size restrictions of the sign code. Mr. Marciniak moved, Dr. Backus seconded to give a Certificate of Appropriateness for app. no. 8-2011 for White Family Collision Center, 5328 Alexis Road, as portrayed on the drawings. Vote being: Stough, Marciniak, Lindsley, Backus (4) aye; (0) nay. Motion passed by a 4 to 0 vote.

Mayor Stough moved, Mr. Marciniak seconded to adjourn the meeting. All present voted aye. Meeting adjourned.

Submitted by,

Barbara Taylor, Secretary
Municipal Planning Commission