



# CITY OF CLEVELAND HEIGHTS, OHIO MINUTES OF THE COUNCIL MEETING OF MONDAY, MARCH 1, 2010

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:20 p.m.

Edward Kelley, presiding

Council Members present: Caplan, Kelley, Montlack, Stephens, Tumeo, Wilcox

Council Members absent: Evans

Mayor Kelley excused the absence of Vice Mayor Evans.

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

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

Committee of the Whole adjourned at 7:20 p.m.

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

Edward Kelley, presiding

Council Members present: Caplan, Kelley, Montlack, Stephens, Tumeo, Wilcox

Council Members absent: Evans

Mayor Kelley excused the absence of Vice Mayor Evans.

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

The minutes of the Regular Council Meeting held Tuesday, February 16, 2010 were approved and signed by Mayor Kelley along with the resolutions passed at that meeting.

## REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have just a couple of things to report this evening. In your packets you received a copy of Bid Document No. 2010-02 entitled Community Center Ice Rink Lighting Renovation. The lowest and best bidder is South Shore Electric in the amount of \$106,499.00. Also, Bid Document No. 2010-03, the purchase of sand, limestone and gravel. The

lowest and best bidder, your Honor, is Arms Trucking Company in the amount of \$40,000.00 [per year for a two-year contract]. Your Honor, I would request that these bid tabulations and award of contract be made a matter of record.”

Mayor Kelley made them a matter of record.

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

Mr. Malone stated, “Thank you, your Honor. I need to notify Council that one 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. 3212 James C. Barle, PRAB, Inc., 3099 Mayfield Road and 2479-2483 Lee Boulevard, accessory use 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 PLANNING AND DEVELOPMENT COMMITTEE**

Council Member Wilcox stated, “Thank you, your Honor. There is one piece of legislation and also one resolution from the Board of Zoning Appeals. Councilwoman Stephens attended the meeting of Wednesday, February 17<sup>th</sup> and she is going to read that resolution.”

Council Member Stephens stated, “Mr. Mayor, I would like to recommend that we pass the resolution on the request from the Board of Zoning Appeals for BZA Calendar No. 3212, James C. Barle, PRAB, Inc., 3099 Mayfield Road and 2479-2483 Lee Boulevard, requesting a variance from the accessory use regulations of the Zoning Code to permit two new restaurants to open in the Heights Rockefeller Building and to provide no new parking spaces. Staff and the Department of Planning and Development analyzed the site and its proposed usage times and there is a recommendation from the Board of Zoning Appeals that we adopt this, and I recommend that to my colleagues on Council.”

Second by Council Member Tumeo.

Roll Call: Ayes: Caplan, Kelley, Montlack, Stephens, Tumeo, Wilcox

Nays: None

**Resolution confirmed**

Council Member Wilcox stated, “Thank you. Next, I have Resolution No. 18-2010(PD), objecting to the exclusion of the State of Ohio from the President’s proposed mortgage-relief efforts and requesting that the Administration reconsider its decision; and declaring an emergency. The Obama administration has recently announced that \$1.5 billion of funds originally earmarked for bank bail-outs under the Troubled Asset Relief Program will be awarded to housing agencies of states “hardest hit by this housing crisis” for foreclosure mitigation efforts; and the State of Ohio has for some unexplained reason has been excluded from the list of states targeted for relief, despite the fact that Ohio has been one of the hardest hit states by the foreclosure crisis; and also one of the earliest states to be hit by the crisis. The foreclosure crisis in Ohio continues to worsen, with 15.7% of Ohio mortgages in foreclosure or significantly delinquent in the last quarter of 2009; and in 2006 Cuyahoga County led the nation with 13,600 residential mortgage foreclosures, with an even higher number expected in 2010. Further, Ohio currently ranks 48<sup>th</sup> among the states in terms of receiving assistance from the Administration’s other major foreclosure-relief initiative, the Home Affordable Modification Program (“HAMP”).

Congressmen Dennis Kucinich (D-OH), Congresswoman Marcia Fudge (D-OH) and Congressman Steven LaTourette (R-OH) are currently leading a bipartisan effort in the Ohio delegation to Congress to demand that Ohio be included in the Administration's latest foreclosure-relief efforts.

So essentially, Ohio has been hit as one of the earliest states to have had this happen to and it should be no surprise that it has one of the worst foreclosure problems in the country, maybe the worst other than the State of Michigan and Michigan is included in this as well as four or five other states. We, obviously believe that Ohio should be included in this effort, as well.

This Resolution provides that Council objects to the exclusion of the State of Ohio from the President's proposed mortgage-relief efforts and requests that the Administration reconsider its decision. Section 2 provides the Clerk of Council to direct copies of this Resolution to President Barack Obama and Ohio Congressional Representatives Marcia Fudge, Dennis Kucinich and Steven LaTourette. I offer Resolution No. 18-2010(PD) for passage tonight."

Mayor Kelley accepted Resolution No. 18-2010(PD).

Roll Call: Ayes: Kelley, Montlack, Stephens, Tumeo, Wilcox, Caplan

Nays: None

**Resolution passed**

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

Council Member Montlack stated, "Thank you, your Honor. There is one piece of legislation from this committee, Resolution No. 19-2010(PSH), authorizing the City Manager to accept a grant from the United States Department of Homeland Security and the Federal Emergency Management Agency on behalf of the Fire Department of the City of Cleveland Heights; and declaring an emergency.

The grant particulars are that the award being proposed to Cleveland Heights is in the sum of Nineteen Thousand Twenty-four Dollars (\$19,024.00). That represents eighty percent (80%) of the total cost for some upgrades that I'll describe later - with a total cost of Twenty Three Thousand Seven Hundred Eighty Dollars (\$23,780.00) and that would mean that the City's portion would be the twenty percent (20%) Four Thousand Seven Hundred Fifty-six Dollars (\$4,756.00). The funds would go for some needed assistance, some new desks, chairs, overhead projector, new lap tops. This would put us in the forefront of the fight against terrorism.

Resolution No. 19-2010(PSH) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 19-2010(PSH).

Roll Call: Ayes: Montlack, Stephens, Tumeo, Wilcox, Caplan, Kelley

Nays: None

**Resolution passed**

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

Council Member Stephens stated, "This evening, I have the pleasure and honor of recommending to my colleagues on Council, that we appoint Elsie Day, a member of our community, to the Housing Tax Incentive Council. This is a three year appointment that will last until 2013. Ms. Day will participate in evaluating the use of tax abatement tools in our community."

Second by Council Member Caplan.

Roll Call: Ayes: Stephens, Tumeo, Wilcox, Caplan, Kelley, Montlack

Nays: None

**Appointment passed**

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

Council Member Stephens stated, "I only have one submission for Council's consideration this evening, Resolution No. 20-2010(CRR), recognizing March, 2010 as Red Cross Month in the City of Cleveland Heights; and declaring an emergency. This day was first proclaimed in 1943 by President Franklin D. Roosevelt to recognize the tireless and brave efforts of the Red Cross volunteers who assisted our armed forces and their families during World War II. Today we see their activities around the world in many different kinds of ways, assisting worn-torn countries as well as countries that are devastated by natural disasters. So, therefore, be it resolved by the City Council of the City of Cleveland Heights, Ohio, that the month of March, 2010 is hereby designated as Red Cross Month in the City of Cleveland Heights in recognition of the contributions of Red Cross staff and volunteers in assisting members of the greater Cleveland community in times of war and natural disasters as well as providing everyday services. This Resolution is declared to be an emergency measure and immediately necessary for the preservation of public peace, health and safety of the inhabitants of the City of Cleveland Heights."

Mayor Kelley accepted Resolution No. 20-2010(CRR).

Roll Call: Ayes: Tumeo, Wilcox, Caplan, Kelley, Montlack, Stephens

Nays: None

**Resolution passed**

### **REPORT OF THE FINANCE COMMITTEE**

Council Member Tumeo stated, "There is no report from this committee tonight."

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

Council Member Caplan stated, "Thank you. I have three pieces of legislation. The first is Ordinance No. 21-2010(MS). This is a piece of legislation from the state. It is an Ordinance for the City of Cleveland Heights which the state calls the LPA, the local public agency, and as I go on they refer to us as the City. The State has identified the need for this project to upgrade the traffic signals along Coventry Road at the intersections of North Park Boulevard and Scarborough Road/Fairmount Boulevard and to remove the traffic signals at the intersection of East Overlook Road and Coventry Road in the City of Cleveland Heights. Therefore, be it ordained by our City that being in the public interest the City gives consent to the Director of Transportation to complete that project. It's a Cooperation Statement in that the City agrees to pay for the cost of preliminary engineering, right-of-way and environmental documentation. We also agree to paying One Hundred Percent (100%) of the cost of those features that the State determines are unnecessary for the Project.

I have no idea what that means, but nonetheless the State is going to pay for the project [and] we'll pay for those things they don't like very well and for the engineering and that kind of thing. Unfortunately, I do not in this piece of legislation have a total cost, because really it's the State that's going to pay the majority of it.

So, I offer Ordinance No. 21-2010(MS) for passage tonight.”

Mayor Kelley accepted Ordinance No. 21-2010(PSH).

Roll Call: Ayes: Wilcox, Caplan, Kelley, Montlack, Stephens, Tumeo

Nays: None

**Ordinance passed**

Council Member Caplan continued, “Thank you. When that’s completed we’ll be able to speed along Coventry at 25 mph. There won’t be any impediments because of traffic lights - several of them are going away and some have already gone away. So we’re going to pay attention to whether you’re going 25 mph or not.

I have another Ordinance. This is Ordinance No. 22-2010(MS), amending Ordinance No. 33-2006 and subsection (b) and amending Ordinance No. 89-1998 and subsection (c) of Section 911.01 of the Codified Ordinances of the City of Cleveland Heights to establish local rate charges for sewer maintenance and capital improvement to be charged in the City of Cleveland Heights; and declaring an emergency. It is necessary to make significant improvements to the City’s sewer system to meet State and Federal environmental standards and Northeast Ohio Regional Sewer District requirements. Additional improvements are necessary to correct certain identified deficiencies in the system such as inadequate capacity and deteriorating lines.

This has, by the way, been an ongoing - for the past many years process, as we keep trying to upgrade the quality of water in our whole area.

Current revenue is inadequate to fund these necessary capital improvements; and it would be in the best interest of the City of Cleveland Heights and its residents to increase the local sewer fee for non-homestead properties by One Dollar (\$1.00) per 1,000 cubic feet of water consumed, and homestead properties by Thirty-Three Cents (\$.33) per 1,000 cubic feet of water consumed, with no less than Fifty Percent (50%) of the increase being dedicated to capital sewer improvements.

What that means is that an average household uses about 1,000 cubic feet of water a month and so your rate would go up about a dollar, so it’s a dollar every 1,000 cubic feet. You’ll see on every water bill it does say a sewer charge and you’ll see what that is.

Therefore, be it ordained by the Council of the City of Cleveland Heights, that the subsections that I mentioned shall be amended so that henceforth the subsection shall read as follows:

- (b) The local sewer charge shall be Eleven Dollars and Five Cents (\$11.05) per 1,000 cubic feet of water consumed, as shown by the records of the Water Department of the City based upon actual water meter readings.
- (c) The homestead rate for the local sewer charge shall be Three Dollars and Sixty Cents (\$3.60) per 1,000 cubic feet of water consumed, as shown by the records of the Water Department of the City based upon actual water meter readings.

I’m sure you all remember that no longer does somebody come into your home to read the meter, but that there is a little car that goes often, sometimes on the weekends, sometimes in the evenings with the electronically meter-reading device and so that how much you really use is being recorded.

Notice of passage shall be given and I offer Ordinance No. 22-2010(MS) for passage tonight.”

Mayor Kelley accepted Ordinance No. 22-2010(MS).

Roll Call: Ayes: Caplan, Kelley, Montlack, Stephens, Tumeo, Wilcox

Nays: None

**Ordinance passed**

Council Member Caplan continued, "Thank you. The last, although we're starting to think maybe spring might come, although it has not been evidenced by the weather. We're going to think about next winter. So, this is Resolution No. 23-2010(MS), authorizing the City Manager to enter into an agreement with the Ohio Department of Transportation for participation in the Department's contract for the purchase of sodium chloride (that's salt for the streets); providing compensation therefor; and declaring an emergency. Section 5513.01(B) of the Ohio Revised Code provides the opportunity for political subdivisions to participate in contracts of the Ohio Department of Transportation ("ODOT") for the purchase of machinery, material, supplies or other articles. Cleveland Heights Codified Ordinances also authorizes to participate in that Program. It would be in the best interest of the City to enter into an agreement to participate in the Department's contract for the purchase of salt for the 2010-2011 winter season. Therefore, be it resolved that the City Manager be authorized to enter into an agreement, as agent for the City, with the Ohio Department of Transportation to purchase sodium chloride. The City shall purchase between 80% and 120% of the estimated salt tonnage of 8,000 tons. The City shall be bound by the terms and conditions of ODOT's contract. The City shall be responsible for payment. We shall hold the Director of Transportation and the Ohio Department of Transportation harmless for any claim or dispute arising out of participation in the contract. Notice of passage shall be given and I offer Resolution No. 23-2010(MS) for passage tonight."

Mayor Kelley accepted Resolution No. 23-2010(MS).

Roll Call: Ayes: Kelley, Montlack, Stephens, Tumeo, Wilcox, Caplan

Nays: None

**Resolution passed**

### **REPORT OF THE MAYOR**

Mayor Kelley stated, "Just a quick note. We will have a meeting (we, being the six members of City Council) with our School Board on Wednesday, this coming Wednesday at 6:00 p.m. We have a dinner meeting with them just to get updated on different events that are happening at both the city and the schools and it will probably be one in a series of ones that we'll have this year, just to get together. We'll share information. Certainly it will be in this room here. It is open to the public. The public would like to come, it's not a closed meeting or would it be a closed meeting. But, we'll have a lot of good information sharing and hoping we're on the same page, because we all love the city very much and that's what this meeting is about. So, I just want to let the public know.

Our next meeting will be Monday, March 15, 2010. Thank you for coming. This meeting is adjourned at 7:53 p.m."

Respectfully submitted,

Edward J. Kelley, Mayor  
President of Council

Thomas K. Malone  
Clerk of Council

/mwc