



CLEVELAND HEIGHTS

MINUTES OF THE COUNCIL MEETING OF MONDAY, APRIL 12, 2004

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:30 p.m.

Edward Kelley, presiding

Council Members present: Caplan, Dietrich, Hicks, Kelley, Montlack, Wilcox

Council Members absent: Evans

Staff present: Carter, Czaga, Downey, Hull, Malone, Niermann O'Neil, Ruane,
L. Wagner, R. Wagner, Wong, Zins

Mayor Kelley excused the absence of Council Member Evans.

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

Committee of the Whole adjourned at 7:35 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:45 p.m.

Edward Kelley, presiding

Council Members present: Caplan, Dietrich, Hicks, Kelley, Montlack, Wilcox

Council Members absent: Evans

Staff present: Carter, Czaga, Downey, Malone, Niermann O'Neil, Ruane,
L. Wager, R. Wagner, Wong, Zins

Mayor Kelley excused the absence of Council Member Evans.

The minutes of the Regular Council Meeting held Monday, March 15, 2004 were approved and signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

"Good evening, Councilmen. My name is David Van Leer and tonight I'm making an appeal that you help support the Cleveland Heights football team."

Mayor Kelley requested that he give his address.

Mr. Van Leer continued, "My address is 1055 Woodview. For the last three years I've been an active member with the Tiger Touchdown Club and part of our effort is really to fund raise and support the team in a variety of ways; financially, spiritually, and then really, be there as a parent group

to encourage our student athletes to be successful not only on the football field but in the classroom as well. Part of that effort is really through our fund raising. Typically, at any football game you will see parents circulating raffle tickets, trying to sell t-shirts, making public announcements. During the summer time we're there again to support our team as they move to enter the summer programs. We are actually in a process - April 23rd, preparing for our first annual dinner dance. Tonight we are asking the City Council Members for your active support by purchasing tickets. The money goes back to the team to support them in many different ways. As you are well aware, the school district is in the process of cutting back by making major cuts in a variety of areas and one of the areas that they are cutting is \$125,000 in the athletic budget and we're not really clear about how this is going to impact not just the football team but all sports. I would anticipate that you'll probably be hearing from many parents trying to garnish support for their student's activity, whatever that may be, whether it's baseball, swimming, track. Tonight, I am really making an appeal for your active support, and purchasing tickets tonight would be a good thing. We do have a flyer that I'd like to pass out so that you can actually see a little bit more what we're about and when that activity is - April 23rd, which is a Friday from 7:00 p.m. to 1:00 a.m. Thank you."

Mayor Kelley responded, "Thank you, David. Do you want to pass them out now so you don't have to stay for the whole meeting? Probably [to] Councilwoman Caplan, she's the chair of our Community Relations and Recreation Committee."

Council Member Caplan said, "Why, don't you hold one up so they can see it on tv and anyone else that wants to buy tickets will know who to call."

Mayor Kelley added, "The party is Friday, April 23rd, which is this Friday coming up from 8:00 to 1:00 at Greenmont Party Center."

Council corrected the Mayor that the party was a week from this coming Friday, not the immediate Friday coming up.

Mayor Kelley continued, "Boy, you go to one Indians game and you lose all perspective, since they won an opener for a change. It's a week from Friday, April 23, 2004 from 8:00 p.m. to 1:00 a.m. at Greenmont Party Center in lovely South Euclid, Ohio. There are going to be raffles and the cost is \$30.00 for a single and \$55.00 for a couple. I think we could put it on our cable channel, we'll give it over to Susanna Niermann O'Neil. Thank you for coming, David and Ed Kelsey, my good friend is here also, so I know that if Ed's involved - what is it baseball, hockey, football - is there any sport you're not involved in, Ed?"

Mr. Kelsey replied from the audience, "Swimming."

Mayor Kelley responded, "We'll figure out a way to get you involved. Thank you for coming Ed and David, thank you for your support."

Council Member Hicks replied, "Count me in for two tickets."

Mayor Kelley laughingly replied, "Two, that's it? We should get him to get a whole table, shouldn't we?"

Council Member Hicks said, "I'm sure they'll hit me up sooner or later."

Council Member Dietrich added, "Get a whole table of City Council people."

Mayor Kelley said, "Insurance company - minimally!"

"James Redhed. I live at 3236 Redwood Road. Regarding Ordinance No. 61-2004(PSH), tonight, the passage of the carrying of concealed weapons law in Ohio, we don't anticipate any adverse effects on Cleveland Heights but I just want to express my appreciation to staff and Council for thinking of things like this before any problems happen that hopefully won't happen. It's little things like this that keep some cities safe and others not so, so I just wanted to thank you for thinking of that. Thank you."

Mayor Kelley responded, "Thank you, Jim. Thank you for your positive comments."

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have several items this evening. The first of which is to request authority to advertise for a public auction for used vehicles and obsolete equipment."

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

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

Second by Council Member Caplan.

Roll Call: Ayes: Caplan, Dietrich, Hicks, Kelley, Montlack, Wilcox

Nays: None

Motion passed

Mr. Downey continued, "Thank you very much, your Honor. In your packets Council received the bid tabulation and the award of contract for a number of bid items. The first of which is Bid Document No. 2004-09, the disposal of solid waste. The lowest and best bidder is BFI - Browning Ferris Industries. Their offer of \$28.94 a ton the first year, \$29.44 a ton the second year and \$29.94 a ton the third year and was the lowest and best bidder. Bid Document No. 2004-11, the purchase of various shade and flowering trees. The lowest bidder is Shemin Nurseries for spring flowers in the amount of \$25,852.50 and fall flowers and trees in the amount of \$14,302.50. Bid Document No. 2004-12, the Coventry Road streetscape enhancements, the lowest and best bidder is PerfTurf, Inc., in the amount of \$141,085.00. Finally, Bid Document No. 2004-13, catch basin cleaning, the lowest and best bidder is AAA Cleaning, in the amount of \$35,340.00. Your Honor, lastly I would request that Council make a motion to reject Bid Document No. 2004-01, All American Poly and accept the second lowest bidder for plastic refuse bags, Dyna Pak."

Mayor Kelley stated, "The bid tabulations and award of contracts are made a matter of record on the first four that you read. That is fine. Now we need a motion to reject Bid Document No. 2004-01."

Moved by Council Member Caplan.

Second by Council Member Hicks.

Mayor Kelley reiterated, "The motion first is just to reject Bid Document 2004-01."

Roll Call: Ayes: Dietrich, Hicks, Kelley, Montlack, Wilcox, Caplan

Nays: None

Motion passed

Mayor Kelley called for a motion to accept the second lowest bid.

Mr. Downey reiterated, "That is for Dyna Pak, [second lowest bidder] in the amount of \$45,180.00."

Moved by Council Member Dietrich.

Second by Council Member Wilcox.

Roll Call: Ayes: Hicks, Kelley, Montlack, Wilcox, Caplan, Dietrich

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 two resolutions of the Board of Zoning Appeals have been received pertaining to variances in the Zoning Code and are requested by the following: BZA Calendar No. 3030(c) Michael and Sydney Harris, 3587 Severn Road, accessory use regulations; and BZA Calendar No. 3033 Joe and Rita Braverman, 2940-42 East Derbyshire Road, off-street parking regulations. I request these be made a matter of record."

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

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "Thank you. I have one piece of legislation and it is Ordinance No. 53-2004(AS), to approve current replacement pages to the Cleveland Heights Codified Ordinances; and declaring an emergency. It's primarily a housekeeping piece of legislation. As the various ordinances have been passed by Council, they of course need to be included into the codified ordinances of the City and the city contracts with the Walter H. Drane Company to prepare and publish the revisions. This legislation just lists the rearranged and consolidated ordinances and puts them into the codes and titles and the chapters and the sections that they need to be in within the 2004 replacement pages to the ordinances. I won't read them all, but they are, of course, available in the Clerk of Council's office and if you would have been watching you would have seen them all enacted anyway by us. This basically represents any ordinances that we passed between January 21, 2003 and February 2, 2004. I offer Ordinance No. 53-2004(AS) for passage."

Mayor Kelley accepted Ordinance No. 53-2004(AS).

Roll Call: Ayes: Kelley, Montlack, Wilcox, Caplan, Dietrich, Hicks

Nays: None

Ordinance passed

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Caplan stated, "Thank you. I have two pieces of legislation. The first is Resolution No. 54-2004(CRR), joining with the United States Department of Housing and Urban Development ("HUD") and other communities throughout the nation in the observation of "Fair Housing Month";

reaffirming the City of Cleveland Heights' commitment to open housing; and declaring an emergency. In celebration of the 36th anniversary of the federal Fair Housing Law, HUD has promoted the observance of "Fair Housing Month" throughout the communities of this nation. This City, since the year 1965, has continually and consistently approved and encouraged the concept of fair housing throughout the City of Cleveland Heights and the entire Cleveland metropolitan area. Twenty-eight years ago, in 1976, this Council committed itself to a Resolution establishing the Nine-Point Plan to promote a well-maintained, full-service residential community and prevent resegregation, and to develop programs with residents, community organizations, the Board of Education, the business community, and other institutions to implement this Plan. Since that time, the City of Cleveland Heights has created and operated programs to continue integration, and to educate and persuade residents and non-residents of the benefits of integrated neighborhoods in this City and others across the country. Therefore, be it resolved by this Council of the City of Cleveland Heights, Ohio, that the City of Cleveland Heights, Ohio joins with the United States Department of Housing and Urban Development and other communities nationwide in the observation of "Fair Housing Month", and hereby reaffirms its commitment established over 39 years ago to fair housing in Cleveland Heights, Ohio, and throughout the Greater Cleveland area and the nation. Notice of passage shall be provided and this Resolution is considered an emergency measure for passage tonight, so I offer with pleasure Resolution No. 54-2004(CRR) for passage tonight."

Mayor Kelley accepted Resolution No. 54-2004(CRR).

Roll Call: Ayes: Montlack, Wilcox, Caplan, Dietrich, Hicks, Kelley

Nays: None

Resolution passed

Council Member Caplan continued, "Thank you and now I have Resolution No. 55- 2004(CRR) and there is a little irony here. This is a Resolution declaring the week of April 5 through 11, 2004 as National Public Health Week; and declaring an emergency.

The irony is that due to various members of this Council not being able to attend because of ill health we did not have a council meeting last week, so it's never too late to talk about the importance of public health in our community.

Over the past fifty years, the United States has achieved a significant increase in life expectancy and reduction in the incidence of injury, disability and disease. Of the thirty additional years of life expectancy gained since the turn of the century, (that's kind of amazing, isn't it) the public health approach is credited with the majority – approximately twenty-five years – of improvements in health status and expanded life expectancy. Prevention, education and outreach by public health professionals are the most focused and cost-effective ways of creating and maintaining healthy habits and improved quality of life for residents of Cleveland Heights, Ohio. Public health programs succeed by identifying and addressing patterns of disease, illness and injury in populations and the use of population-based strategies for disease and injury prevention, immunization against infectious disease, maintenance of good nutritional standards and the provision of good prenatal care have contributed to the decline in illness and injury, including heart disease and stroke, tobacco-related diseases, infectious diseases and motor vehicle and workplace injuries. Public health services benefit the entire population of Cleveland Heights, Ohio and cross all ethnic, socioeconomic and individual family and social strata of our community. Public health professionals are promoting solutions that are working to eliminate health disparities. The annual observance of National Public Health Week in Cleveland Heights, Ohio will increase awareness and understanding of the importance of a strong public health policy. Therefore, be it resolved by this Council of the City of Cleveland Heights, Ohio, declares the week of April 5

through 11, 2004 as National Public Health Week in the City of Cleveland Heights, and urges all of its citizens to join in the recognition of the valuable contribution that public health agencies make to the community. Notice of passage shall be given and this Resolution shall be declared an emergency measure by passage tonight and I would like to also add that public health services have changed the way we deal with all kinds of services, everything from fluoride in the water - which has really [helped] decrease significantly cavities in the teeth of our children to seatbelts in our cars and it is because of public health professionals, that significant changes have been made. My hope is that not only that these strides will continue, but also that mental health will become part of the public health awareness system and that public mental health will be considered part of the whole public health stratum. I offer Resolution No. 55-2004(CRR) for passage tonight.”

Mayor Kelley accepted Resolution No. 55-2004(CRR).

Roll Call: Ayes: Wilcox, Caplan, Dietrich, Hicks, Kelley, Montlack

Nays: None

Resolution passed

Council Member Caplan concluded, “Thank you. I only have a few announcements. One is to tell you what a marvelous day we had Saturday morning. It was our annual spring egg hunt. At 11:00 there had to be 1,000 - 1,500 children all lined up and by 11:03 all the eggs were collected and the children were grinning and some were not and those who somehow didn’t manage to get some eggs there were plenty of candy to go around. It was a wonderful day. It was beautiful weather and all the families from all around Cleveland Heights were out there. It’s something to behold, actually to see all of these children carrying their little bags. It was a treat and I thank all of the organizations that participated in it. Kiwanis Club, in particular, has really been a big sponsor and they stuffed thousands of plastic eggs with candy and made sure that every child walked away with sufficient amount of sweets in their system and they also collected food supplies for the hunger center in our community. It was a wonderful event and it’s one that I’m always happy to go to.

The other is that I’d like you to think about spring - may really be here and summer may be coming soon, because the Cain Park season has been filled up and soon you will be getting notices about what’s going to be there for our pleasure. So remember Cain Park when you begin to think about what all the activities are. Remember, we have our annual art festival and all the programs that go on - lots are free - it’s about a nine week session. We look forward to seeing all of you. Cain Park is soon to happen and the pools will be open soon. Can you believe it? Anyway, that’s all I have for Community Relations and Recreation Committee. Thank you.”

REPORT OF THE FINANCE COMMITTEE

Council Member Wilcox stated, “Thank you, your Honor. There are two pieces of legislation tonight from the Finance Committee, both of them involve renewal of various assessment resolutions that Council has enacted for many years previously. The first one is Resolution No. 56-2004(F), declaring the necessity of assessing a portion of the expense of street lighting; and declaring an emergency. The City Manager has recommended to this Council that a portion of the cost and expense of lighting the streets and public places in the City for a period of three (3) years to be paid by special assessment. It is necessary that the assessment established by Resolution No. 49-2001 be renewed, with a minor increase in the yearly rate. Section 1of the Resolution, the Council determines that it is necessary for the public health, convenience and welfare of the City to assess a portion of the cost and expense of lighting the streets and public places in the City upon the lands hereinafter described for a period of three (3) consecutive years, beginning with the 2004 Tax Duplicate for collection in the years 2005 through 2007,

inclusive, at the annual rate of Sixty-eight Cents (\$.68) per front foot. That is an increase of two cents (\$.02), previously it was Sixty-six Cents (\$.66) per front foot. Section 2 then determines that Two percent (2%) of the entire cost of said street lighting, plus the cost of lighting street intersections, shall be paid by the City; the remainder of said cost and expense shall be assessed on all the lots and lands noted in the resolution. I am not going to read these because it would be basically every street in the City of Cleveland Heights where someone benefits from street lighting. Those are on file and if you have a street light on it I'm sure you're street is noted. This resolution also provides that the assessment will be paid in three equal annual installments and certified to the County Auditor and placed on the Tax Duplicate according to law, and shall be collected as other taxes; however, a property owner does have the option of paying the assessment in cash within one hundred fifty (150) days of notice of the passage of the levy ordinance. No notes shall be issued in anticipation of the collection of said special assessment. Section 6 of this Resolution provides the notice of passage and Section 8 declares this to be an emergency measure. I offer Resolution No. 56-2004(F) for passage tonight."

Mayor Kelley accepted Resolution No. 56-2004(F).

Roll Call: Ayes: Caplan, Dietrich, Hicks, Kelley, Montlack, Wilcox

Nays: None

Resolution passed

Council Member Wilcox continued, "Next, I have Resolution No. 57-2004(F), declaring the necessity of assessing a portion of the expense of planting, maintaining and removing of shade trees; and declaring an emergency. The City Manager has recommended to this Council that a portion of the cost and expense of planting, maintaining and removing shade trees be paid by special assessment. It is necessary that the yearly rate of assessment established by Resolution No. 50-2001 be increased. Section 1 of this Resolution provides that Council determines it's necessary for the public health, convenience and welfare of the City to assess a portion of the cost and expense of planting, maintaining and removing shade trees in the City upon the lands hereinafter described for a period of three (3) consecutive years, beginning with the 2004 Tax Duplicate for collection in the years 2005 through 2007, inclusive, at the annual rate of Fifty-nine Cents (\$.59) per front foot. This increase is nine cents (\$.09) over the previous assessment and reflects not only our cost of our city staff and the trees and the planting and the maintaining and the removing of trees throughout the city but also reflects the city's emphasis and focus on Cleveland Heights as a city of trees, so we continue to maintain our shade trees throughout the city. Section 2 provides Two percent (2%) of the entire cost of said planting, maintaining and removing of shade trees shall be paid by the City; and the remainder be assessed upon all the lots and lands described and again this includes all the public dedicated streets in the City that benefits from the shade trees and as the other assessment resolution this will be paid in three annual installments certified to the County Auditor and placed on the Tax Duplicate and collected as other taxes; and the property owner does have the option of paying these assessments in cash as well. This is being offered on first reading on an emergency basis and I offer Resolution No. 57-2004(F) for passage tonight."

Mayor Kelley accepted Resolution No. 57-2004(F).

Roll Call: Ayes: Dietrich, Hicks, Kelley, Montlack, Wilcox, Caplan

Nays: None

Resolution passed

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Hicks stated, "Thank you, your Honor. I have two pieces of legislation this evening. First I have Resolution No. 58-2004(F), approving the emergency purchase of rock salt from Cargill, Incorporated; providing compensation therefor; and declaring an emergency. This Council hereby approves the emergency purchase of rock salt from Cargill, Incorporated for the winter of 2003-2004 and authorizes payment therefor in the sum of One Hundred Forty-two Thousand One Hundred Thirty-one Dollars and Thirty-nine Cents (\$142,131.39). This Council further finds that such purchase was necessary in order to provide essential governmental services and ensure the safety of the motorists traveling on the City's streets. Your Honor, I offer Resolution No. 58-2004(MS) for passage this evening."

Mayor Kelley accepted Resolution No. 58-2004(MS).

Council Member Hicks added, "Just hope that we won't have to use anymore of the salt this year, that we could just keep it and be ready for next year."

Mayor Kelley jokingly added, "The only way we'd use it if we'd open up our own ice cream store, right Craig? I think we've got a few ice cream stores opening in town at Coventry so I don't think we'll feel the need."

Roll Call: Ayes: Hicks, Kelley, Montlack, Wilcox, Caplan, Dietrich

Nays: None

Resolution passed

Council Member Hicks asked, "Rock salt, is that what they make ice cream with?"

Mayor Kelley replied, "Some places do."

Council Member Hicks continued, "I have Resolution No. 59-2004(MS), authorizing the City Manager to enter into a one year extension agreement with First Energy Solutions Corp. for continuation of the City's Electric Aggregation Program; and declaring an emergency. The City Manager is hereby authorized to continue the City's electric governmental aggregation program and to enter into an extension of the current power supply agreement with First Energy Solutions Corp. substantially in accordance with the proposal on file with the Clerk of Council. The agreement shall be a one year extension of the existing agreement between the parties and shall include the obligation of First Energy Solutions Corp. to supply electric power to City residents and City businesses at the discount rate of 6% less than the "shopping credit" on the generation portion of the customer's bill. The program shall be on an "opt out" basis which means that you're already automatically included in unless you call to opt out or get out of the program. The City shall not be required to pay any administrative costs to First Energy Solutions Corp. and First Energy Solutions Corp. shall pay the "switching fee" for any resident entering the program. This agreement shall be in a form approved by the Director of Law. Your Honor, I offer Resolution No. 59-2004(MS), (which means a little bit less money we have to pay on our electric bill) for passage tonight."

Mayor Kelley accepted Resolution No. 59-2004(MS).

Roll Call: Ayes: Kelley, Montlack, Wilcox, Caplan, Dietrich, Hicks

Nays: None

Resolution passed

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There is one piece of legislation from this committee and it is Resolution No. 60-2004(PD), authorizing an agreement with A. Morgan Company, dba Strickland's Frozen Custard for the use of a portion of the right-of-way property on Coventry Road for outdoor dining purposes; and declaring an emergency. This company, called Strickland's for our purposes, plans to open a custard shop in the Courtyard of Coventry building at 1854 Coventry, in a space formerly occupied by City Books. Strickland's is requesting permission from the City to place limited outdoor dining facilities on a portion of the sidewalk - public right-of-way adjoining that building. After discussing this, the staff and the Council and certainly the Planning and Development Committee felt that giving this permission will enhance the Coventry Road Business District and be of benefit to the City and will not impair pedestrian traffic. We essentially authorized this, as we have done in the past in similar kinds of situations with a one-year trial period to see how this will go. Under Section 1 the City Manager would be authorized to execute an agreement with A. Morgan Company, dba Strickland's Frozen Custard for the use of a portion of the right-of-way property on Coventry Road for the placement of outdoor dining facilities including outdoor tables and chairs and a "dipping cart" for the use of Strickland's business patrons. The term of the agreement shall be May 15, 2004 through September 30, 2004, and shall provide for outdoor dining between the hours of 11:00 a.m. and 11:00 p.m. The agreement shall require A. Morgan Company, dba Strickland's Frozen Custard to hold the City harmless from any claims resulting from such use, and to carry insurance coverage approved by the City Manager and Director of Law. Resolution No. 60-2004(PD) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 60-2004(PD).

Roll Call: Ayes: Montlack, Wilcox, Caplan, Dietrich, Hicks, Kelley

Nays: None

Resolution passed

Vice Mayor Montlack stated, "Thank you. There are two calendar items referred to city council by the Board of Zoning Appeals. The first is 3030(c) Michael and Sydney Harris, 3587 Severn Road, in an "A" single-family district, referred to as the "applicants," requested a variance from the accessory use regulations of the Zoning Code, to permit a set of stairs that will extend 3 feet into the 4-foot-deep side yard. The public hearing was held on Wednesday, March 17, 2004, at 7:30 p.m. and the Board of Zoning Appeals found that the applicants clearly demonstrated exceptional and unusual circumstances resulting in practical difficulty and met the other requirements of the Code, finding that the practical difficulty was there if the variances were not granted based upon the preexisting conditions of a non-conforming 4-foot-side-yard and a substandard-sized garage and a lack of means of practical access to the home for the owners' five children other than through the formal front entrance and these were unusual situations in the neighborhood. There would be an insignificant impact on the neighborhood. The abutting neighbors do not object to the variance. The plans for the addition were previously if not rapidly approved by the City. I would move that Council adopt and approve BZA Calendar No. 3030(c)."

Second by Council Member Dietrich.

Roll Call: Ayes: Wilcox, Caplan, Dietrich, Hicks, Kelley, Montlack

Nays: None

Resolution confirmed

Vice Mayor Montlack continued, "BZA Calendar No. 3033, resulted from the same public hear-

ing as the previous applicants. This relates to Joe and Rita Braverman, the “applicants”, owners of 2940-42 East Derbyshire Road, in a “B” two-family district, asking for variance from the off- street parking regulations to permit a three-car garage. In this case, the parking regulations would have required upon the reconstruction of a garage a four-space or four-car garage should be constructed. As is often the case in such situations there is always a tension between - on the one hand the maximum coverage of the backyard in some of these neighborhoods by asphalt versus grass - and on the other hand the need for parking. The BZA granted the variance subject to Council approval finding that the applicants would suffer practical difficulty if the variance is not granted because the construction of a four-car garage would result in virtually no usable green space. A three-car garage is in keeping with the rest of the neighborhood, which is characterized exclusively by two- and three-car garages. The variance is minimal in that the rear-yard coverage of a required four-car garage and minimally-adequate access paving on this lot would be just one percent shy of requiring only administrative approval for a three-car garage, not to mention the fact that you probably couldn’t use the fourth space anyhow because of limited turning radius. BZA Calendar No. 3033, on my motion, is presented for adoption and approval.”

Second by Council Member Wilcox.

Roll Call: Ayes: Caplan, Dietrich, Hicks, Kelley, Montlack, Wilcox

Nays: None

Resolution confirmed

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Dietrich stated, “Thank you. I do wish Councilwoman Phyllis Evans a speedy recovery. I hope you’re watching. I’ll try to do a good job with your legislation. The first piece is Ordinance No. 61-2004(PSH). This deals with the newly enacted Ohio House Bill 12, which allows the concealed carrying of handguns by licensed individuals. This particular Ordinance amends

Sections 549.02 and 549.04 and Subsection 549.01(c) of the Codified Ordinances of the City of Cleveland Heights to incorporate changes in the Ohio Revised Code regarding the carrying of concealed weapons imposed by House Bill 12; enacting a new Section 923.10 prohibiting weapons in City parks; and declaring an emergency. The bulk of this ordinance is what we have to do to incorporate Ohio’s new concealed carrying law into our own ordinances. It includes some of the definitions and restrictions set forth in the Ohio House Bill 12, which is actually a hundred page bill. What is different and what is our own about this legislation is Section 923.10, which is the Prohibition of Deadly Weapons in Parks and this says that: No person located within the confines of any City Park shall knowingly carry or have, on or about his person or readily to hand, any deadly weapon, irrespective of whether such person has been issued a license to carry a concealed handgun (obviously this does not apply to a law enforcement officer) pursuant to Ohio R.C. 2923.125 or pursuant to a comparable provision of the law of any other state. What this legislation is actually doing, in effect, is that we’re continuing our current policy of prohibiting handguns in our parks and declares it an emergency.

I have a comment to make on this, which is that although of course I will vote for this, because it restricts handguns from our parks, I just want to take this opportunity to clearly express my own opinion that Ohio passage of the concealed carry weapons law is a terrible step. I cannot imagine that concealed carry will not cause an increase in impulsive shootings, whether they are done in moments of anger, whether they are done in moments of recklessness, moments of carelessness, I just think for many different reasons we’re going to see an increase in tragedy as a result of people going about their business routinely carrying their concealed weapon with this. I will be in favor of doing everything that we as a city council are able to legally do to impose any limitations that we can in our own city on

concealed carry. So that being said, I offer Ordinance No. 61-2004(PSH) for passage.”

Mayor Kelley accepted Ordinance No. 61-2004(PSH).

Council Member Caplan stated, “I’d like - although I will be voting for this legislation because we need to do it for the City of Cleveland Heights, I cannot help but remark at my utter distaste for the Ohio legislature that chose to spend so much time to pass a hundred page bill about carrying concealed weapons which has no value that I can see in bettering our society and could not spend the equal amount of time or even somewhat less time passing a bill that would fund education in our public schools to our children of our community. If they had spent some of that time it would certainly be much more responsive to the needs of a community. This was responsive to a very small group of people in southern Ohio and it’s abhorrent to me that we are having to deal with a concealed weapon law when there are so many more important things that we need to be dealing with in this state. That’s all.”

Vice Mayor Montlack stated, “Well, since my two colleagues have made such statesmen-like comments, you saved me the embarrassment of being really sarcastic about what this outrageous legislation from the state, but our law department has done a good job of working through what limited authority our city has in order to present an ordinance that gives the city a little more help in protecting its residents. Thank you.”

Council Member Wilcox added, “I would just like to add again, we’re adopting what has really been passed by the legislature and on our local level this is obviously something that we would not chose to enact on our own, but I did want to especially want to thank our law department, John Gibbon and Laure Wagner, who is here tonight, for their hard work. I’ve had the opportunity to look at this statute as well and it’s a much more confusing statute than it needs to be, in my opinion. So I wanted to thank the law department and Chief Lentz for their good work here and giving us some direction in our particular legislation to at least make it the best we can for Cleveland Heights.”

Council Member Hicks added, “I want to say for the residents to understand, that the one reason that we are doing this, because we could do nothing, and the state law would be in force, is that if our local enforcement gives a ticket because someone violates this on the local level, not the felonies, but on the local level, the fines will come to the City of Cleveland Heights and so that’s why it’s good for us to pass this ordinance here today.”

Mayor Kelley said, “I shouldn’t sit back here. The bottom line is, we say this all the time, parks are for people and that’s why we have to do things like this. We have beautiful Forest Hill Park, Cain Park, Cumberland Park, Caledonia Park, the whole thing that’s going on in Columbus is really unfortunate, whether it’s the school funding issue which they refuse to deal with that forces levies, divisive for our city and other cities, whether it’s robbing our tax structure to fill their gaps or simply not dealing with issues that are important. Urban sprawl, our vice mayor has worked on this for many, many years now, to try to level the playing field which is so unlevel, whether it is with development of highway funding or the things they do. They simply don’t get it and it’s unfortunate that we have to react to a hundred page bill, House Bill 12, that they probably spent many, many hours working for a - I don’t want to say a small group of people because that’s really not fair - but to be honest with you, the time spent on House Bill 12, which will really not affect a lot of people in the end, but as Councilwoman Dietrich said, the one violent act that may occur - this is one violent act too many. Whether it is in a park or whether it’s in a school or whether there is one death or a flurry of deaths or an activity because of this, is simply one too many. This reckless behavior that keeps coming out of Columbus, that is so unfortunate when there is so much more pressing needs, whether it’s our schools or whether it’s the

funding issue or whether it's just getting down to simple quality of life issues of which we send our leaders to Columbus to do. It's about time they wake up and get on with the business of the State of Ohio and do it in a better professional way that affects the quality of life of the people. They simply don't get it. They come up with these things, a hundred pages. We're very fortunate that our law director and Laure Wagner and Chief Lentz were able to attack this and get on to it, but we shouldn't have to spend time doing these things as a city. They've gone after our budget. They've cut the local funding, government shares that come back to us time and time again - inheritance tax - what will be next? Because they don't manage their money properly in Columbus. They have not tackled the school funding issue, mental health issues - the line - you could fill up a legal pad of what the state has failed to do to meet the needs of cities like Cleveland Heights or Cuyahoga County or other cities. Enough is enough. We're going to hear more about school funding from the inner-ring suburbs, they just simply don't do it and then to cram this down our throats, like I said a hundred pages of really what is gobbledygook to get to this point to meet certain peoples' needs is just not acceptable. And of course our parks are for people and we'll forever hold that true and it's interesting that our police chief and our law director and Laure Wagner worked on this to come up with a better way to make sure our people are safe and people that visit our city and our residents are safe. We have a duty to do that and of course we'll be supporting this."

Roll Call: Ayes: Dietrich, Hicks, Kelley, Montlack, Wilcox, Caplan

Nays: None

Ordinance passed

Council Member Dietrich continued, "Finally, I have Resolution No. 62-2004(PSH). This is also a pretty weighty issue here and this deals with predatory real estate practices. Before I read the legislation, I know we've said this before, it bears saying again, please be cautious when you deal with housing appraisers, when you're getting your mortgage, a second mortgage, read very carefully before you sign any kind of agreement and if you don't understand what's in it get somebody else to help you understand it, because so many people are being taken advantage of by scams and predatory lending is just so prevalent right now. This particular legislation, Resolution No. 62-2004(PSH), urging the Ohio Legislature to enact legislation addressing predatory real estate appraisal practices; and declaring an emergency. The Ohio Legislature appointed a Study Committee to make recommendations regarding predatory lending practices. One of the recommendations addressed the problem of homes being purchased or refinanced for sums greatly in excess of their fair market values, resulting in the homeowners being unable to provide maintenance and upkeep for the homes or to sell them if necessary. The Committee's recommendation was that all appraisers be required to obtain state certification or licensure, that such appraisers be subject to criminal background checks, and that restrictions be enacted to prohibit lenders from coercing appraisers to set the property values desired by the lenders. Homeowners in Cleveland Heights have been a target of predatory refinancing solicitations, and it would be in the best interest of the City and its residents if the State Legislature enacted the legislation recommended by the Committee. Therefore, Council declares its opposition to predatory appraisal practices, and urges the State Legislature to enact the recommendations of the Legislature's Study Committee including the requirement of certification or licensure of all appraisers, criminal background checks of all appraisers, and restrictions to prohibit lenders from coercing appraisers to set property values desired by lenders. Section 2 forwards a copy of this legislation to President of the Senate Doug White, Senate Minority Leader Gregory C. DiDonato, Speaker of the House Larry Householder, State Senator C.J. Prentiss, State Representative Claudette Woodard, Governor Bob Taft and Lieutenant Governor Jeanette Bradley. This legislation would be passed as an emergency, so I offer Resolution No. 62-2004(PSH) for passage."

Mayor Kelley accepted Resolution No. 62-2004(PSH) for passage.

Vice Mayor Montlack stated, "Well, the background of this resolution ties right in with our previous comments. The predatory lending study group went all over the state, heard testimony from many affected sources, here in Cleveland received the testimony of HRRC right here in Cleveland Heights, the Metropolitan Strategy Group, the First Suburbs Consortium, the City of Cleveland, a whole variety of community development groups and when they pulled everything together from all of this work essentially they passed legislation whose obvious intent and result was to bar our home rule communities - you know home rule is supposed to be an important issue in Ohio - to bar our cities from taking effective action so that the result was of course 180 degrees different from what was needed. So here we are once again begging our General Assembly to do its job. I frankly don't hold out much hope for this resolution having any impact, but we're going to go on record with it and that's a good thing."

Council Member Caplan added, "I want to be more hopeful that our state legislature is going to enact appropriate legislation because they finally have enacted a concealed weapons legislation and that took up a lot of time, so now they're going to have some time to really look at something that might benefit our entire state, so maybe we can be hopeful about this. Although unfortunately, deep in my heart I agree with my esteemed colleague, but thank you."

Council Member Hicks added, "I'm going to be neutral and say that we hope that they do, do something, but I'm glad that our city and our council is going to do what we can do and pretty soon our group that is going to be looking at our dollars, the CAC, is going to be looking at some contingency community block grant dollars and is going to be awarding money to one of our groups that works with Cleveland Heights to look at this in our area: foreclosures, predatory lending and try to come up with some ideas and strategies for us and so that's a good thing that's going to happen for us. As I will be voting for this, I'm glad that on a local level we're going to be doing some things and allocating some dollars in Cleveland Heights to look at it on our level."

Council Member Wilcox stated, "This is the night we have to make our feelings known about our Ohio Legislature. I would just like to say, not to be cynical about it, one wonders why the Ohio Legislature appointed a study committee in the first place if they were not willing to review and accept the recommendations of the committee. All we're really asking them to do here is to review what they've asked to be studied and enact it. This is obviously a very important issue for Cleveland Heights and other communities like ours and I don't think it's too much for us to ask the legislature to take note of this legislation and give it some consideration. We will continue on this council as been previously said - we will continue to address these issues to the extent we can as a home rule city. Hopefully, the state legislature will catch on eventually. Thank you."

Mayor Kelley added, "I just want to say, we've bashed the legislature. I wish they would have spent a hundred pages on this, predatory lending. It's unbelievable - I think it was Tom Merriman, not to give him a plug, but why not, Channel 5 about three or four years ago when he was with that fine news company, did a story on real estate appraisal - flipping properties and really not being certified. Why not have these real estate appraisers certified and checked out and have them do some kind of training every couple years like lawyers and doctors? It's certainly about time, because some of the tricks of the trade, some of the things they're doing with these real estate appraisals, flipping properties and moving them up thousands of dollars. A \$60,000 property all of a sudden \$108,000 and flipping it to \$120,000. Whether it is our community or some other community, it's simply just not right. It shouldn't be happening. There are a lot of decent people, decent real estate appraisers, many who live in our community, there are a lot great lending institutions, mortgage companies, banks, 95% or so I would imagine are great people, fine people, make a great living, same with real estate appraisers. It's the 5% who I would consider bad guys that we don't want around. We don't want them in our community. Larry Householder would not want them in his community, wherever that is in southern Ohio. So

it's about time that they spend - if they give us twenty pages instead of the hundred pages with House Bill 12 and come up with something to deal with this, predatory lending, we would be that farther ahead. The time is now. It's not five years from now or six years from now, when the 70 year old widow loses her house because she didn't make that payment when they refinanced the house on her and didn't read the print. The legislature has to step up to the plate. I know that Stephanie Tubbs-Jones has tried to do something federally on some of the loan issues, but you know what - this is Ohio now guys, it's the year 2004, it's not 1960. What are you afraid of? Do your job in Columbus and quit giving us silly stuff like House Bill 12 to try to deal with, with our parks. Step up to the plate. Tackle the tough issues. You only have eight years there. Why don't you do something for a change instead of sitting on your behinds and only dealing with special interest groups."

Roll Call: Ayes: Hicks, Kelley, Montlack, Wilcox, Caplan, Dietrich

Nays: None

Resolution passed

REPORT OF THE MAYOR

Mayor Kelley stated, "The only thing I want to say is spring is upon us. When you're driving out there, slow down a little bit, our kids are still in school for another couple months. When you are cleaning your yards, rake the leaves to the grass not to the street. When you're opening it up a little bit and turning on your music and listening to our red hot Indians (Councilman Wilcox and I brought home a big win today on a grand slam) keep the music down a little bit, even though the weather is going to get a little bit warmer and hotter, be respectful of your neighbors. Keep it a little lower especially on the weekends, especially those of you who work the second shift and come home at twelve, one o'clock in the morning, be respectful of your neighbors. If you do have houses in your neighborhood that need a little painting or been a little delinquent, feel free to call Mr. Wagner at 291-4444. Put it on our list. We like to clean up the neighborhoods. We know how much one eyesore in the neighborhood brings down a neighborhood. If it is a problem house we'd like to get it on our list to be cleaned up or work with you. I don't want to create more work for Rick Wagner than he has already but we feel your pain and we'd like to make your neighborhoods a lot better. We do have nuisance abatement. I'm sure Rick is working on a list as we speak. Again, Rick Wagner would be the guy to call, 291-4444. We like to tackle these problem houses with you. But again, be respectful of your neighbor. Be respectful of our kids going to school and playing in the neighborhoods. Slow down, take it easy. I know we've been waiting for spring. It sounds like it's been winter since October 31st. Our rock salt bill alone will tell you that. It seems like it has been, but start to enjoy the weather. Clean up your house. Be careful, to our older senior citizens it's a matter of doing stuff around your house. If the price seems to good, check it out with the city, check it out with the Better Business Bureau about these contractors, some of these fly-by-night people. We are more than willing to work with you. Don't get scammed. That's why we're trying to help you with some of the lending issues, some of the real estate issues, some of the things that are going on. When you get estimates on your house, try to get two or three or even four estimates to do that paint job or fix your steps and try not to deal with the people that are just in the neighborhood doing work down the street. So often they are not doing work down the street, they are just there, excuse the expression, just to rip you off and move on to the next one. Don't pay all the money up front. Little tip from your City Council. Anything else we can help you with, we're more than happy to help you with.

Councilwoman Caplan said Cain Park is coming upon us. Our swimming pools are getting ready to open in a couple more months, so spring is coming, and summer is right behind. Let's get together and enjoy the time ahead of us.

This meeting is adjourned at 8:47 p.m. Our next meeting will be one week from tonight, on Monday, April 19, 2004 at 7:30 p.m. Thank you for joining us.”

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc