

## SPECIAL MEETING OF SOUTH EUCLID CITY COUNCIL

Council President David Miller called the meeting to order and the Pledge of Allegiance was recited.

### Roll Call

**Present:** Caroscio, Fiorelli, Goodman, Gray, Icové, Miller (6)  
**Absent:** Romeo  
**Staff:** Benjamin, Filippo, Kowalczyk, Love

### **Motion to Reconsider Ordinance 05-11**

Council President Miller asked if there were any motions to reconsider Ordinance 05-11. A motion was made by Councilperson Fiorelli and seconded by Gray. Following discussion, the motions were then withdrawn in order for Council to consider Resolution 33-11.

Introduced by Miller

Resolution 33-11

### RESOLUTION

A RESOLUTION ACKNOWLEDGING THE CLERK OF COUNCIL'S DECISION THAT A CERTAIN REFERENDUM PETITION IS INSUFFICIENT AND, THEREFORE, WILL NOT BE SUBMITTED TO THE VOTERS OF THE CITY THE QUESTION OF THE APPROVAL OR REJECTION OF ORDINANCE 05-11 "AMENDING THE ZONING MAP OF THE CITY OF SOUTH EUCLID, OHIO AND SO AS TO CHANGE THE HEREINAFTER DESCRIBED PROPERTY FROM ITS EXISTING CLASS R-75 "ONE-FAMILY RESIDENTIAL DISTRICT" TO C-2 "GENERAL COMMERCIAL DISTRICT"; AND DECLARING AN EMERGENCY.

It was moved by Icové, seconded by Miller, that Resolution 33-11 be approved.

Councilperson Icové read two versions of the Resolution that had not been introduced, but were for consideration by Council. Mr. Icové moved for passage of the replacement resolution (*Clerk note: as described above*) calling for the petitions to be insufficient. Councilperson Fiorelli requested that the Law Director provide Council with his legal opinion regarding the Oakwood petitions and their sufficiency.

Mr. Lograsso stated that on Friday afternoon the City received a protest from First Interstate Properties, the owners of the Oakwood property. The protest cited three legal arguments citing Ohio case law, which they believed were reasons to find the petitions insufficient. Mr. Lograsso reported on each finding and determined that two of the three he did not agree with. However, Law Director Lograsso found that based on the legal cases presented, he concurred with the protest finding for the necessity of the submission of a pre-circulated copy of the petition. Mr. Lograsso stated that the procedure is not a provision outlined in the City's Charter and that when the City's Charter is silent on an issue, the City must refer to the Ohio Revised Code as specified in the City's Charter. Because the petitioners did not file a pre-circulated petition, Law Director Lograsso stated that he cannot advise the clerk of council that the petitions are sufficient as a matter of law based on that legal argument.

Clerk Benjamin stated that the matter regarding the legal opinion came to his attention in the last few hours and that he has had conversations with both the Law Director and Legal Counsel and they are of the opinion that the petitions are insufficient. Benjamin stated that as Clerk of Council, he has a responsibility and legal duty to follow the law and the legal advice of our counsel regarding the determination of sufficiency.

Councilperson Caroscio stated that there are a couple of examples where the courts have ruled against cities that had not filed the proper certified copies.

### Roll Call:

**Ayes:** Caroscio, Fiorelli, Goodman, Gray, Icové, Miller.  
**Nays:** None.  
**Abstain:** None.  
**Absent:** Romeo

The Legislation has Passed.

### **Adjourn to Executive Session to discuss the sale of real property**

Following discussion, It was moved by Goodman, seconded by Fiorelli, that Council adjourn to Executive Session to discuss the sale of real property.

### Roll Call:

**Ayes:** Caroscio, Fiorelli, Goodman, Gray, Icové, Miller.

**Nays:** None.

**Abstain:** None.

**Absent:** Romeo

Council has adjourned to Executive Session at 6:41 pm.

With no further business to discuss, Icové made a motion to adjourn the Meeting. Seconded by Goodman.

Roll Call to Adjourn

**Roll Call:**

**Ayes:** Fiorelli, Goodman, Gray, Icové, Miller.

**Nays:** None.

**Abstain:** None.

**Absent:** Romeo

The Meeting has adjourned at 7:04 pm.

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Council President

Attest:

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Clerk of Council