



**WESTLAKE CITY COUNCIL MEETING  
DECEMBER 4, 2014  
PROCEEDINGS OF A REGULAR SESSION**

The regular session of Council was called to order at 8:00 p.m. by President of Council Michael F. Killeen.

Present: President of Council Michael F. Killeen; Councilmembers Lynda M. Appel, Nick C. Nunnari, Dennis J. Sullivan, Michael F. O'Donnell, Kenneth R. Brady, Mark R. Getsay.

Also present: Mayor Dennis Clough, Law Director John Wheeler, Service Director Paul Quinn, Director of Engineering Robert Kelly, Finance Director Prashant Shah, Planning Director James Bedell, Director of Purchasing Larry Surber, Director of Inspections Donald Grayem, Director of Community Services Lydia Gadd, Police Chief Kevin Bielozer, Acting Fire Chief Jim Hughes, Clerk of Council Denise L. Rosenbaum.

**APPROVAL OF MINUTES:**

Councilmember O'Donnell moved, seconded by Councilmember Appel, that the reading of the minutes of the regular session of November 20, 2014, be waived and that they be approved as received.

VOICE VOTE:

Yeas: All.

Nays: None; motion carried.

**SELECTED CORRESPONDENCE:**

Notice from Ohio Division of Liquor Control received November 21, 2014, for transfer of D5, D6 permits from Teal Investments LLC & Patio, 24600 Detroit Road, Suite 125, Westlake, Ohio, to Jozsef Lacza, 24600 Detroit Road, Suite 125, Westlake, Ohio.

Councilmember Brady moved, seconded by Councilmember Getsay, not to object to a transfer of D5, D6 permits from Teal Investments LLC & Patio, 24600 Detroit Road, Suite 125, Westlake, Ohio, to Jozsef Lacza, 24600 Detroit Road, Suite 125, Westlake, Ohio.

Yeas: All.

Nays: None; motion carried.

Communication from Director of Inspections Donald Grayem dated December 3, 2014, stating that Jeff Makowski Jr., President of The Diamond Factory, is requesting a conditional use permit to operate his health education/body conditioning company in suites L & M at 28045 Ranney

Parkway. Council President Killeen referred this request to the Planning/Zoning/Legislative committee.

Communication from Mayor Clough dated December 3, 2014, requesting authorization for expenditures to ClearSpan in an amount not to exceed \$27,000 for the 2014 calendar year. (Ordinance No. 2014-171)

Communication from Mayor Clough dated December 3, 2014, requesting authorization to go out to bid for design/build of the Westlake Service Center tipping pad.

Councilmember O'Donnell moved, seconded by Councilmember Brady, to authorize the administration to go out to bid for design/build of the Westlake Service Center tipping pad.  
Yeas: Appel, Nunnari, Sullivan, O'Donnell, Brady, Getsay, Killeen.  
Nays: None; motion carried.

Communication from Mayor Clough dated December 3, 2014, requesting authorization to solicit proposals from the professional engineering services for the following projects: 1) Canterbury Road/Center Ridge Road intersection, 2) Canterbury Road/Detroit Road intersection; and 3) Detroit Road resurfacing.

Councilmember O'Donnell moved, seconded by Councilmember Nunnari, to authorize the administration to solicit proposals from the professional engineering services for the following projects: 1) Canterbury Road/Center Ridge Road intersection, 2) Canterbury Road/Detroit Road intersection; and 3) Detroit Road resurfacing.  
Yeas: Nunnari, Sullivan, O'Donnell, Brady, Getsay, Killeen, Appel.  
Nays: None; motion carried.

**PETITIONS FROM THE PUBLIC:**

Brian Thompson, 2156 Walter Road, read and submitted a statement requesting City Council to begin regular city council meetings with an invocation. A sample invocation and guidelines as well as a list of clergy willing to participate was included, and the matter was referred to the Law Director.

**REPORT OF THE MAYOR:**

Mayor Clough read his twenty-first report of the year.

**REPORTS OF ADMINISTRATIVE OFFICIALS:**

None.

**REPORTS OF STANDING COMMITTEES – COMMITTEE OF THE WHOLE:**

President of Council Killeen reported on the Committee of the Whole meeting held this date at 7:34 p.m. Present were Councilmembers Killeen, Appel, Nunnari, Sullivan, O'Donnell, Brady, Getsay. Also present were Mayor Clough; Directors Wheeler, Quinn, Kelly, Shah, Bedell, Surber, Grayem, Gadd, Bielozer, Hughes and Clerk Rosenbaum. Agenda items were discussed as well as selected correspondence, the planning commission report and proposed legislation to

be added to the agenda. The following meetings were re-announced: Finance committee, December 13 at 8:30 a.m. (all-day budget hearings); Committee of the Whole, January 27, 2015, at 7 p.m. (tentative).

Councilmember O'Donnell moved, seconded by Councilmember Nunnari, to adjourn at 7:55 p.m.

Yeas: All.

Nays: None; motion carried.

Meeting immediately adjourned at 7:55 p.m.

#### **REPORTS OF OTHER BOARDS AND COMMISSIONS – PLANNING COMMISSION:**

Councilmember Getsay reported on the December 1, 2014, planning commission meeting advising that the commission took the following actions: 11/21/14 letter received from J. Cunningham, Erie Shores Federal Credit Union, 26931 Detroit Rd., PP#213-10-005, – request reconsideration of sign plan: **Motion:** Mr. Fatzinger moved and Mr. Lamb seconded to reconsider the previous motion (made 11/10/14) regarding the Erie Shores Federal Credit Union Sign Plan. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to approve the proposed Erie Shores Federal Credit Union Sign Plan with the condition to allow the south side of the exit ATM exit directional sign to be illuminated; **Dennis O'Brien Law Firm Bldg. Sign Plan** (multi-tenant ground sign for Dennis O'Brien Law Firm & Golden Eagle Title), 29550 Detroit Rd., PP#211-21-008: The planning commission made the following findings of fact: 1. The proposed non-illuminated sign conforms to code except that it is a post and panel freestanding sign rather than a monument sign. 2. One reason the code requires monument signs is so that the light source does not shine toward drivers and pedestrians underneath the bottom of the sign. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to approve the Dennis O'Brien Law Firm Bldg. Sign Plan with the following condition and modification: 1. Modification to permit a post and panel sign. 2. Condition that in the future the sign is permitted to be externally illuminated as long as it does not exceed 10 lumens when measured 3' from the face of the sign and that there is no hazardous glare toward drivers and pedestrians. This to be accomplished by adding dense landscaping or lattice to the bottom of the sign face; **Livingston Villas Development Plan** (nursing home), Crocker Rd. (north of 3550), PP#216-10-023: The planning commission made the following findings of fact: 1. Nursing homes are permitted as a conditional use within an R-1F-80 zoned district. 2. Planning Commission recommended approval of a conditional use permit (CUP) for this use on this property on 3/3/14. The applicant requested that Council hold off on acting on the CUP in order for them to obtain a Certificate of Need (CON) from the state. 3. Section 1211.29 outlines the special requirements needed for nursing homes in R-1F-80 Districts. 4. The proposed development complies with the requirements of Section 1211.29 except for the need for a 15' building side yard setback modification on the south side of the property abutting Church on the Rise and a 30' parking side yard setback modification for a driveway easement for Church on the Rise. 5. Section 1211.29(j) allows Planning Commission to make adjustments (modifications) to the required setbacks as long as the intent and purpose of the provisions are satisfactorily fulfilled. 6. Section 1211.29(k) requires a minimum 10' wide buffer area that meets the opacity requirements of the code. The plan retains the existing 30' wide buffer area that complies with the opacity requirements of the code. 7. Section 1211.09 permits a maximum 20% lot coverage and 2 ½ story buildings. The planned one-story building covers 21.2% of the lot so will require a 1.2% lot coverage modification. 8. Section 1220.05

permits Planning Commission to grant modifications from the code. 9. The proposed lighting plan includes pole lights with fixtures mounted at 25.5' above grade. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to recommend approval of the Livingston Villas Development Plan with the following modifications and conditions: 1. Condition that the conditional use permit is approved by City Council; 2. A 15' building side yard setback modification on the south side of the property as shown; 3. A 30' parking side yard setback for a driveway easement for Church on the Rise as shown; 4. A 1.2% lot coverage modification; 5. Condition that the pole lights be reduced to 20' tall including the bases and that the fixtures continue to be downcast and shielded. 6. Condition that the existing stockade fence and 30' landscape buffer as originally approved with the Church on the Rise remain in full force and effect and that the vegetation and trees that need to be replaced are replaced as long as the facility is a nursing care facility; 7. The approval is subject to approval of the final plans by the Building and Engineering Departments in compliance with the codes and the ordinances of the City of Westlake; and, in the development process, should there be any changes necessitated by engineering requirements that visually alter the appearance of the development approved by the Planning Commission, the plan shall be re-submitted to the Planning Commission. 8. The nursing home operator will continue to maintain all of the buffer fence in good repair and they will mow the lawn and maintain the trees between the buffer fence and the south property line of the residential properties along Schwartz Rd. and maintain in a natural state the buffer behind properties along Washington Way. 9. Any wall-pack lighting will be downcast & shielded and mounted no more than 9' above grade. 10. The employee parking for the 3<sup>rd</sup> shift will be in front of the building. 11. Emergency vehicles will routinely use the front entrance of the building. 12. The nursing home operator will comply with Section 531.03(f) regarding noise control and the loading and unloading of deliveries and trash; **St. Bernadette's Parish Site Improvements (landscape, benches & fountain)**, 2256 Clague Road, PP#214-11-016: The planning commission made the following findings of fact: 1. The 4' tall wall is proposed to be located 40' back from the existing ROW, 30' from the planned ROW, parallel with the front lot line. 2. St. Bernadette's is located within R-1F-80 single family zoning. Section 1211.04(b) Private Garden, Structures, Fences, Walls and Hedges, governs the location of fences and walls in front yards in this type of zoning. It does not allow a fence or wall of any height within 35' of the planned right-of-way and allows an ornamental fence of a maximum of 30" in height in the front yard as long as it is at least 35' from the planned right-of-way. Therefore the proposed wall required a 4' height modification. 3. The proposed 3' and 5' tall statues will be mounted on a platform on top of the 4' tall wall so will be a total of 7' and 9' above the existing grade. Section 1223.11 "exempt from regulation under this Zoning Code" (h) "Works of art that do not include a commercial message;" and (i) "Religious and other seasonal lights and decorations containing no commercial message when displayed during the appropriate time of the year;" It appears that one or both of these sections exempt the statues from regulation. 4. Section 1211.04(b)(1) states: "Perimeter hedges shall be permitted in the front yard to a height of not more than two and one-half feet above finished grade." Therefore the boxwood hedges are permitted as proposed. 5. Schedule 1211.03 permits as an accessory use under (b)"Private garden, structures, garden pools, fence, wall, hedge". The code is silent on a "Water feature" and neither permits or prohibits them in front yards or elsewhere. In the past Planning Commission has approved water feature as part of an entrance sign and landscaping for both a single family subdivision and an apartment complex. The fact that the water feature cascades into gravel and not a 24" standing pool of water eliminates the requirements necessary for swimming pools/garden ponds. So the water feature is permitted as proposed. 6. An inventory of existing paved parking spaces on 7/22/14 found that St. Bernadette's parish has a total of 402 paved parking spaces. Section 1221.05(b)(2) requires 1 space per 3 seats of seating capacity of largest area used for assembly, plus 1 space for

each 2 employees for a church. The proposal eliminates 36 paved parking spaces. The applicant's representative stated verbally that the church seats 565 persons and that they have 5 full time staff. Therefore the church requires 191 parking spaces  $[(565/3 + 5/2) = 188.33 + 2.5 = 190.8 = 191]$  to comply with the code and will have 366 parking spaces after eliminating 36 for the grotto. 7. Past images of the parking area show that there were a number of mature ash trees between the existing parking lot and the public sidewalk in the ROW. The ash trees have been removed. There is no buffering between the existing parking and the sidewalk. The grotto and additional landscaping and trees will provide buffering of the existing parking from the ROW. 8. One reason that the Westlake Zoning code does not permit fences within 35' of the ROW in a residential district is to create an open park-like character. The replacing of existing pavement with the grotto, lawn, landscaping and trees will create a more park-like view from Clague Rd.

**Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to recommend approval of the St. Bernadette's Parish Site Improvement revised grotto location and new lawn area, landscaping and trees as shown in the plan submitted 11/17/14 and as described in the cover letter submitted 11/18/14 with a condition that site improvement plans including grades, dimensions, and bumper blocks/curbs be approved by the Engineering Department; tabled the **Doubletree Sign Plan**, 1100 Crocker Rd., PP# 211-15-003, 211-16-001, to the January 12, 2015, meeting. (*applicant or agent was not present at meeting*); **Mallard Cove Subdivision Preliminary Plan**, extension of Mallard Cove (2 lots at end of Mallard Cove, 1 lot off Center Ridge), PP# 217-07-013: The planning commission made the following findings of fact: 1. The proposed extension is a critical street opening in accordance with the Guide Plan adopted on 2/9/04. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to recommend approval of the Mallard Cove Subdivision Preliminary Plan with the following conditions: 1. The sidewalks on Mallard Cove shall be extended.

2. Modification is granted for Lot 1 for a 1.1:1 lot to depth ratio. 3. The T-turnaround is not approved and the street is to be extended to the east property line with a 1' reservation strip deeded to the city. 4. Applicable items in Part III of this report shall be addressed. 5. Two full sets of plans and one digital copy in pdf format showing revisions made in accordance with these conditions shall be provided to the Planning Department. 6. The approval is subject to approval of the final plans by the Building and Engineering Departments in compliance with the code and the ordinances of the City of Westlake; and, in the development process, should there be any changes necessitated by engineering requirements that visually alter the appearance of the development approved by the Planning Commission, the plan shall be re-submitted to the Planning Commission;

**City of Westlake Canterbury / Center Ridge Road improvements:** No action taken – presentation made; **Lutheran Home**, site improvements (entry), 2116 Dover Center Rd., PP#212-26-004: The planning commission made the following findings of fact:

1. The proposed use is permitted by CUP Ordinance 2014-82; 2. The changes to the building and parking are in accordance with zoning code requirements. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to recommend approval of the Lutheran Home, site improvements (entry) with the condition that the approval is subject to approval of the final plans by the Building and Engineering Departments in compliance with the code and the ordinances of the City of Westlake; and, in the development process, should there be any changes necessitated by engineering requirements that visually alter the appearance of the development approved by the Planning Commission, the plan shall be re-submitted to the Planning Commission; tabled the **King James Shopping Plaza Master Sign Criteria**, 25002-25130 Center Ridge Rd., PP#213-27-014, to the January 12, 2015, meeting. **SpyGlass Sign Plan**, 25777 Detroit Rd., PP#213-21-003: The planning commission made the following findings of fact: 1. The La Centre building is located in an Office Building zoning district. 2. The proposed sign complies with code in terms of area and maximum size of the individual letters. 3.

The proposed sign requires a 33' height modification to be mounted 53' above grade. 4. The office portion of the building consists of floors 2 to 4. 5. The banquet facility occupies virtually all of the first floor of the building and part of the 2<sup>nd</sup> floor office area, a total of 55% of the gross building area. 6. The remaining 45% of the building is available for other office users. 7. There is no wall signage on the exterior of the banquet facility or the office tower. 8. The proposed sign location is on the exterior of the SpyGlass tenant space on the 4<sup>th</sup> floor. 9. SpyGlass has been granted exclusive rights to the building signage. 10. It is the landlord's position and intention that only the tenant occupying the largest portion of the office building is granted building signage. 11. The current SpyGlass lease accounts for 36% of the office building occupancy, with options for significantly more. 12. The proposed wall sign is located on the west façade of the building over the entrance to the office tower. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to approve the Spyglass Sign Plan consisting of one 32.25 sq. ft. wall sign consisting of individual internally illuminated blue letters mounted on the west façade of the building as shown with a 33' height modification; tabled the **Crocker Park G Block (minor revisions to approved plans)**, within Crocker Park G Block, to the December 15, 2014, meeting; **Yard House (Crocker Park KSE II Building revision to approved bldg. height)**, within Crocker Park K Block: The planning commission made the following findings of fact: 1. Approval is required to increase the height of the building. 2. The proposal improves the building's aesthetics and augments the illusion that this is a multi-storied building without significantly changing the look of the façade. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to recommend approval of the Yard House (Crocker Park KSE II Building) revision to height to be at 34'-6 ¾ for the entrance tower as presented; **Ordinance 2014-166** Code amendment to §1203.18 & amending §1218.03(h)(3) of the Zoning Code as to definitions and permitted uses in Exclusive Industrial Districts: The planning commission made the following findings of fact: 1. The proposal is in accordance with the Guide Plan's Community Goals and Objectives, Zoning Code Purpose Section for the Exclusive Industrial District, and the text amendment criteria in part III of the planning staff report. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to recommend approval of Ordinance 2014-166; **Ordinance 2014-167** Code amendment to §1218.03(h) of the Zoning Code as to permitted uses in Exclusive Industrial Districts: The planning commission made the following findings of fact: 1. The proposal is in accordance with the Guide Plan's Community Goals and Objectives, Zoning Code Purpose Section for the Exclusive Industrial District, and the text amendment criteria in part III of the planning staff report. **Motion:** Based upon the above findings-of-fact, Mr. Fatzinger moved and Mr. Lamb second to recommend approval of Ordinance 2014-167; tabled **Ordinance 2014-168** conditional use permit, for mobile food vending, 29305 Clemens Road, PP#211-22-056, to 059 to the December 15, 2014, meeting; **Draft code amendment** suggestions to various sections of the Westlake Zoning Code – *due to late hour this was not discussed*. Meeting adjourned at 10:15 p.m. The next regular meeting is scheduled for Monday, December 15, 2014, in the Westlake City Hall Council Chambers.

Council President Killeen scheduled the continuation of the public hearing on Ordinance No. 2013-197 for December 18, 2014, at which time the **Livingston Villas Development Plan** will be considered.

Councilmember Getsay moved, seconded by Councilmember Nunnari, to approve the **St. Bernadette's Parish Site Improvements (landscape, benches & fountain)** with the condition listed in the report of the December 1, 2014, planning commission and, in addition, a modification for the walls that encroach into the front yard setback.

Yeas: Sullivan, O'Donnell, Brady, Getsay, Appel, Nunnari.

Abstentions: Killeen.

Nays: None; motion carried.

Councilmember Getsay moved, seconded by Councilmember Sullivan, to approve the **Lutheran Home**, site improvements (entry) with the condition listed in the report of the December 1, 2014, planning commission.

Yeas: O'Donnell, Brady, Getsay, Killeen, Appel, Nunnari, Sullivan.

Nays: None; motion carried.

Councilmember Getsay moved, seconded by Councilmember Sullivan, to approve the **Yard House (Crocker Park KSE II Building revision to approved bldg. height)**.

Yeas: Brady, Getsay, Killeen, Appel, Nunnari, Sullivan.

Abstentions: O'Donnell.

Nays: None; motion carried.

**LEGISLATION:**

ORDINANCE NO. 2014-137: AN ORDINANCE ACCEPTING THE STATE OF OHIO EMERGENCY MANAGEMENT AGENCY HAZARD MITIGATION GRANT. (First reading 9/18/14, second reading 10/2/14, removed from agenda 10/16/14.)  
(THIRD READING)

Councilmember O'Donnell moved, seconded by Councilmember Brady, that Ordinance No. 2014-137 be adopted.

ROLL CALL ON ADOPTION:

Yeas: None.

Nays: Getsay, Killeen, Appel, Nunnari, Sullivan, O'Donnell, Brady; Ordinance No. 2014-137 defeated.

ORDINANCE NO. 2014-162: AN ORDINANCE AMENDING SECTION 1211.03 OF THE ZONING CODE AS TO PERMITTED CONDITIONAL BUILDINGS AND USES. (First reading and referred to Planning/Zoning/Legislative committee 11/20/14.)  
(SECOND READING)

ORDINANCE NO. 2014-163: AN ORDINANCE APPROVING THE REVISED PRELIMINARY PLAN OF THE LAKE FOREST V MAJOR SUBDIVISION IN THE CITY OF WESTLAKE. (First reading 11/20/14.)  
(SECOND READING)

ORDINANCE NO. 2014-164: AN ORDINANCE APPROVING THE PRELIMINARY PLAN OF THE BUR OAK PHASE II MAJOR SUBDIVISION IN THE CITY OF WESTLAKE. (First reading 11/20/14.)  
(SECOND READING)

ORDINANCE NO. 2014-166: AN ORDINANCE SUPPLEMENTING SECTION 1203.18 AND AMENDING SUBSECTION 1218.03(h)(3) OF THE ZONING CODE AS TO DEFINITIONS AND PERMITTED USES IN EXCLUSIVE INDUSTRIAL DISTRICTS.  
(SECOND READING)

(First reading and referred to planning commission 11/20/14,  
planning commission recommended approval 12/1/14.)

Council President Killeen set a public hearing on Ordinance No. 2014-166 for December 18, 2014.

ORDINANCE NO. 2014-167: AN ORDINANCE SUPPLEMENTING SUBSECTION  
(SECOND READING) 1218.03(h) OF THE ZONING CODE AS TO PERMITTED  
USES IN EXCLUSIVE INDUSTRIAL DISTRICTS.  
(First reading and referred to planning commission 11/20/14,  
planning commission recommended approval 12/1/14.)

Council President Killeen set a public hearing on Ordinance No. 2014-167 for December 18, 2014.

ORDINANCE NO. 2014-171: AN ORDINANCE APPROVING EXPENDITURES WITH  
CLEARSPAN, AND DECLARING AN EMERGENCY.

Councilmember O'Donnell moved, seconded by Councilmember Appel, that the rule requiring the ordinance to be read in full on three separate dates be suspended, and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember Appel moved, seconded by Councilmember Nunnari, that Ordinance No. 2014-171 be adopted.

ROLL CALL ON ADOPTION:

Yeas: Killeen, Appel, Nunnari, Sullivan, O'Donnell, Brady, Getsay.

Nays: None; Ordinance No. 2014-171 adopted.

ORDINANCE NO. 2014-172: AN ORDINANCE APPROVING EXPENDITURES WITH  
BRAVO WELLNESS, LLC, AND DECLARING AN  
EMERGENCY.

Councilmember O'Donnell moved, seconded by Councilmember Appel, that the rule requiring the ordinance to be read in full on three separate dates be suspended, and that the same be placed on third reading.

VOICE VOTE ON SUSPENSION:

Yeas: All.

Nays: None; motion carried.

Councilmember Appel moved, seconded by Councilmember Nunnari, that Ordinance No. 2014-172 be adopted.

ROLL CALL ON ADOPTION:

Yeas: Appel, Nunnari, Sullivan, O'Donnell, Brady, Getsay, Killeen.

Nays: None; Ordinance No. 2014-172 adopted.



Councilmember Getsay moved, seconded by Councilmember Appel, that Ordinance No. 2014-173 be added to the agenda.

**ROLL CALL ON ADDING TO AGENDA:**

Yeas: Nunnari, Sullivan, O'Donnell, Brady, Getsay, Killeen, Appel.

Nays: None; Ordinance No. 2014-173 added to agenda.

**ORDINANCE NO. 2014-173: AN ORDINANCE APPROVING THE  
PRELIMINARY PLAN OF THE MALLARD COVE  
SUBDIVISION EXTENSION IN THE CITY OF  
WESTLAKE.**

**MISCELLANEOUS:**

None.

**ADJOURNMENT:**

President of Council Killeen declared the meeting adjourned at 8:29 p.m.

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Denise L. Rosenbaum  
Clerk of Council

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Michael F. Killeen  
President of Council