



CLEVELAND HEIGHTS

MINUTES OF THE CITY COUNCIL MEETING OF TUESDAY, JANUARY 17, 2006

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:15 p.m.

Edward Kelley, presiding

Council Members present: Dietrich, Evans, Kelley, Montlack, Tumeo, Wilcox

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Mannarino, Niermann O'Neil, Wagner, Wong

Topic of discussion included general information pertaining to the City Manager's weekly memo.

Committee of the Whole adjourned at 7:24 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:34 p.m.

Edward Kelley, presiding

Council Members present: Dietrich, Evans, Kelley, Montlack, Tumeo, Wilcox

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Mannarino, Niermann O'Neil, Tomaro, Wagner, Wong

The minutes of the Regular Council Meeting held Tuesday, January 3, 2006 were approved and signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

"Good evening. My name is Carol Steiner and I live in Cleveland Heights and I have for almost 21 years. My address is 3007 Somerton Road. In the wake of the call for an investigation into criminal activity of the President, on the eve of the likely approval of Supreme Court nominee, Samuel Alito, as we approach the State of the Union address, we are here as residents of Cleveland Heights to ask that you pass a resolution in support of efforts to have Bush and Cheney step down and take their whole program with them. We are part of a nation-wide effort to drown out the State of the Union address, to not allow Bush free-rein to use that address to attempt to reverse the damage from mounting abuses

and lies. You have received a letter from residents of Cleveland Heights and we have more signatories here this evening requesting that you pass a resolution in opposition to the Bush regime. We have also enclosed a sample New Year's resolution passed by the City Council of Arcata, California, as well as a brief one passed by the Oakland, California Board of Education, an ad from the December 12th issue of the New York Times, where the World Can't Wait call is signed by many prominent individuals, a short list of Cleveland endorsers, a DVD of some of the demonstrations held throughout the country on November 2nd, the first year anniversary of Bush's stolen election, and a flyer announcing upcoming demonstrations. The Call of the World Can,t Wait Drive out the Bush Regime Movement outlines the appalling direction the Bush regime has taken things, including waging an illegitimate war in Iraq, based on lies, torture - denied and justified, denial of basic human rights through illegal spying on and detaining of whoever may be deemed suspicious for years - in some cases without charges, action of an omnipotent executive dismissing any public mandate, the invoking of biblical authority in the affairs of state, suppression of science, moving to deny women here and around the world the right to birth control and abortion, and promoting and enforcing of general culture, greed, bigotry, intolerance and ignorance. The World Can,t Wait movement has organized quickly in response to the dangerous direction Bush is taking things. Demonstrations and protest events will be held throughout the country on the evening of January 31st to drown out the State of the Union address as Bush begins speaking at 9:00 p.m. our time. We would like to invite a representative from Cleveland Heights City Council to attend the local event at Peabody,s Concert Club to read your resolution, adding your voice, to the noise called for that night and at the demonstration that will take the protest of the people to the seat of power in Washington D.C. on the following Saturday, February 4th. We have been proud to watch you pass resolutions against the Patriot Act, and help our city lead the way in establishing rights on non-traditional domestic partners. In the tradition of the Civil Rights Anti-Vietnam War and many other mass movements, we see the need to organize and act with a strong voice. We hope that you will pass a resolution that will lend further strength to this growing movement to safeguard our future."

"My name is Penny Allen. I'm a Cleveland Heights native, left the area in late 70s and came back to settle in Cleveland Heights in '86 at 3118 Edgehill Road. I wanted to add my voice to Carol's comments here, but make a point, why should little Cleveland Heights, a suburb, pass a resolution on an issue of national importance? What does it have to do with us? But, Cleveland Heights, as you know is a unique place. Cleveland Heights did get great recognition on the national stage when it passed the domestic partner resolution and I think Cleveland Heights could show leadership on this issue. The policies of the Bush regime do directly affect us terribly in Cleveland Heights. We have kids who see little economic opportunity after high school, joining the military - going to Iraq and we're losing them. We have plenty of seniors in the community who are now suffering from 30 billion [dollars] in cuts to Medicare and Medicaid programs. We are home to well-respected scientists here in Cleveland Heights at our neighboring universities whose scientific conclusions have been restricted and not acknowledged by the Bush administration. For these, and any number of reasons, I think it,s a good idea for little Cleveland Heights to put itself out on the national stage again and in support of this resolution. Thank you."

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have several items this evening. The first of which would be to advertise for bids for concession services for the Community Center, Cumberland and Denison pools and Forest Hill Park."

Mayor Kelley made it a matter of record and referred it to the Community Relations and Recreation Committee of Council.

Council Member Dietrich moved that the City Manager be given authority as requested.

Second by Council Member Evans.

Roll Call: Ayes: Dietrich, Evans, Kelley, Montlack, Tumeo, Wilcox

Nays: None **Motion passed**

Mr. Downey continued, "Your Honor, I would also like to receive authority to advertise for bids for catch basin cleaning, HVAC service contracts, and the purchase of trees."

Mayor Kelley made it a matter of record and referred it to the Municipal Services Committee of Council.

Vice Mayor Montlack moved that the City Manager be given authority as requested.

Second by Council Member Tumeo.

Roll Call: Ayes: Evans, Kelley, Montlack, Tumeo, Wilcox, Dietrich

Nays: None **Motion passed**

Mr. Downey continued, "Thank you very much, your Honor. As you know, we held an auction here November 19, 2005 with regard to the disposal of obsolete equipment and used vehicles in the police department and the public works department. I would like to report to Council that \$15,921.50 was received at that auction.

Also, your Honor, in your packets you received a copy of a number of bid documents. The first is Bid Document No. 2006-03, the televising of storm and sanitary sewers, the lowest and best bidder is AKE Laboratory, in the amount of \$12,320.00 [two-year contract \$24,640.00]. You also received Bid Document No. 2006-04, printing services for the Focus on the Heights, the lowest bidder is Milbourn Pressworks, in the amount of \$38,822.00. Next is Bid Document No. 2006-05, printing services for the Parks and Recreation Brochure, once again the lowest bidder was Milbourn Pressworks, in the amount of \$15,029.00, and lastly is Bid Document No. 2006-06, the purchase of an aerial ladder truck for the fire department, the lowest bidder on that is Emergency-One Inc., in the amount of \$715,803.00. Your Honor, I would request that the bid tabulations and the award of contract be made a matter of record."

Mayor Kelley made them a matter of record.

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that one notice has been received from the Ohio Department of Liquor Control advising that application has been made by the following: A & J Beverage Inc., d.b.a. Coventry Food Mart, transfer C1, C2 and D6 permits from A & F Sales, Inc., d.b.a. Coventry Food Mart, premises 2780 Mayfield Road, 44106. Your Honor, I need to make this a matter of record."

Mayor Kelley made it a matter of record and referred it to the Public Safety and Health Committee of Council, the City Manager, and the Director of Law.

REPORT OF THE FINANCE COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There are two pieces of legislation from this committee. The first is Ordinance No. 5-2006(F), to amend certain sub-paragraphs of Ordinance No. 162-2005(F), relating to appropriations and other expenditures of the City of Cleveland Heights, Ohio, for the fiscal year ending December 31, 2005; and declaring an emergency. This Ordinance No. 5-2006(F) makes, in effect, a bookkeeping change to that final wrap-up ordinance for 2005 and is necessary to match a disbursement made for some road work at the very end of 2005. Under Section 1, relating to appropriations and expenditures for the fiscal year ending December 31, 2005, the Capital Equipment/Improvements Fund is increased by \$204,025 to the sum of \$2,590,025 and that amendment is deemed effective as of December 31, 2005. Again, Ordinance No. 5-2006(F) is simply a bookkeeping change."

Mayor Kelley accepted Ordinance No. 5-2006(F).

Roll Call: Ayes: Kelley, Montlack, Tumeo, Wilcox, Dietrich, Evans

Nays: None **Ordinance passed**

Vice Mayor Montlack continued, "Thank you. Resolution No. 6-2006(F), authorizing the City Manager to submit an application in conjunction with the Cedar Lee Special Improvement District to the Northeast Ohio Areawide Coordinating Agency ("NOACA") for a grant under the Transportation for Livable Communities Initiative Planning Grant program (a federal program), and to execute a program agreement; and declaring an emergency. This Resolution assists the work of our Planning Department staff, together with the Cedar Lee Special Improvement District or "SID", looking for this kind of assistance to help in streetscape improvements for Cedar Lee. So, both our staff and the Cedar Lee SID are to be congratulated. Under Section 1, the City Manager would be authorized to submit an application in conjunction with the Cedar Lee Special Improvement District ("SID") to the Northeast Ohio Areawide Coordinating Agency ("NOACA") for funding under the Transportation for Livable Communities Initiative Planning Grant Program for a streetscape improvement study for the Cedar Lee Business District. The City Manager is further authorized to enter into a program agreement with NOACA and the SID if said grant is awarded, which agreement shall require the SID to provide matching funds in the sum of Five Thousand Dollars (\$5,000.00) for a Twenty-five Thousand Dollars (\$25,000.00) grant. The agreement shall contain other terms recommended by the City Manager and Director of Law. Resolution No.6-2006(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 6-2006(F).

Roll Call: Ayes: Montlack, Tumeo, Wilcox, Dietrich, Evans, Kelley

Nays: None **Resolution passed**

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There is one piece of legislation from this committee and that is Resolution No. 7-2006(MS), approving a Change Order with Specialized Construction for a contract for the Community Center Parking Lot Expansion project; providing compensation therefor; and declaring an emergency.

Many of you will recall that an additional and much needed row of parking was added to the community center parking lot and now is very well used and some additional work was required above and beyond the initial contract specifications. That work required some additional stone work and some additional top soil. As a result, the contract sum is increased by \$71,353.77 to make the total for the

contract - net contract sum \$237,353.77. Because of the wisdom of our residents in passing Issue 27, just a couple of years ago, and providing for a fund to take care of capital improvement needs in our recreation areas, this entire amount is well-funded and the end result as everyone will notice, is that 75 additional spaces (much needed spaces) have been added to the community center. Resolution No. 7-2006(MS) provides that the increase in the price adjustment is authorized. Resolution No. 7-2006(MS) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 7-2006(MS).

Roll Call: Ayes: Tumeo, Wilcox, Dietrich, Evans, Kelley, Montlack

Nays: None **Resolution passed**

Vice Mayor Montlack concluded, "Thank you. One memo prepared today by Sharon McGuire having to do with our natural gas rates, provides much needed good news on some relief. That provides that under our gas aggregation program, our supplier, WPS, has just notified the City of Cleveland Heights that the new quarterly variable rate for those residents who are in the variable rate portion of the program is \$11.09 for the service months of February, March and April of this year. The previous quarter,s rate was \$15.80. Therefore, this is a decrease of \$4.71 for our variable option. I am sure there are good reasons for this but I can,t figure it out myself. This variable is also \$.75 less than our fixed rate. This is, I am told by John Gibbon, our law director, this is the best variable rate for gas under such a program in the State of Ohio. In relation to that, our fixed rate is still very competitive among all of the Ohio communities. That completes the report of this committee."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There is no legislation from the Planning and Development Committee tonight, but I did just want to make one brief comment. I want to thank our Council Members Evans and Dietrich for leading the eighth Annual Celebration of Life and Legacy of Dr. Martin Luther King at our community center last night. I think it was perhaps the most well-attended of the events the city has sponsored and as always our staff does an excellent job. I want to thank Susanna Niermann O'Neil and her staff for the great job they did last night, but probably most importantly, it's always the residents that make it to these events, successful. So, I want to thank our residents who came out. Again, it was probably our most well-attended Martin Luther King celebration and particularly the school children that participated and the essay and poetry and poster contest. We had everything from kindergarten class from Gearity Elementary participating by singing all the way up to our seniors in high school participating. So, thanks again to all the children and families that participated last night."

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans stated, "Thank you, your Honor. I have Resolution No. 8-2006(PSH), declaring the property at 3417 East Fairfax Road to be a nuisance; authorizing abatement of the nuisance; and declaring an emergency. The City Manager and the Certified Building Official have reported to Council that the residential property known as 3417 East Fairfax Road owned by the Estate of Ernestine Collier, deceased, Parisha Newman, Fiduciary was substantially destroyed by fire on or about November 15, 2005, leaving it in an insecure, unsafe and structurally defective condition. The owner of the property was issued a notice of code violation ordering said owner to obtain a building permit and raze the residential structure on or before December 19, 2005. Unfortunately, no action has been taken to repair, secure or raze the structure, and the structure continues to deteriorate, posing a danger to the

health, safety and welfare of the public and a blighting and deteriorating factor in the neighborhood adversely affecting the value of neighboring property. Therefore, pursuant to Chapter 553, this property is declared to be a public nuisance. The City Manager, Certified Building Official and Director of Law are authorized and directed to cause the nuisance to be abated in accordance with Section 3929.86 of the Ohio Revised Code or in any manner determined by them to be appropriate and in accordance with law.

As you know, it's unusual that we recommend or really urge razing of property, we like to save properties, but in this particular instance, the fire started in the basement and actually burned all the way up through the top floor. It's just not repairable. It's fortunate that the cost will be under \$10,000.00 to have it razed and that the money will actually come from the little bit of insurance that the mortgage company had on the company. So, that cost will be taken care of.

I'd like to submit Resolution No. 8-2006(PSH) for passage this evening."

Mayor Kelley accepted Resolution No. 8-2006(PSH).

Roll Call: Ayes: Wilcox, Dietrich, Evans, Kelley, Montlack, Tumeo

Nays: None **Resolution passed**

Council Member Evans continued, "I enjoyed the program last evening, Martin Luther King program, and I'm already looking forward to next year's program and hope to encourage more of you to participate and attend the program. That concludes my report."

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Tumeo stated, "Thank you. I have one piece of legislation to introduce. I'd like to introduce Resolution No. 9-2006(AS), amending Resolution No. 107-2005, which authorized an agreement with the Walter H. Drane Company for services related to the City's Codified Ordinances, to authorize the installation and update of the City's Codified Ordinances on the Internet; providing compensation therefor; and declaring an emergency.

Last year, Council passed Resolution No. 107-2005, which authorized the Drane Company to do the annual updates of the paper version of our Codified Ordinances. We're now going to move into the 21st century and put these on the Internet and have them linked to the website so that everyone can access those automatically.

This resolution would amend that original resolution to authorize the City Manger to enter into an amended agreement with the Walter H. Drane Company to include the installation and update of these ordinances on the Internet and linking them to our website and would have them annually updated and maintain them. It's not a very expensive process over all. The compensation is Three Thousand Dollars (\$3,000.00) for the installation of the Ordinances, Thirty Dollars (\$30.00) per month rental fee, and an annual update fee depending on how much we change the law and add to the ordinances which would probably be in the range of Three Hundred Dollars (\$300.00) to Five Hundred Dollars (\$500.00) per year. I'd like to introduce Resolution No. 9-2006(AS), for passage tonight."

Mayor Kelley accepted Resolution No. 9-2006(AS).

Roll Call: Ayes: Dietrich, Evans, Kelley, Montlack, Tumeo, Wilcox

Nays: None **Resolution passed**

Council Member Tumeo continued, "I have two items that I'd like to read into the record. First of all, I'd like to encourage all the residents to remember that we are still looking for board and commission members and the application process can be obtained through the city. It's very important that we have citizen involvement and so I ask you to consider spending some time and giving of your time and making that application. I'd also like to commend the city staff and Councilwoman Evans and Dietrich for the excellent job they did at the MLK ceremony."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Dietrich stated, "Thank you. I have no legislation tonight, but I do want to report on a few things that are going on around the community. First of all, we're all talking about Martin Luther King - the celebration that we had last night and I, too, want to echo what everybody else is saying, and thanks to Susanna Niermann O'Neil and the Community Relations and Public Relations staff. They are such experts at putting on events. I want to just mention a couple of things about it. We had entries for the poster, poetry and essay contest from almost every school, which was really good. New for this year, is that we're going to frame the poster that won first place and hang it in City Hall here for a year until we get the next one and that was because it was of such high quality. It was done by a senior at Heights High named William Davis.

Next, I want to report on what is coming up as far as the Civility in Action project. There is a planning meeting this Friday, January 20th from 12:30 to 2:00 at the community center. Everybody that would like to help us plan the public events and the projects for upcoming Year of Civility (which we hope extends far beyond a year) everyone is welcomed to attend this meeting. It will be kind of a brown bag lunch, bring your own lunch and just show up.

The third thing that I want to report on is that Heights Community Congress is kicking off its Time to Talk series tomorrow night which is Wednesday, January 18th and this year's three part series focuses on whether Hurricane Katrina has brought to light lingering racial disparities that haven't been dealt with and that have been sort of ignored. So, again, that's Wednesday, the 18th - 7:30 p.m. at the College Club on Overlook Road and the next two times the talks will be held are February 15th and March 15th, same place.

Finally, Middle School Night at the community center is coming up again. It is this Friday, the 20th from 7:00 to 9:00 and in case people aren't tuned in with this, this is the fourth one we've done this school year for six, seventh and eighth graders that either live in Cleveland Heights or attend school within our school district. It only costs a dollar to come in. There is skating, pool, table tennis, games, karaoke, foosball, pizza - so it's a fun night for middle schoolers. The next ones are February 10th and March 10th. As you can see there is lots going on and we hope you take advantage of it. That's all that I have."

REPORT OF THE MAYOR

Mayor Kelley stated, "Just really quickly. We talked about the Martin Luther King Day celebration, but I want to talk about the community center for just a very brief minute. We see in the newspaper that some other cities; South Euclid, Lyndhurst and Richmond Heights are thinking about it, but I think we take for granted the work that Mark Vasiloff and Larry Shaw do at our community center. It's up and running for over three years and I think we very rarely get a complaint and we get so many more compliments and an occasional thank you and a letter or a word of encouragement. Thousands of people literally go through there everyday. Just yesterday we had over 400 people in and out of there, in

and out of the parking lot, it was closed but it was open for the celebration - so I just want to single out Mark Vasiloff and Larry Shaw for the job they do. We also have a number of people that come in from other cities for hockey tournaments, to watch their children play basketball and other sports there, we have safety town there, we have people working out there. We have the Robinson Hockey Tournament that draws people from New York, Pennsylvania, and other areas of town. We also seem to have a major skating program from across the country that draws people from as far away as California, Canada, Florida, what have you, and never a problem. I mean never a major problem and that's great. So, tonight I want to single out Mark Vasiloff and Larry Shaw for the job they do, time and time again. It's a 15 million dollar structure that occasionally needs a little tweaking of the air conditioning system or the HVAC system. They do a great job and there are probably close to 100 people that work the various shifts - various hours. They are open from six in the morning to midnight, almost 365 days a year or 355 days a year so let,s not forget the great job they do. We walk in there - I know when I walk in there many a time - everything is all set up. It makes us all look great. We do our thing - have our shows or our Martin Luther King Day program - we had more chairs - we do things and we walk out and the programs are there and I do not want to forget the staff that does this, especially the people that give out the towels, they check you in at the desk, or they are there to teach your kids how to ice skate or teach your kids how to make that first basketball shot. It makes our community great and it is interesting that now other communities in the inner ring suburbs are trying to follow through and copy what we do and I think that,s great too.

Our next meeting will be Monday, February 6, 2006. We are back on the Monday schedule, but only for one week because I think the next time we'll be back on the Tuesday schedule. So, our next meeting will be Monday, February 6th at 7:30. This meeting is adjourned at 8:08 p.m. I think you all for coming tonight."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc