



# CLEVELAND HEIGHTS

## MINUTES OF THE CITY COUNCIL MEETING OF MONDAY, FEBRUARY 6, 2006

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:33 p.m.

Edward Kelley, presiding

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

Council Members absent: None

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

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

Council Member Caplan moved to adjourn into Executive Session at 7:25 p.m. Second by Council Member Dietrich.

Edward Kelley, presiding

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

Council Members absent: None

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

Topic of discussion litigation.

Executive Session concluded at 7:35 p.m. and resumed into Committee of the whole adjourning at 7:36 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:37 p.m.

Edward Kelley, presiding

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

Council Members absent: None

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

The minutes of the Regular Council Meeting held Tuesday, January 17, 2006 were approved and signed by Mayor Kelley along with the ordinance and resolutions passed at that meeting.

"Good evening, Mr. Mayor, Members of Council. My name is Sruly Wolf. I live at 3555 Bendemeer Road. My reason for being here tonight is long over due, but I just wanted to personally tell you on behalf of the members of our community, you're doing a great job in the city, especially the service department. Last year, even though I'm happy there isn't much snow yet this year, besides yesterday, but they did a great job and overall we appreciate the services that the city provides to the community and a great job that everybody in the city is doing. I see a bunch of stickers here when I walked in, so I do want to say, I do love the United States of America. I respect the office of the President and I respect the president. Thank you."

"Mayor Kelley, Members of Council. My name is Maxine Richmond. I live on Mayfield Road. I manage 25 Severance Circle, which is a high-rise on the circle and my concern are the grocery carts from the shopping center. In particular, Tops, Home Depot, Marshall's and Wal-Mart. They've become quite a nuisance, not only my property, but at my neighbor property, Kensington Place and they do pose a serious safety hazard. I've spoken with management at Tops and I'm told they don't have staff to retrieve their grocery carts. Now, my residents shop the center and they proceed to bring their purchases to our property in the carts. They leave them on the perimeter, in the building, in the stairwells, in the hallways and at least twice a month my staff has to load grocery carts onto our pickup truck and haul them back over to the center. I want to know if there is an ordinance written into the lease agreement that would mandate merchants control their shopping carts? If you go to Zagara's, when they rebuilt they put in a monitoring device which locks the wheels of the carts. You don't drive down Lee Road and see grocery carts in the neighborhood. So, I'm requesting enforcement of any dwelling lease agreements with the merchants or the police. Those carts cost in excess of \$200.00 and I can't believe the merchants don't want to keep them on their property or at their establishment."

Mayor Kelley replied, "Mr. Downey is here, our City Manager, but I'm sure it's more than something that our housing department can get into. You mentioned Home Depot, Wal-Mart and Tops are the three?"

Ms. Richmond replied, "Tops, Home Depot, Marshall's and Wal-Mart."

Mayor Kelley responded, "Marshall's, also. We'll be paying them a visit before the middle of the month to make sure they take up their responsibilities. You should not have to be bringing these carts back. So, we'll look into it and get something done for you. That's not your responsibility or your residents. We'll take care of it. If need be, we'll cite them, but minimally, we'll make sure that the manager takes care of this or if not we'll write their home office and we'll be more than happy to send a letter on your behalf to take care of this matter."

Ms. Richmond asked, "Could I get a copy of that letter?"

Mayor Kelley answered, "Absolutely. We have your address on file."

Ms. Richmond thanked the Mayor.

Mayor Kelley continued, "Hopefully, we won't get to that, but we'll get it taken care of. I think minimally that comes under the clutter thing."

"Hello, I'm Gabe Schaffer. I'm a member of this community for many years."

Mayor Kelley asked for his address.

Mr. Schaffer replied, "2781 Hampshire. Anyway, I live on Hampshire. I would really like to know why it seems that it's the policy of the police department to harass the citizens and if they're so aggressive about crime then - you know- presumably that means that - you know- that they are there to enforce the law. I'd like to know why the law is never enforced against them? I'm sure many of you have read my email or I've spoken to you directly that -you know - I see the police department regularly running red lights, going through stop signs and - you know- that seems to me like it's basically contempt of - you know- everybody who isn't the policemen. You know - if I ever go up to them and question them about something that they are doing wrong, they - you know - they just threaten me. They say, 'Oh, tell me your name or I'll arrest you for vagrancy'. And - you know - god-forbid they should have to wait at a red light. I mean, the fact that there are - you know- that it's even a possibility that there is a tow truck out there with lights and sirens that allows them to just arbitrarily - you know - go through red lights and speed whenever they feel like it, really seems to me that - you know - they're like - you know- they feel like they are above the law. I mean and - you know- quite frankly, they have absolutely no accountability as far as I can tell, and they can just do whatever they want. So - you know- what I'd like to know is - you know - why should I even continue to live in a city where I have to fear the police? I mean I'd like to think I should be able to respect them and not have to be afraid of them every time I - you know - see one on the street or - you know- or god-forbid driving behind me and anyway that's it. Thank you."

Mayor Kelley stated, "Thank you. The particular email you're referring to about the tow truck. Mr. Downey, do you want to comment just a brief minute on and let him know where that's at, please?"

Mr. Downey answered, "Certainly, your Honor. This evening or this afternoon I received this email and as I told the Council this evening, I met with the police chief this afternoon at about 5:00 and asked him to investigate it and I told the City Council that upon his completion of the investigation I would let them know what the situation is."

Mayor Kelley requested, "Could you get back to Mr. Schaffer then?"

Mr. Downey replied, "Sure. Yes."

"Connie Karlowicz, 3176 Sycamore. I will keep this very, very brief. I just wanted to - I thought it was important for me to come to Council and thank you for the loan that was granted two weeks ago, if I'm not mistaken. You are all familiar with the business and I just thought it was very important for me to come up here and thank everyone for that. It's going to make a big, big difference for myself and Dogtopia and to help the Noble Road area too, as well. I wrote all kinds of things here, but that's basically - "

Mayor Kelley added, "Actually, you're on the agenda tonight. You are Resolution No. 11. We'll be voting on you in a little while. Your two weeks is tonight."

Ms. Karlowicz expressed her thanks.

Mayor Kelley added, "Perfect timing, Connie."

"Thank you. My name is Penny Allen. I live at 3118 Edgehill Road. Well, Councilmen, Mayor, thank you for the opportunity to speak to you today. I'd like to comment briefly on the case of Carol Fisher who was arrested and charged after trying to put up some political posters. Although, I understand as Nancy told me the other day, that council members can't interfere with city employees in the case, I understand that you can speak with the City Manager about it, but I also think that this case and our reaction to it will have some implications for how you govern and the kind of community that we will have here in Cleveland Heights in the future. First though, I'd like to address some very quick remarks that I can address no other way. This is to the person who sent the anonymous nasty notes to Carol Steiner and me after we spoke to Council the last time. I'm sorry, you're not forthright enough to express and defend your views publicly the way we have. I want to live in a community where people feel free to do that and who by the way also care about spelling and writing well. The false return address that the writer gave was D. Kucinich at the congressman's Lakewood office and for your information that's spelled capital K-u-c-i-n-i-c-h. So Council and Mayor, I believe that Carol Fisher would not and could not have committed the felonies that she's accused of. There she is [pointing] take a good look for Carol, she could double for Nancy Dietrich in Cleveland Heights - the movie. I can tell from talking to Carol, that she, Nancy and I are of similar age and cut of similar cloth and if I look any younger it's thanks to hair dye and the fact that I'm only as tall as the average 12 year-old kid. But, I knew we grew up with similar models and values, to study and learn, be forthright and to be engaged in public life. I grew up here in Cleveland Heights and my models were little old ladies in tennis shoes who watched birds at Shaker Lakes, belonged to Sierra Club, went to the Women's City Club and tried to make me memorize Roberts' Rules of Order, and Carol's were a little more exciting. She grew up in Alabama and had parents who were active in the Civil Rights Movement and had a cross burned on their lawn. She had civil rights marchers and Martin Luther King as models. I know from talking to her, that telling the truth was a primary value in her family, as it was in mine, and that learning, being engaged in public discourse and making the world a better place were things that were expected of us. Carol, who works at Revolution Books, has politics that are more radical than mine, but does that make her a violent person? No. Neither Carol nor I would have violently attacked a police officer and I've learned that she's the kind of person who if she said she didn't - she didn't. Now, could Carol have done so? No. I think she may be a couple inches taller than I am, but she probably only weighs about 100 pounds and I weigh more than that, and I think that I could knock her over with a feather, and if her joints feel like mine at this age, she couldn't have attacked anybody, and because she's had cancer that's affected her jaw. She couldn't have bitten anybody. Yes, Carol could be Nancy Dietrich's double, but she couldn't qualify as Nancy's stunt double in the movie. So, her rough handling in the felony charges send a message that Cleveland Heights doesn't want people like Carol here, which I think is exactly the wrong message to send. I want city government and the police to send a message that we want people living and working in Cleveland Heights who do read and think, who care about learning, and who are engaged in public life. I want to live in a town that continues to show itself to be accepting of alternative views and lifestyles and that wants people in it who care about learning, reading, and civic life without harming anyone else or making it difficult for their neighbors to live peaceably. I urge that the charges against Carol be dropped. I'm sorry that things have come this far, because it reflects poorly on this great little town, this wonderful corner of Jeffersonian democracy. I'd like us to take a cue from a letter that Thomas Jefferson wrote in similar times. In 1787 he was in Paris and he was a little hard pressed to explain that things were okay across the ocean because - most revolutionary America didn't settle down to be a prosperous and peaceful

place where men started print shops and post offices and scientific experiments and women sewed and took care of children and wrote letters with fabulous prose. No, in fact those were tumultuous times of popular discontent, demonstrations in the street and difficult economic circumstances in no small part because of the enormous public debt incurred by war and some were calling for return to monarchy because it might be the only way to keep public order. So let's keep in mind, and I'll close with what Jefferson wrote, "I am persuaded myself, that the good sense of the people will always be found to be the best army. They may be led astray for a moment, but will soon correct themselves. The people are the only censors of their governors and even their errors will keep these to the true principles of their institution. To punish these errors too severely, would be to suppress the only safeguard of public liberty." So, thank you, Council/ Mayor for listening to me and giving me the opportunity to participate in this democracy. Thanks."

"Mayor Kelley and Members of Council, my name is Eric Resnick and I actually live in Canton, Ohio at 1828 Grays Avenue, NE. This is probably the first time that I've been to a city council meeting in Cleveland Heights without a reporter's pad and a camera. This is somewhat of a treat. I come to you tonight, not as a resident of the City of Cleveland Heights, but as someone who greatly admires the City of Cleveland Heights and at the first chance that I would get to move here, I would, if I could afford it. I've told all of you at that table and at this table at different times how much I admire what you do here and how your values as a city reflect mine. I frequently tell people that this is the best governed city in all of northeast Ohio and I mean that. I come to you today deeply troubled by what happened to Carol Fisher for a number of reasons, and please understand that if a friend was beating himself in the eye with a stick it would be up to me to say something to try to stop him before the eye gets too black and I come to you in that spirit this evening. The first real investigation of police activity that I ever did for the Gay People's Chronicle was the Abner Louima story in New York City. That's the one where the New York city police decided to invade the inside of a Haitian immigrant with a plunger and of course the city defended them and it got ugly and none the less since then, I've done about half a dozen stories involving investigations where police have done things that have made cities look bad. Some in Cincinnati, some in southeast Ohio, one in Cleveland where a jail inmate was raped. Those stories I found tend to have certain characteristics. They start out as a petty little thing. Nothing that would ordinarily get any attention, except there is an undisciplined city employee at the other end who has decided to wield some power and is perhaps frustrated at something else that day and things really get out of hand and the cities get embarrassed. My fear for the City of Cleveland Heights is that's what's happening here. I mean, I know Carol and I'm appalled at this. The other thing I have to add to this is, this is bigger than you think it is. If you go on the web and google Cleveland Heights, guess what comes up? If you hang out on the websites and blogs where progressive people hang out, guess what they're all linked to? And it's not just the Free Times story of last week, it's all over the country. Carol has been contacted by attorneys from all over the country - big cities - small cities, all of them wanting to come to Cleveland Heights and defend and then turn around and get a piece of Cleveland Heights in the court of claims or in a federal court. I know John Gibbon and his assistant Bill Hanna and they are really good attorneys, but they probably have other things to do and those things cost a lot of money and they're going to get a lot publicity. We were all in Washington Saturday. Carol was on stage. I'm telling you this (and got national coverage on ABC News by the way) I'm telling you this, because the very people that you're trying to endear yourself and this city to, are the ones that you're most annoying with this. Whether or not you have the ability to stop it, I don't know. There's a point I know at which a city can kind of throw the switch and if this is gone on past that I would urge you to come up with something to save face, because this is big and it's bigger than you. Also in my capacity with the World Can't Wait Drive Out the Bush Regime, I have an opportunity to advise

the local group a little bit on media matters and I want to make sure that I get that right. In that spirit, I have a public record's request that I'm going to present to John Gibbon this evening to get some documents so that I can be right if I'm asked to say something. But, again, I urge you as a friend of this city, please, give this consideration - I'm very troubled by this and I think you need to act. Thank you, Mayor."

"Mr. Mayor, Members of Council, and fellow citizens, my name is Craig Bourne. I'm from 2727 Lancashire Road in Cleveland Heights. I'm here today to express outrage over the brutalization of one of our own, Carol Fisher. On the 29th, the day after this incident, I saw Carol. She had bruises extending from her wrist to well past her elbow. She reflected a demeanor that I haven't seen since the 1950's, when I was beaten at the age of thirteen by a Chicago policeman who felt empowered to do this because by his rights anyone who had a communist in the family was fair target. I have not seen a demeanor like Carol's as shaken as she was since I observed my mother on the three occasions when she was taken into a bedroom and abused by Chicago cops in ways that occasioned suicide attempts after each of these incidents. That's the last time that I've seen anybody so visibly shaken from physical abuse. Now I want to let you know what my experience of Carol Fisher is. I have stood next to this woman in - I'm sure more than 100 - probably approaching 200 demonstrations, teach-ins, discussion groups where we confronted issues that were in some measure uncomfortable for everyone assembled. People who stood in her face, some of them angry enough they're foaming at the mouth, wildly gesticulating, much larger than she is expressing disagreement with her in ways that one could find threatening. Carol's response to this, I have seen action as physical as she would blink. I have never seen her raise her hand. She has never had to raise her voice. Her response in all of these circumstances has been reasoned and verbal. Now, I want to say that I was not there on the 28th when these incidents took place. But, just if I were to spend all day tomorrow in this room with the door closed and walk out the following day and someone told me that they had to engage in outrageous behavior because the sun didn't rise that day, I would know it to be untrue. The allegations of felonious assault against Carol Fisher are untrue. I have brought with me today a petition that I started circulating the day that I spoke to Carol. Now, these were drawn in such a way that I don't ask for people to punish the four policemen that were involved. I didn't even write a body to whom I would address this, although the first petitions that were returned I will present to you today. I wanted this to be more open than that because I think this problem reflects not only on the values that we want for our little city, the values that we want for our state, the values that we want for our country, the values that we want for our world. This outrage causes me to direct through you, to those four policemen this question. Don't you have a mother? On what planet is it acceptable behavior to intimidate - to threaten - to physically abuse and to humiliate a 53 year old women by four young men, let alone policemen? Now, every Saturday, starting last Saturday, you will find me on the streets of Cleveland Heights wearing this sign. To my knowledge it's perfectly legal for me to do this on a public thoroughfare and I challenge anybody to arrest me for it. On the back I will detail exactly the abuse that Carol suffered on the 28th. I did this last Saturday. A young woman came to join me in this protest, having heard what was happening. Herself a victim of some horrendous abuse that I won't speak here, because this is her personal story, but she had to be, not knowing whether she had exposed herself to the same kind of abuse, frightened in this circumstance. This did not stop her from showing up. We walked from my mother's house which is a few blocks from the location where Carol suffered this at Lee and Meadowbrook. My folks are on Rexwood, just three blocks away. We walked up Meadowbrook. We walked along Lee Road from Meadowbrook almost to Dellwood. On the way up there, Mandy and I had discussed - well, you know it's brutally cold out here today - from what we've seen in the newspapers we can expect maybe to see two or three people and they'll all be hostile to us. You know maybe a 15 minute appearance will be adequate this first time, but we'd like to make an appearance, we think it's important. How wrong we were.

Every few yards we were stopped by people coming out of the business establishments, even out of the bar, out of peoples' homes as we walked back along Meadowbrook. All of them said, may we read your signs. They discussed the circumstances with us. They expressed support for Carol to a person. Now, in addition to this, I want to report something to you that was totally unexpected in these contacts. Several people reported to me that they had themselves been victims of overly aggressive and threatening behavior by Cleveland Heights policemen. I hadn't expected this. I didn't solicit any such stories from anyone. When I was collecting signatures on one of these petitions that I'll present you with tonight, I was told by a very reasonable woman, you know when I encounter an incident like this, I'm almost ashamed to admit it, but it makes me distrust every policeman. I have a concern with this that's a very personal familial concern. The next time my niece, Rhonda Gray, a detective for many years with the Cleveland force, has to step in the middle of a gunfight to rescue a family that's under fire, as she has done in the past, she may very well be killed because somebody doesn't trust her because of the behavior of these four policemen. Now I come to you today, a draft of this petition to present to the community because I want a community founded on compassion and ethical behavior. I'm here today to speak to you because I believe you all want that too. That's all I have to say."

Mayor Kelley thanked Craig and stated, "I'll take your petitions if you want to submit them now." So done.

"Hello. My name is Stefanie Farkas. I live at 1709 Coventry Road. I am here today as a Cleveland Heights, resident and also as a five-month volunteer with the World Can't Wait Drive Out the Bush Regime National Office. I am here today in solidarity with Carol Fisher, as well as to tell you a little bit how we are building this movement. We are not building a movement based on brutality and being arrested. We are building this movement based on uniting people of conscience from all over the world. We are uniting people, from people like Carol Fisher who have bravely stepped out and hung posters on the telephone poles to let people know what the truth is, all the way up to United States House of Representative John Conyers. These are people who have put their good name on the line. They have thrown everything they have behind this movement, because they see it as the only thing that is commensurate with the situation right now. And we're not the only ones who are saying this. You may have even seen on January 20th through the 22nd expert witnesses have testified against the Bush administration with bushcommission.org. These are people like General Janis Karpinski, who for a long time headed up the prison of Abu Ghraib. She put her name out there, not knowing she might end up arrested and put in prison. I moved to Cleveland Heights, because it is a progressive area. I moved here because you have taken full stands against the Patriot Act. You have set up registries opening up rights for gay people when many other areas have shut these down. But this is not enough, we actually need to do more. We need to go further and we need to step out more. I'm here because I want to know, in times like this where Bush continues to legitimize torture, where this war keeps waging on, is Cleveland Heights going to shut down? Are you guys going to sit down - are you actually going to step out and join the thousands of people across this country who have said, "No, this regime does not represent us, we're going to drive it out". We demand that Bush step down. This is a movement that takes the backs of people also, who have stepped out so boldly like Carol Fisher. At Hampton University, four students were threatened with expulsion for handing out flyers on their campus where they were students. World Can't Wait immediately started circulating petitions all across the country and got responses from people such as Gloria Steinem, a leader in the women's movement. I want to know, is Cleveland Heights going to do something? I'm very worried because everybody who has come up here has been met with a thank you and nobody has asked questions. Nobody said anything. I'm worried because your silence to me represents complicity. I'm very worried and I want to just in closing end with this statement by actor Mark

Ruffalo, who has also signed on to the World Can't Wait. In fact, this is a statement that he issued just before the February 4th protest in Washington, DC. There are millions of us out there who are frustrated and angry, not only in small pockets, but all around the United States crossing into many different kinds of people, spanning oceans and continents. We're the growing majority. Ultimately, we are not alone. If you come out, you will see that others will greet and support and enfold you into something that is greater than your fear of what we are being led to believe America is about. Thank you."

"Hi. My name is Vicki Lovegren. I live at 2226 Bellfield Avenue. The only other time I've been here is when I came to ask that you pass a resolution opposing the war. This was before the war, after I had just gotten back from Iraq and I was very happy with your response and in general I love Cleveland Heights. I wouldn't live anywhere else in Ohio. I was also very appalled by the story that I heard about the police. It didn't surprise me. Unfortunately, I think that's sort of the one negative thing that most people know about Cleveland Heights is the police and I've had my own issues with them where they have basically lied against my story and of course they won. It didn't surprise me. I was appalled because it happened to Carol, and I've stood next to Carol. I've marched next to Carol. Carol never raises her voice. She is the mildest person. It's totally ironic that she would be. She's the poster child for this. It's absurd. If it were me, I would believe it. My son is sitting over there and he would believe it, but not Carol. I know and this is what I keep hearing - I've been working a lot in the election reform movement for the last year and a half and I'm probably the most hated community member at the Board of Elections and probably at Cuyahoga County as well. The thing that I keep hearing when I'm talking is these bodies, these government bodies basically saying, *'Well, it's not my job. It's not my job, that's not in my jurisdiction, it's somebody else's job.'* I'm really upset with that response. For one, we're not in normal times. We're in extreme times. None of us, seven years ago could in our wildest dreams imagine what's happening to our country, and because it's been somewhat gradual - I mean it's been abrupt enough to let people like me up who have been asleep but it's beyond belief. It's stranger than fiction. I mean, the war - the Patriot Act - the spying - the torture. I mean what does it take to get rid of this administration? What does it take? I feel like we're living in the matrix. I mean everything looks sort of the same. We still have the Super Bowl and our shopping malls and our Hummers and everything looks sort of the same and it seems the same to a lot of people, but I think a lot of people in their heart of hearts, if they would allow themselves to look at it, would admit that there is something very wrong with this country. I know it's not your job at the local level to do anything about it, but I urge you because I'm very proud of Cleveland Heights, you are very progressive. I think you of all places should at least or can at least ponder this. I don't know the legal terms, but it's going to take all of us who are awake, who took the red pill, if you've seen the movie the Matrix, who are aware of what's going on to act in whatever way we can and in our fear of influence do whatever we can. I urge you as City Council, to pass this resolution or some resolution to say we as Americans are not down with this. This is not America. I don't know what it is. It's a nightmare. My son's here and my foreign exchange student from Baghdad is here and I want Omar to realize that there are people here who were not behind this war. This immoral - I don't have enough words in my vocabulary for what I feel. So I'm urging you - let me just close with some quotes from Lincoln who seemed to look into the future across the span of time and see such a time as what we we're experiencing in our body politics today. He says, *'At what point shall we expect the approach of danger? By what means shall we fortify against it? Shall we expect some trans-Atlantic giant to step (I can't even read this) the ocean and crash us a blow? No. All the armies of Europe, Asia and Africa combined could not force to take a drink from the Ohio, nor make a track on the Blue Ridge. At what point then shall we expect the approach of danger? I answer, if it approaches us, it must spring up amongst us. It cannot come from abroad, its destruction be our lot. We ourselves must be its author and its finisher.'* So I urge you, as I said, whatever your sphere of influence is, to do something and protect

people like Carol. It takes a lot of courage to act. That's the one thing that I didn't realize. It takes a lot of courage. I've been ridiculed and Carol's been accused of being mentally ill. You're defamed, you're ridiculed, you're persecuted, you're beaten, it takes a lot of courage to do that and we have to protect Carol, people like Carol who are stepping out, who are taking a stand, who have the courage and we have to protect them and we have to protect our rights to do that, because our country - it's not our country anymore. I don't know where I live anymore, but I urge you to do something. Thank you."

Somebody from the audience said something and Ms. Lovegren responded, "It's not the country that's in my son's new American History Call to Freedom text book, that's not the country that we live in. I would like to go back there. It wasn't perfect back then, but I know our founders would be rolling in their graves if they were here today. I just pray that we can save our democracy or restore it or something. We have to act. It's not going to come from one giant wonderful democratic person whose going to be elected and who is going to save us all. It has to come from the bottom. I work in the elections and we don't have fair elections to begin with."

Mayor Kelley stated, "Before we move on, I just want to clarify one point. This City Council did take a position against the war, before the war started and we did pass amendment at that time - I believe he was in his first term - President Bush was in his first term when the war started. We did take an active position against the war by a six to one vote. [The Mayor was interrupted and he continued]. Let me finish. Okay. If you're going to comment from the crowd, it's really not acceptable behavior. We'll get through this. Everyone will have a chance to talk, but I have the floor right now. Furthermore, this City Council, as it's constituted now, all seven of us worked very actively to get John Kerry and John Edwards elected to the White House. It didn't happen, but this city, the City of Cleveland Heights, to my knowledge voted 82% for John Kerry and John Edwards and every member up here actively supported and worked hard to make that happen. So I want to be clear on that clarification. Probably, the highest vote total of any city in Cuyahoga County or northeastern Ohio. As far as the idea of passing something at this point and time, a resolution to dump George Bush, while it may be our individual feeling that we may want that to happen, as reported in the Sun Press two weeks ago, after some of your group came, we have decided not to do this. And furthermore, I talked to Miss Steiner on Friday afternoon and reported that to her also that it is something that we do not want to do at this point and time. That's where we are at on that issue. I'll comment further on the other issue.

"Is there anyone else? Young man in the back, you wanted to speak next. You had your hand raised. Come on up to the podium."

He replied, "I think Carol Fisher wanted to talk."

Mayor Kelley replied, "I'll choose Carol to go after you. Carol, you'll be next."

"My name is Alex Vayushtok. I live at 1709 Coventry. I understand that it was illegal according to some law to post signs on telephone posts. I understand it was illegal for Carol to post signs on the telephone poles. However, I thought I'd just a quick example from the past - when not too long ago it was illegal for African Americans to share drinking fountains and lunch counters with whites. There were laws on the books enforcing segregation. Now, a few brave folks broke those immoral laws putting everything on the line. A lot of them were murdered. Many were brutalized. A lot of careers were ruined, etc., all to change history. I was wondering what would the Cleveland Heights City Council do then - would they defend those laws? I'm coming to you - - I know some of the previous speakers mentioned being worried about Cleveland

Heights' PR. I'm not so worried about that. I'm coming to you as human beings, as people with consciousness. Now, today the Bush regime has set out to and is radically remaking our society in the whole world and I know previous speakers have mentioned the war, the Patriot Act, have mentioned the secret spying and the torture and I know, like you said, the Cleveland Heights City Council has passed resolutions against the war and against the Patriot Act. But, today, his fundamentalist Christian Fascists followers, they are getting unlimited access to the media. They are placing anti-women, anti-choice ads in subway trains, on bus stops and metropolitan areas across the country. They are treated as experts on major news channels and even invited onto NPR (National Public Radio) and not challenged on basic scientific facts regarding fetuses and evolution. Now, when one woman, Carol Fisher, challenges all this and puts the truth out there on telephone poles with signs, she is brutalized and labeled as crazy and a wildcat. I believe that a city prosecutor went on Channel 5 and actually used the word, wildcat, to describe Carol. That might seem humorous, but at the same time, that's not only criminalizing dissent, that's also enforcing the same patriarchal order promoted and strived for by the Bush regime. The same regime that promotes Christian fundamentalists, traditional morality, where women - they're not supposed to be sex objects, but they are supposed to be passive and obedient and in the house and when a woman stands up defiantly, she's labeled as crazy and a wildcat. With all the resolutions opposing the Patriot Act and the war, it's good, but as I believe (I don't remember anyone's names anymore) but as other previous speakers said that's not enough. When Michael Ratner who is with the Center for Constitutional Rights gave his opening remarks to the closing session of the International Commission of (unclear) Crimes Against Humanity committed by the Bush administration at the Riverside Church in New York on January 20th of this year. Those opening remarks were titled *Tomorrow is Today, the Time for Resistance is Now*. When all that Vicki has described and what I've described and what other speakers have described is happening in this society, when the whole world is being remade by this administration, people take a stand and they take one stand or another. They either take a stand opposing it or being complicit with it or going along with it. Silence is taking a stand with Bush's fascist program. No matter how many disagreements we have with fascist laws like the Patriot Act, that criminalize dissent. So I urge you, as human beings, as people with consciousness to be bold and be moral and to be brave and take a stand with Carol Fisher. Take a stand with the people of Cleveland Heights and take a stand with the people of the world."

"Hi. I'm Carol Fisher. I live at 3853 West 40th. I work as a volunteer at Revolution Books, as I think you've heard. I wanted to say a few things, but in a lot of ways much has been brought out and I can elaborate on a few points. Isn't this quite a moment here? We're discussing an offense that at most should have been a hundred dollar fine, and we're discussing the future of the world and the danger of fascism in America. You have to ask the question why is that? You have to ask the question, why is that one incident like this, be causing such interest, that I'm getting emails far beyond the numbers that I would be able to respond to, including as far away as Australia. You have to wonder why after all the struggle that those of us who support the World Can't Wait movement have been going through to try to get some media attention, that now all of a sudden the media is coming to me and interviewing me over this question. That only touches on the amazing phenomena of the interest in this case, but I think Eric was also speaking to it. Another element on the other hand about this, is that even among supporters, there has been a question alongside of tending to sympathize with me, and that question is, you must have done something wrong, because they wouldn't have given you a felony assault otherwise. What did you do? The point is, I did nothing wrong. The point is, I offered to comply with the officer when he told me that this was an offense, which I didn't know. I said, okay and walked away. When he told me there is a \$100 fine unless you take

those posters down, I said, okay. I wasn't happy about it, but without another word I walked towards the posters and I was preparing to take them down. But, for this particular officer, that wasn't enough and everything else ensued from there. He had no right to touch me, much less slam me up against the window, proceed to arrest me. At which time I said, 'There is no reason to arrest me', and I said, 'Stop'. I said I would take these posters down. I don't want to go through all of the details, but things got more painful and more aggressive on his part when I began to call out to the people standing around who explained to them what was going on and to show them - to tell them what the content was of this poster. Which I will give you. I don't know if you've seen this yet. Before I knew it I was down on the ground face down on the sidewalk with his knee in my back and backup was being called. There are already many different stories on the side of the cops as to the facts of the case, including that they're denying that my legs were shackled. They just think that they can say anything and people will automatically believe it. It makes you wonder how powerful they think they are. The point is that when people are asking me, you must have done something wrong. To me that reflects some allusions that people still have about the nature of the political climate that we're living in and the kind of repression that actually exists against the homeless, against outspoken women, against anyone who is opposing the current regime and there are myriad examples of that. It's time to really face up to reality and Alesca's [not sure of name] words and her message and her points about the Bush commission that's gone on - and please do go to [bushcommission.org](http://bushcommission.org) and to [worldcantwait.org](http://worldcantwait.org) and look more into this. This is an historic moment right here. There are profound measures being taken on the part of the people to expose the crimes that the Bush administration is responsible for, that a lot of people don't know about and a lot of people don't know that this tribunal against Bush has even been happening, because the media has been blocking out the information. In this context a lot of people are themselves thinking, 'Well, I agree, I think Bush should step down', but then they see what happens here and they're thinking, 'Wow, a girl can't even say anything, much less a middle-aged older women can't even put up a poster without getting into this kind of a situation'. So, that I think is a big part of the reason why this has become so incredibly controversial. This a pivotal moment in history right here. I don't think I am exaggerating in the slightest. I think that the future literally does hang in the balance and that's why something so small as the act that I took could concentrate such large questions and that's why the aggressive actions of one police officer could concentrate the political agenda and the morality of the regime that's currently in power and that is an agenda that includes brutal domination, lies upon lies upon lies, erasing and whittling ways of peoples' freedom (you know freedom to speak), privacy. Then there is the whole story of what happened to me in the hospital. I'm sure you've read these details. If you haven't I can forward more information to you. All these things: lies, brutal aggression, domination, and if you're a woman expect to submit and to be complacent or expect punishment for it and to be called crazy. There are so many more things that could be said, but at this point I can't go further. Anyone who wants to talk to me more about it is welcome. One of the most precious things about World Can't Wait and this movement that truly is growing is the discussion and the debate and the learning that is going on from very diverse individuals and organizations that are participating in this all across this country. It is very, very inspiring and it represents our future and it is very important for people to step up and be a part of it. It's also very important for people to take another look at this call, demanding the World Can't Wait Drive Out the Bush Regime, because it's been amazing to me that as time goes on, and different events happen, different lines jump out at you and really come to life and the one that's really sort of in neon lights for me right now is - this will not be easy if we speak the truth - they will try to silence us, if we act, they will try to stop us, but we speak for the majority here and around the world and as we get this going we are going to reach out to the people who have been so badly fooled by Bush. We are not going to

stop. That's it."

"My name is Carol Steiner. I live at 3007 Somerton Road. I have lived in Cleveland Heights for 21 years. I moved here from the west side. I have raised two boys. They have played soccer and lacrosse with some of your children. They graduated from Heights High and went to liberal arts colleges. Like Vicki, I have been dormant for a number of years, in terms of political activity except for a few exceptions that I could not stand aside from. Last summer when Judge Roberts was nominated, I said, 'That's it, I'm getting back into things'. I was so excited to hear that the World Can't Wait was having an organizing meeting in New York City on Labor Day. I had thought, well, maybe I could go camping for four days, that would really be fun. Then I thought, no, I can't do that, that whole weekend. So, I went to that meeting and I was going to help - maybe I could do something. Well, I went to that meeting and more was expected of me from then forward. So, now I'm a leader. So when World Can't Wait was thinking of things to do to build unity, because as I'm sure as all of you are quite aware, the other side and let's just name it - the Christian Fundamentalist Theocratic Conservative Forces are organizing. They are really organizing. They've got students spying on liberal professors. One such professor in Kansas has been brutality beaten and demoted, his career ruined because he dared to offer a course on the mythology of intelligent design. They've got the churches mobilized [end of side one of tape]. A very hateful agenda, particularly towards women and gays and people of color. All of these things are going on. So, we look at the other side and we say, 'okay'. I'm proud to say that my generation and with many of you, our generation, has a long and proud history of standing up to crap, of saying, we cannot just sit by and watch inequality and military aggression against the people of the world without opposing it. It's time to do that again. So, I thought, okay. I live in Cleveland Heights, and we talked about it on the committee and we said, okay, let's go to City Council and see whether maybe they'll stand up and become part of this organizing that needs to be done. Maybe they'll come out with a resolution the way Arcata, California did. Maybe they'll have the guts to lead around this issue. Maybe they'll have some understanding about what's going on, about what time it is, and maybe they'll unite with us, because we've got to get organized. Now, I've talked with individuals of you - since this occurred with Carol. I've emailed and had emails from a couple of you and I really appreciate that, but we did not come to you to say, 'You know, up against the wall, you know.' We're here again this evening, we're not here to say, 'Up against the wall'. We're here to say, 'You are decent people. Why would you believe those police?, I don't care if they had four signed affidavits. Have you been listening? Do you have your eyes open in this country? Do you remember Rodney King? Police brutality is a major issue in this country and it is an issue in Cleveland Heights and has been for quite some time. Now why do you have to stick with those cops, against the word of a woman who goes out to take out her politics - to tell other people about it, because we don't own the media. So, I'm here to ask you - okay, maybe you're not - Mayor Kelley called me Friday, yes, to reiterate that you were not going to do something. Well, I want you to do something. I still want you to pass a resolution. I still want to know why you won't lead like that? And, I agree with all of the previous speakers about the courage that it will take, but damn, that would be good to see from you. I know something about some of you all - and you are good people. And I really say, here, here to the people before me that said, I hope you'll think about that as individuals. We're also here to ask that whatever your sphere of influence is, as Vicki said is - we don't know - I don't know how that works with City Council. We know you're not the prosecutor. We know you're not the police department, but, damn, you better have some influence and you better not let the police speak for this city, because we didn't elect them. I haven't voted in many years, but I voted, I voted for Mark. And, I'll tell you what's disturbing, having been here twice. The only other time I've come is when they were going to put the Walgreen's where the Jaguar dealership was and I have to tell you that burst my bubble. My parents were both city planners. And I came in here to that city planning commission and I heard

one of those people say, 'Well, really the only thing that's important is, is this going to be a viable business?' Well, we didn't need another drugstore in that area and frankly it wasn't a viable business, because Rite Aid has gone out of business and now Medic has gone out of business. So - what - do you ever have to say anything to us or can you just sit there? Why won't you lead around this question? And don't say anything on the record 'cause then you might change your mind after tonight. I'm being a little facetious now, but we really would like to hear and have some engaging with you, around these questions. They weren't just frivolous. They weren't just proforma. We want you to be part of the unity that's being forged and at this point in time around Carol's case and about the World Can't Wait. It's a battle for public opinion. Yes, she's going to fight it in the courts and whoever said it's bigger, Eric, you don't even know. You don't even know how much bigger it is, because you're dealing with people who know what they're doing. Thank you."

"I'm Vicki Knight. I reside at 1519 Crest Road. I affirm what the other speakers have said. I won't take much time. I just want to add one - urging that training - non-violence training and oversight of the Cleveland Heights, police be improved. I believe that this City Council can immediately undertake some initiative in that direction. I'm deeply troubled by the treatment of Carol Fisher. Although, I was not a witness, I believe her to be truthful and non-violent. I urge that better non-violence training and oversight of the Cleveland Heights, police be undertaken. Thank you."

"I'm Marjorie Clark, 3384 Mayfield Road, Cleveland Heights, Ohio. I just have to say what if that were a poster of a lost cat or someone for instance putting up a poster about somebody violent who is attacking people and people need to know about it like a guy who moved into the neighborhood whose been assaulting people? Would the police have approached that person the same way? If so, would all this come down to this? That's all I have to say."

"My name is Maureen Koontz. I don't live in Cleveland Heights. I live in a somewhat similar city to Cleveland Heights, not as progressive. It's 2069 Bunts Road, Lakewood, Ohio. But, our police department can be a bit obnoxious at times. However, I guess I'm here because I am just so angry. I am just so furious about what happened to Carol, I can't hardly see straight and I'm here to tell you I don't even know Carol. I am not a member of this organization. I'm just here to try to show solidarity to her and this organization, because she put up some crummy little thing - tried to put up some leaflet and the policeman attacked her. I want to know, Mayor, you are the boss of the police department. I would like to know, Mayor Kelley, what you're going to do about this? It's police over-the-line and out-of-control. I would implore you to - and if it happens on a regular basis why hasn't anything been looked into - and for heaven sakes, since this is getting the media play, internationally, that you heard it's getting, by golly you better do something about it. That's it."

Mayor Kelley stated, "Thank you for the promotion. As the Mayor and President of Council, I do not sit over the Police Chief. The City Manager runs the day-to-day operations. He doubles as the Safety Director, but thank you for promoting me today, but no disrespect meant. I'll have a statement when everybody gets done talking about the specific issue."

Mayor Kelley asked for any additional speakers, seeing none he continued, "I am going to read a brief statement and we'll go on with our business. I think you already heard what my sentiments and what this Council's sentiments on the Dump Bush Movement and again I wish you the best of luck on World Can't Wait can do, and will do, and your continuous efforts and wish you the best of luck there."

The official position or my official position for this Council is going to be set forth and will be available for the media if they therefore seek it. The description of an incident that occurred in Cleveland Heights in late January that has serious allegations against the police department, has been widely circulated on the Internet. There are many inaccuracies and inflammatory comments made about the police in this email. This Cleveland Heights City Council is aware of the allegations in the email and has been briefed by Chief Martin Lentz regarding witness statements and police procedure at the scene.

There are the facts as we know them: 1) Cleveland Heights has had zoning codes and general offenses code regulations regarding flyers and posters on public poles for many, many years. This is not a new rule. The zoning regulation has been in place since 1970, specifically #1163.02, which is Application of Sign Regulations and the General Offenses Code regulation has been in place since 1943. Again, this particular code has been in place since 1943, so way before most of us, or all of were born. Some of us, as the Vice Mayor reminded us. The content or subject matter of the flyers has absolutely nothing to do with the enforcement of the regulation. This City Council and past City Councils have always supported this regulation. It has absolutely nothing to do with content. 2) The police were following procedure by informing the woman, three separate times, that the posters should not be put up. 3) Witnesses at the scene reported that the woman became out of control and physical with the police officers. The police then followed proper procedure in getting the situation under control. 4) The Cleveland Heights paramedics were called because the police officers were bleeding from scratch and bite marks."

There was an outburst from the audience and the mayor added, "Please, I've given you your time, this is what we've investigated."

Another outburst from the audience, "Bullsh--", and continued, "You heard people talk tonight and you make statements."

Mayor Kelley added, "Ma'm, sit down."

Another outburst, "Did you listen to people?"

Mayor Kelley kept repeating, "Sit down. Sit down, please."

Another outburst, "Did this have an impact on you?"

Mayor Kelley again repeated, "Sit down, please."

Audience member replied, "I'm sitting."

Mayor Kelley continued, "When the paramedics arrived the woman said she was injured and wanted to go to the hospital also. The police followed procedure and she was taken in the ambulance. She was transported to the University Hospital Emergency Room.. 5) Hospital Emergency room rules were very strict regarding who could go in and see a patient. These rules were enforced by the Emergency Room personnel."

From the audience, "No. It's all lies."

Mayor Kelley continued, "The scene at the University Hospital emergency room reception area was handled by the University Hospital police."

Mayor Kelley was interrupted again by another outburst stating, "No."

The Mayor continued, "Who also had back up .."

Another outburst from the audience, "Not true."

Mayor Kelley continued, "Who also had backup from University Circle police."

Another outburst from the audience, "Not true, not true. We were there."

Mayor Kelley continued, "There is no evidence to suggest that the Cleveland Heights police officers involved acted improperly. The Cuyahoga County Grand Jury has indicted Ms. Fisher on two counts of assaulting a police officer. These are fourth degree felonies. The matter will be assigned to a judge after the arraignment."

From the audience, "Why do you lie? Do you agree with that?"

Mayor Kelley responded, "That's the official statement."

There were additional outbursts and the Mayor said, "You've had your time to talk. We are going to move on with the report of the City Manager."

There were additional outbursts from various members of the audience such as, "Would make any difference. You just sit there and just lead us on. And you're just turning your back. You should be ashamed of yourself. Ashamed. That you should endorse such brutality, shame on all of you. Shame on all of you. A statement that you wrote before you listened to us. Everyone who came here - these are the people who supposedly represent us and the people in this city, remember that. You passed a resolution against the Patriot Act, but then when the police actually do fascist stuff, you say, 'We agree with that'. For - in my book, your resolution against the Patriot Act isn't worth more than toilet paper. Shame on you all. The police brought the situation under control, the police took the situation out of control."

Council Member Evans stepped in, "Excuse me. This is not the way we handle business here. This is not the way."

There were more interruptions and Council Member Evans continued, "There is a time and place for everything."

Someone yelled, "That's exactly what they said about Nazi Germany. That's exactly what Hitler said and they took people right into the concentration camps. What are you talking about?"

Mayor Kelley asked Mr. Downey to go on with his report.

## **REPORT OF THE CITY MANAGER**

Mr. Downey stated, "Your Honor, we would request that we receive authority to reject the bids that had been received for the Cedar-Lee parking deck and have your authority then to re-advertise again to take bids for that facility."

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

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

Second by Council Member Evans.

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

Nays: None **Motion passed**

#### **REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL**

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that one resolution of the Board of Zoning Appeals has been received pertaining to a variance in the Zoning Code and is requested by the following: BZA Calendar No. 3095 Rysar Properties, Inc., 3505 Mayfield Road, in an MF-1 multifamily district, sign regulations. Your Honor, I need to make this a matter of record."

Mayor Kelley made it a matter of record and referred it to the Planning and Development Committee of Council.

#### **REPORT OF THE MUNICIPAL SERVICES COMMITTEE**

Council Member Caplan stated, "Okay. This committee has no resolutions tonight. I do have a couple of comments and I can not resist saying this. This was a very interesting hour and a half. And I actually - I think it's really a credit to us that we allow people to say whatever they want and that we don't debate it. This is not a place for debate. This is a place that we allow citizens to say what is on their mind and to allow us to listen. We listen respectfully. We think about what people say. A debate gets us nowhere in this context. That's not what our meeting is about. So, actually, I think we listened respectfully. We gave everybody the opportunity to say what they had to say whether we were persuaded or not in one side or another is irrelevant at this moment. I think that we acted the way that I think our citizens should be pleased with in that we gave everybody the right to say their piece and whatever happens after, won't happen in this venue. We don't debate things in this venue.

That being said, I'm going to give an opinion about something else and that is recycling. I am going to talk about what a Municipal Services Committee does talk about and that is those things like snow plowing, picking up leaves, and that's our responsibility and your responsibility is to put out your leaves in an appropriate way and to recycle. We need you to recycle and you need to recycle. We care about the world that we live in. We need to be paying better attention to recycling. I'm sort of astonished by how few people recycle paper. It's not really hard. You go to the grocery store, you ask for paper, they'll give you a paper bag for your groceries, which is really better than those plastic bags that they give you. You take those paper bags and open your mail over the paper bags. Throw away your junk mail into the paper bag and on garbage day you put it out. It's not really hard and if you're nervous about your address, tear it into pieces. Put it out. First of all, it doesn't go into a landfill and not only that we get money for it. Therefore, we don't have to pay all the money to landfill for paper and bottles and cans. Do your part. If you care about the community, you care about the world. We're all worried about global warming and all the rest of it. It's a small little thing that you can do. It's not real hard and the city does its part,

it picks it up. We don't make it real hard for you, so put all of your cans and your bottles in one bag and all of your paper - put it in a paper bag. If you think you're recycling by putting your Christmas tree in a plastic bag, think again, you can't recycle plastic. Put your Christmas tree either out there all by itself, actually that's what you need to do and they're still coming out, even though the holidays have been long past. I encourage you to recycle. I am the new chair of this committee. You'll be hearing from me about this a lot. That's all this committee has. I think we've heard a lot up to now, so I'll quit."

## **REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE**

Council Member Wilcox stated, "Thank you, your Honor. There are several pieces of legislation from the Planning Committee tonight, but there is also one Board of Zoning Appeals Resolution that's Calendar No. 3085 and Vice Mayor Montlack attended the Board of Zoning Appeals meeting on January 18th and I'm going to let him read this matter."

Vice Mayor Montlack stated, "Thank you, Mr. Wilcox. Board of Zoning Appeals Calendar No. 3095 is presented on motion for adoption of that resolution. This relates to an application by Rysar Properties, Inc., 3505 Mayfield Road, in an MF-1 multifamily district, which is the applicant and the parcel in question is known to many folks as the former JCC site that is now under construction for new housing. The application is for a variance from the sign regulations of the Zoning Code, to permit a construction sign that consists of (4) 5'x36' sign panels and (4) 5'x32' sign panels. On each panel, between 14.7 and 17.7 square feet is project logo; between 2.3 and 4.6 square feet is identification; and on every other panel 5.7 square feet is contact and project information. The remainder is graphics and art. The Zoning Code does not permit construction signs for multi-family development. There was an extensive hearing at the Board of Zoning Appeals and with regard to the application the BZA has found and recommended that practical difficulty has been demonstrated with regard to the particular panels. The Board determined that the property at issue is unique lending itself to practical difficulty because the property and the scope of the proposed development are unusually large for an MF-1 District, and this size and type of development was not contemplated when the Zoning Code was last amended in 1993. The property has a frontage of approximately 420 feet and an area of 9.9 acres, which is exceptionally large for this type of development. Next, in terms of its findings, the property at issue is located across the street from the largest commercial district of the City, Severance Town Center, and is located on Mayfield Road, which is a seven-lane arterial highway with some of the heaviest traffic in the City. Because of the speed and volume of traffic on Mayfield Road, a small, single-construction sign of the kind that would normally be permitted, would not be adequate to apprise motorists of the development. Finally, in terms of findings, the proposed development is across the street from another residential development currently under construction which was permitted and is permitted to have construction signs due to its location in an S-1 District.

Finally, in this regard, the BZA found that adequate construction signage is necessary to communicate the identity and character of the project to potential purchasers and to support sales, and successful completion of the proposed project is important to the neighborhood and the City. Furthermore, partial screening of the demolition debris that is occurring as part of the construction - is of benefit to the neighborhood. However, the Board finds that the requested signage (that is the signage variance requested by the application) is much larger than necessary.

The Board recommends granting the request for the variance subject to certain conditions as follows: (a) The applicant must work with City staff to substantially reduce both the total amount of signage and the amount of signage which is covered with words, phone numbers and

logos. (b) The applicant must remove the signage on the portion of the fence that is not parallel to Mayfield Road which was depicted or requested in the application. (3) The variance expires one year from the date of its approval by City Council.

Upon approval of this motion, these findings and granting of the variance with the conditions that I stated, would go into effect. I move that BZA Calendar No. 3095 be adopted.”

Second by Council Member Dietrich.

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

Nays: None                    **Resolution confirmed**

Council Member Wilcox continued, “I do have Resolution No. 10-2006(PD), authorizing the City Manager to enter into a renewal of an agreement with the Cleveland Restoration Society; Preservation Resource Center of Northeastern Ohio for historic preservation consulting services in connection with the Heritage Home Loan Program; providing compensation therefor; and declaring an emergency.

This is a resolution that will help us maintain our existing housing especially in this case our historic homes through this Heritage Home Loan Program. This has been in place since 2001 and offers technical assistance and has offered technical assistance to 206 residents since that time. Sixty-two loans have been provided through this program, worth over 1.78 million in neighborhood investment. Out of the 14 service areas that participate in this program, not surprisingly Cleveland Heights leads in the most loans and other services. Also in 2005 alone, free technical assistance to 16 homeowners was provided and 18 residents received rehab loans for the total value of about 446,000 dollars.

As I stated in 2001, Council authorizes the City Manager to enter into an agreement with the Cuyahoga County Commissioners for participation in the Heritage Home Loan Program, and this provides below-market interest rates to owners of historic properties in the City for repairs and housing improvements. The Council further authorized annual agreements with the Cleveland Restoration Society for historic preservation consulting services in connection with this Program. It’s in the best interest of the City to continue the contract and therefore, this Resolution in Section 1, authorizes the City Manager to enter into a renewal agreement with Cleveland Restoration Society, to provide historic preservation consulting services in connection with the Heritage Home Loan Program. That includes qualification of eligible properties, working with borrowers to develop specifications for historic rehabilitation plans, consultation during construction, and inspection of properties at the conclusion of construction for compliance with preservation. The agreement provides for compensation in the amount of Twenty-five Thousand Dollars (\$25,000.00) and is to be in a form approved by the Law Director. I offer Resolution No. 10-2006(PD) for passage tonight.”

Mayor Kelley accepted Resolution No. 10-2006(PD).

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

Nays: None                    **Resolution passed**

Council Member Wilcox continued, “Next, I have Resolution No. 11-2006(PD). This is a

resolution which will authorize a low-interest loan, through our Commercial Revolving Loan Program, which provides funding to local businesses and the source of funding comes through federal CDBG grant funds and repayment of loans through the program. This program essential assists private businesses to retain and create jobs and for economic redevelopment in our community. This project and this loan certainly does both of those.

This is Resolution No. 11-2006(PD), authorizing the City Manager to enter into an agreement with Dogtopia, Ltd. for a loan under the City's Revolving Loan Program for the refinancing of an SBA loan for its animal day-care/boarding business at 2624 Noble Road, Cleveland Heights and the marketing of the business; and declaring an emergency. Dogtopia, Ltd. applied to the City for a loan under the City's Revolving Loan Fund Program for the refinancing of an SBA loan. The business has eliminated a blighted condition in the Noble-Monticello Business District and has been an asset to the neighborhood, which I would second that, because the Planning Commission and Board of Zoning Appeals and other public hearings we've had on this, all of the other neighbors have come forward and made that point very clear. Council has determined that making the requested loan would be consistent with the objectives of the Revolving Loan Fund Program and would be in the City's best interest; and the Community Development Block Grant funds are available for this purpose. Section 1 authorized a loan agreement to Dogtopia, Ltd. for refinancing the SBA loan. The loan is in the amount of Seventy-five Thousand Dollars (\$75,000.00), at an interest rate of two percent (2%), with repayment in six monthly installments of One Hundred Seventy-five Dollars (\$175.00) (interest only), and thereafter one hundred twenty (120) monthly payments of Six Hundred Ninety Dollars and Eight Cents (\$690.08). The loan shall be secured by a second mortgage on the residence of borrower's principal, and personal guarantees of said principal and her parent.

Before offering Resolution No. 11-2006(PD) I want to thank Connie Karlowicz for staying through this meeting and good luck on her business and I offer Resolution No. 11-2006(PD) for passage tonight."

Mayor Kelley accepted Resolution No. 11-2006(PD) and commented briefly, "I want to just briefly comment. Connie, I want to thank you for really changing this neighborhood and making your dream come true over here. I also want to thank you for what you do over where you live. I know you are very active. We've had conversations and I know you work with Councilman Wilcox and Rick Wagner. You really take an interest in your street, and we've made some progress over there, and we do need to make a little more progress. I know you agree to that. Really, I want to thank you for changing where you live and also changing this Monticello and Noble corner and really getting rid of a blight on the neighborhood. I think I'll say it that way. I wish you the best of luck and hope you can hook up with Pet Land on Lee Road and hopefully hook up with South Euclid and Cleveland Heights with our dog park and hopefully grow your business even more. Many successes to you."

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

Nays: None **Resolution passed**

Mayor Kelley added, "Connie, if you want to get up and leave, no one will - -."

Ms. Karlowicz thanked the Mayor.

Mayor Kelley continued, "You thought you'd only be here for a couple minutes and you

had about two hours worth of a little bit extra.”

Council Member Wilcox continued, “That concludes the legislation. I did want to just make a brief comment. I can’t resist. I’m not going to mention anything specific about what was said tonight, other than to thank all of those who made their points known to us in a civil fashion - didn’t feel necessary to storm out of the meeting and yell at us. We can have our disagreements and that’s what we do up here sometimes amongst ourselves. We have our disagreements, but we try to talk about them civilly and resolve our issues and move on. I do want to thank the people that came forward and commented and made their points known, and just want everyone to know while we sit up here and listen, we don’t interrupt people, but we take seriously their comments. That part of the meeting is called, ‘Personal communications from citizens’. It is not a time for us to sit up here and debate with people that come to the meeting. I would agree with Councilwoman Caplan, and only add that we debate amongst ourselves at these meetings because we are conducting a public meeting. We’re dealing with public business and sometimes we do debate amongst ourselves, but we don’t debate with the public that comes here to view the meeting. Just wanted to make that point and just emphasize that we all have passionate views on many subjects up here and sometimes it’s hard to sit back and not comment, but again, we’re listening. We take things seriously and we appreciate those who make their point civilly. That concludes my report.”

Mayor Kelley commented, “Civilly - civility!”

## **REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE**

Council Member Evans stated, “Thank you, your Honor. There are two resolution this evening. The first is Resolution No. 12-2006(PSH), in support of House Bill 294 to provide for an expedited foreclosure process for specified vacant tax-delinquent properties; and declaring an emergency. Whereas, predatory lending, the economy and other factors have led to a huge rise in foreclosures in this community as well as other communities across the State; and a large number of these foreclosures are upon real estate tax-delinquent properties. The foreclosure process in Cuyahoga County often takes two years or more. The lengthy foreclosure process results in a loss of tax revenue as well as neighborhood blight caused by vacant, ill-maintained properties; and House Bill 294 would provide for an expedited administrative adjudication of foreclosure-related issues for a group of select unoccupied tax-delinquent properties; and such expedited adjudication would be of benefit to local communities and school districts. Now, therefore, be it resolved by this Council that Section 1 reads, This Council hereby expresses its support of House Bill 294 and urges its passage by the General Assembly and approval by the Governor. Section 2 states, that the Clerk of Council is hereby directed to forward copies of this Resolution to Governor Robert Taft, State Senator C. J. Prentiss, State Representative Claudette J. Woodard, State Representative Sally Conway Kilbane, and Cuyahoga County Treasurer James Rokakis. I’d like to present Resolution No. 12-2006(PSH) for passage this evening.”

Mayor Kelley accepted Resolution No. 12-2006(PSH).

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

Nays: None **Resolution passed**

Council Member Evans continued, “Resolution No. 13-2006(PSH), in support of Senate Bills 162 and 185 to help fight predatory lending in the State of Ohio; and declaring an emergency. Whereas, predatory lending practices by some unscrupulous lenders have resulted in a huge

increase in the number of foreclosures in this community and throughout the State; and some State officials have recently announced their support for stricter State enforcement action against abusive mortgage lenders and appraisers. Senate Bills 162 and 185 pending in the General Assembly would curb many of the most egregious practices and provide much more protection to homeowners. Passage of Senate Bill 162 and/or 185 would be of benefit to the City of Cleveland Heights and its residents, as well as homeowners and communities across the State of Ohio. Therefore, be it resolved by this Council that Section 1, this Council hereby expresses its support of Senate Bills 162 and 185 and urges the General Assembly and Governor to pass and approve these bills or some other bill which contains similar provisions. Section 2, the Clerk of Council is hereby directed to forward copies of this Resolution to Governor Robert Taft, Attorney General Jim Petro, State Senator C. J. Prentiss and State Representative Claudette J. Woodard. I'd like to present Resolution No. 13-2006(PSH) for passage this evening."

Mayor Kelley accepted Resolution No. 13-2006(PSH).

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

Nays: None **Resolution passed**

Council Member Evans continued, "I would just like to take a moment to read a letter that was addressed to Chief Lentz and it states that she's been a resident of Cleveland Heights for twenty years and in that time, 'I've never taken the opportunity to commend you and your officers on fine work done in our community - a safe place in which to live. This letter is long overdue.' Unfortunately, there was a robbery in her neighborhood and that was what spurned an interest for her to write this letter. She went on to say that she had an opportunity to speak with Detective Mark Schmitt at the beginning and throughout the investigation and she would like to commend him for the way in which he communicated with her and her family and the personal attention he gave to their concern. She said, 'We were scared and he assured us that we were safe. His honesty, directness, and courteous responses were extremely appreciated. Detective Schmitt told me that he had been directed [by] the efforts of the police force to solve this case.' She says, 'Thank you, for that leadership and the support you gave to Detective Schmitt and the others who worked so hard on this case.' She offered her sincere thanks to Chief Lentz.

We very often receive letters like this, but more often than not, we receive more letters of criticism, I guess one might say, so it is kind of refreshing to get a letter from someone who took the time to say thank you.

As all of you know, in a city the size of ours, there are a lot of people and there are a lot of different opinions. And, some of those opinions were expressed this evening. In all the years that I've sat on Council I have never seen a group so agitated, and most of you that have witnessed how we conduct ourselves at these meetings, know that we are very respectful of our residents. We will continue to be respectful of our residents as well as ourselves, and this is not the time to get in a heated debate with anyone. That concludes my remarks."

## **REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE**

Council Member Tumeo stated, "I have tonight several items, actually. First I'd like to introduce Resolution No. 14-2006(AS), in opposition to Senate Bill 82 and House Bill 347; and declaring an emergency. in 1912 the electors of the State of Ohio adopted Article XVIII, Section 3 of the Ohio Constitution, which is known as the Home Rule amendment, which allows the residents

of municipalities to determine for themselves the manner in which their city or village will be governed. Senate Bill 82, recently executed into law by the Governor, attempts to overturn decisions made by the electors of dozens of communities across the State who have determined that employees of their community should be residents of the community. House Bill 347, pending in the State Legislature, purports to "preempt" the ability of Ohio municipalities to enact firearms regulations appropriate to the needs of the individual community. This continued erosion of the powers of local self-government of municipalities is contrary to both the letter and spirit of the Home Rule provisions of the Ohio Constitution. By this Resolution the Council would express its strong opposition to Senate Bill 82, and proposed House Bill 347. Once passed, Clerk of Council would be directed to send copies of the Resolution to the appropriate individuals and the Executive Director of the League of Women Voters. I offer Resolution No. 14-2006(AS) for passage tonight."

Mayor Kelley accepted Resolution No. 14-2006(AS).

Council Member Wilcox commented, "I had one comment. It should be obvious, but the point of this Resolution is not to take issue with the City of Cleveland's residency law, whether Cleveland Heights should have a residency law or the particular firearms legislation at issue here. What really is at issue is the ability of local government to, under the state constitution, have the home rule powers that the voters would expect it to have. I just wanted to make that point."

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

Nays: None **Resolution passed**

Council Member Tumeo continued, "I would like to present two individuals for appointment to the City of Cleveland Heights Housing Council. These appointments will start in March, 2006 and are for three years per the Ohio Revised Code. The two individuals are Jacek Ghosh and Donalene Poduska. They are currently serving on the Council and have agreed to serve again. They've served with excellence on many of our committees and I had the pleasure of serving with both of them on the CAC and highly recommend them for this appointment."

Second by Council Member Wilcox.

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

Nays: None **Reappointments passed**

Council Member Tumeo continued, "I would also like to read into the record the appointment of two individuals by the Mayor to the same Council for the same term. Councilman Dennis Wilcox and Diana Woodbridge, both of whom have served before with great distinction and have agreed again."

Mayor Kelley thanked Council Member Tumeo.

Council Member Tumeo continued, "Before I end, I would like to add my own comments. This is my first time to get a feel of controversy on this side of the table, and I want to note how difficult it is not to respond, and to wait my turn to express my opinions. It's not something that is typical for my makeup, so I think that the Council as a whole should be

commended, and thank you for teaching me that small little piece of diplomacy. I think that it is a credit to this Council that we can allow people to vent their anger and frustration over issues and I certainly understand anger and frustration having been on that side and suffering oppression and intimidation as a gay man in our society. But I want to make a point that I think it is inappropriate to push the politics of division. We heard quotes from Lincoln tonight and Lincoln fought against exactly that kind of politics. We have a very robust system, and we all get to say our piece, and that's the system that should be engaged. I reject accusations that I am immoral or otherwise unengaged simply because I may not take the same approach to the same issue that other people want."

## **REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE**

Council Member Dietrich stated, "I have Resolution No. 15-2006(CRR), which is about our differences. This Resolution No. 15-2006(CRR), recognizing February, 2006 as National African American History Month; and declaring an emergency.

As we know, Cleveland Heights is rich in diversity of culture and race and as we saw tonight opinions, and we do take pride in having harmonious relationships among our diverse communities. We know it's important to share the heritage of each of our various ethnic groups in order to foster understanding. February is recognized as National African American History Month throughout the United States to honor the accomplishments and contributions of African Americans to our country. This Resolution designates February, 2006 as National African American History Month in Cleveland Heights and in this we do reaffirm our commitment to maintain Cleveland Heights as an integrated community and to continue respecting all the diverse aspects of our community. Resolution No. 15-2006(CRR) is passed as an emergency."

Mayor Kelley accepted Resolution No. 15-2006(CRR).

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

Nays: None                    **Resolution passed**

Council Member Dietrich said, "You know, I had a whole little list of fun things that are going on in our community in the next few weeks, I was just going to tell you about, but somehow the wind is out of my sails a little bit on that. I did want to not neglect to say thank you for Brendan Ring, the owner of Nighttown for giving the Founders Day party for the benefit of the Home Repair Resource which is one of the organizations in Cleveland Heights that really does work to make our community better and Brendan did his Annual Founders Day dinner last night for the benefit of the Home Repair Resource Center. They raised at least \$10,000, that was what they had raised long before the night was over. We should recognize him for that.

You know, I have to comment also. I think two issues really got mixed into one tonight. The Carol Fisher issue is very separate from the Dump Bush resolution and they were put together tonight. As far as the Carol Fisher issue goes, something that wasn't appreciated is the separation of powers. This is the legislative branch. Once something is in our judicial branch, it's wrong of us to meddle. That's where that issue is right now and of course, we're going to be interested in hearing how that comes [out], but it isn't our place to try to get into what goes on in our judicial branch. It would be wrong. And then the other thing, is a little bit similar to what Councilman Tumeo just said, is that in being accused sort of, of sitting by, not doing anything, it makes it seem that to pass the Dump Bush resolution right now tonight, is the only thing that anybody in this group can be

doing to express displeasure with our presidential administration. There are all sorts of things that we each can do and there are much more effective ways for us to try to influence the larger picture. You heard some of them tonight. The things about predatory lending. That so affects our citizens. The Home Rule resolution, those are things that are specific things that we can do something about. We can have an affect and I do think that the effect that we try to come down on the side of usually is on the side of openness. I think that's who we are and I don't think the Dump Bush resolution is the only way that we can indicate how we feel, how our politics are. That's all that I have."

## **REPORT OF THE FINANCE COMMITTEE**

Vice Mayor Montlack stated, "Thank you, your Honor. The hour is late. We are tired, but I must say unfortunately I do have a number of comments. First of all, with regard to the public comment portion of this meeting, I just would like to add a personal comment. Before coming on Council, I sat for 12 years as an acting judge in our court in the Cleveland Heights Municipal Court. I heard a heck of a lot of cases as that judge, a great number in the criminal area and I just want to share a thought that there is a very big difference between opinions expressed in a forum of this nature and what happens in a well-run court room, one that runs according to law, where witnesses are sworn, testimony under oath is given, and there is a very solid procedure for getting at the facts. I won't tell you that the truth always comes out in every court room situation but it is certainly a different set of perspectives and rules. So it will be interesting to see, as this matter goes forward how that proceeds on some of the issues raised.

Secondly, with regard to the resolutions we are working with tonight, and which I have as the last one, three of our resolutions relate to a related set of issues. They may not seem so at first glance. They have to do with things for foreclosures, lenders and borrowers. You may not think that they are related, but I need to comment on that. These resolutions are related because they have to do with issues that the First Suburbs first started looking into in early 2005 and actually sent a very strong letter signed by Mayor Kelley and all the other mayors of the First Suburbs Consortium protesting the tremendous backlog in the foreclosure process in Cuyahoga County and the impact that it was having on neighborhoods and communities both in Cleveland and the First Suburbs. That was followed by a meeting at which Mayor Georgine Welo of South Euclid took a lead and Mayor Ed Kelley had a very strong presence and a number of other mayors came and spoke. That meeting was called by Commissioner Hagan who responded when a number of mayors stood together on these issues. Out of that meeting came some commitments by both the Cuyahoga County Commissioners and their agencies and the Common Pleas Court. Even more so, what came out of that meeting and the discussions that ensued was the recognition that we had a whole variety of problems that had to do with this foreclosure backlog and the vacant and abandoned housing that was happening, especially in the City of Cleveland and the multiple factors such as the weak economy in Northeast Ohio, the high risk sub-prime lending that was taking over in our area, especially taking in the more unsophisticated homeowners and home buyers, predatory lending practices and of course the inadequate capacities of some of our court departments and other agencies to be able to deal with these things and then the media started picking this up. The Columbus Dispatch ran a whole series of articles on these things. The Cleveland Plain Dealer weighed in. Our Country Treasurer Jim Rokakis identified these issues and has been active not only here but with regard to the Ohio General Assembly. So we looked at not just the foreclosure backlog as a foreclosure department problem in the common pleas courts, although indeed it is that, but at all of the causes including the need for consumer counseling, better oversight in management in the courts, the need for the county to budget more dollars to beef up court and agency work, court actions against out-of-state lenders that were coming in irresponsibly.

bly and some other kinds of actions. You've received a number of resolutions or heard a number of resolutions here today and I just wanted to point out that each of them may sound like they are unrelated but in fact they are related. Especially, and I know the numbers of these house bills and senate bills will fly by all of us because there are so many of them, but those that related to trying to rein in the criminal and quasi-criminal lending practices that have happened are absolutely vital and only the general assembly and the governor can deal with this on the state level because it is a state problem. The resolution that we passed before, with regard to Senate Bill 162 and Senate Bill 185, one is sponsored by a group of Democratic state senators. One is sponsored by a Republican state senator. They both have very good aspects to them. I had planned to go into them in some detail, but you'll be relieved to know that I'll forgo that right now. The only other thing I want to say is what's really needed is to rein in the criminal appraisal practices. That hasn't been done yet.

Resolution No. 16-2006(F), in support of house Bill 293 authorizing boards of county commissioners to establish property tax payment linked-deposit programs to assist senior citizens and disabled residents in the payment of property taxes on their homesteads; and declaring an emergency.

It's a program that Jim Rokakis first set up in Cuyahoga County. Vice City Manger Kathleen Ruane actually worked to establish that program, now it's being sent to the state.

Resolution No. 16-2006(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 16-2006(F).

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

Nays: None                    **Resolution passed**

## **REPORT OF THE MAYOR**

Mayor Kelley stated, "I just want to recognize the loss of Coretta Scott King. She did so much for this country. She certainly will be missed by her family and friends, certainly a great loss. Although, I will point out that her body got to lie in state, certainly fitting, but it was certainly not fitting that when Martin Luther King died that he was not able to be given the proper way to be recognized. Here we are, some nearly 38 years later, his widow does get the proper send off. Again, the loss of Coretta Scott King is certainly felt all the world actually, especially here in Cleveland Heights and our thoughts and prayers go out to her family. This will conclude the Mayor's Report. Our next meeting will be Tuesday, February 21, 2006 at 7:30 due to the Presidents holiday on Monday. This meeting is adjourned at 9:50 p.m. Thank you all for coming tonight."

Respectfully submitted,

Edward J. Kelley, Mayor  
President of Council

Thomas K. Malone  
Clerk of Council

/mwc