



# CLEVELAND HEIGHTS

## MINUTES OF THE CITY COUNCIL MEETING OF MONDAY, MAY 1, 2006

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: Dietrich, Evans, Kelley, Montlack, Tumeo, Wilcox

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

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

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

Council Member Tumeo moved to adjourn into Executive Session at 7:15 p.m. Second by Mayor Kelley.

Edward Kelley, presiding

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

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

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

Topic of discussion included litigation.

Executive Session concluded at 7:18 p.m. followed by the adjournment of Committee of the Whole.

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

Edward Kelley, presiding

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

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

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

The minutes of the Regular Council Meeting held Monday, April 17, 2006 were signed by Mayor Kelley along with the resolutions passed at that meeting.

"Mayor Kelley, Member of Council, I am Steve Wood, Director of the Cleveland Heights-University Heights Public Library. I am here this evening, because I bring you news about the progress of the renovation of the Lee Road Library. It is my pleasure, my distinct pleasure, to inform you that our opening day for this brand new facility will be Wednesday, September 6 at nine o'clock in the morning. We will close our temporary space at Taylor Academy on Monday, August 21<sup>st</sup>, so that we may move the library's collections back to Lee Road. Although, the public opening is on September 6<sup>th</sup>, we plan a two-day festival on Saturday and Sunday, September 16<sup>th</sup> and 17<sup>th</sup> that will recognize the grand re-opening of this brand new facility. Events will be happening throughout those days and you'll hear more about those later on. Besides new paint and carpet throughout, what will you see in the new facility? Certainly, more space for children, teens and adults. For the teens alone, over 3,000 square feet will be set aside just for them. More meeting rooms for public programming and public use. Six study rooms for tutoring or small group use. The community office, that will eventually house thirty computers equipped with small business products, newsletter and visual imaging software, and the ability to transfer photos to digital format, and an expanded free technology training to go along with it. The art gallery, operated by Heights Arts. Space that will eventually be used for theatrical productions. Light everywhere - from windows around the perimeter to the huge skylight bringing light into the first floor lobby and programming, especially as we promised the communities for children after school. Are we excited? You bet! This renovation has been long in coming, but it's finally here and it's going to be well-worth the wait. I guarantee, you will love what you see. Thank you very much, Mr. Mayor."

Mayor Kelley responded, "Thank you, Mr. Wood. I've got a feeling somebody on Council would like to comment, Vice Mayor."

Vice Mayor Montlack added, "Well, thank you for that dispassionate, objective view, and yes, I think we certainly all are looking forward to the completion of the library and especially as it will compliment so much other good stuff that's also happening right around there on Lee. So, congratulations."

Council Member Evans commented, "I found your enthusiasm is really infectious and I'm really looking forward to it. Thanks."

Council Member Dietrich commented, "Your enthusiasm throughout this process is just so admirable. Every time you come you tell us kind of about the same thing and you are just so enthusiastic about it. I'm not saying that in a bad way. You are so excited about this. I'm glad for you."

Council Member Wilcox added, "I guess congratulations - the goal line is insight and you even have it right down to the minute when you're going to reopen, so we really look forward to it and we appreciate your enthusiasm and perseverance in this project."

Council Member Tumeo added, "It's all the more sweet given the bumps along the road. Congratulations."

Mayor Kelley added, "Steve, you're in the red zone, as they would say in the NFL - you're within the 20 yard line. So, congratulations. I'll certainly have a lot more to say in August and September. I'm looking forward to it, but I really want to thank you for staying on point with your vision, your dream. This will be one of our many assets we have in this community, and I believe you look younger to me today for some reason. Probably because the air seems finer, since things are going a lot better for you. Again, thank you for your vision, for your dream and like I said you are inside the red zone - you're about on the 19 yard line - you're headed toward the goal line. And Alex is behind you and he'll block your way through, if you need to."

### **REPORT OF THE CITY MANAGER**

Mr. Downey stated, "Thank you very much, your Honor. I have no formal report this evening."

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

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that four 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. 3099(a) Belleshire Ltd., 2748 Euclid Heights Boulevard, minimum yard requirements for principal uses; BZA Calendar No. 3099(b) Belleshire Ltd., 2748 Euclid Heights Boulevard, building arrangement regulations; BZA Calendar No. 3099(c) Belleshire Ltd., 2748 Euclid Heights Boulevard, accessory use regulations; and, BZA Calendar No. 3099(d) Belleshire Ltd., 2748 Euclid Heights Boulevard, off-street parking requirements. Your Honor, I need to make these 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 MUNICIPAL SERVICES COMMITTEE**

Vice Mayor Montlack stated, "Thank you, your Honor. I have one piece of legislation from this committee and it is Ordinance No. 41-2006(MS), authorizing an agreement with ClevePhones, Inc. for the placement of payphones on the public rights-of-way; and declaring an emergency.

This ordinance comes to us by way of the law department and relates to a number of places where you will observe payphone already exist. Payphones that have been placed there by ClevePhones, Inc.

As recommended by the law department and pursuant to Section 1 of this ordinance the City Manager is authorized if this ordinance passes to enter into an agreement with ClevePhones, Inc. for placement of those payphones or one might say the retaining of those payphones in the rights-of-way. There are some items for compensation in the agreement, modest compensation to the city and the agreement that we are authorizing shall expire December 31, 2006 and shall be approved as to form by the Director of Law. So, as you can see, this is an ordinance for a very limited period of time relating to some payphones that are already in existence and we should keep in mind that the city is considering measures relating to its overall management of the rights-of-way. With that said, I would suggest that not a whole lot necessarily should be assumed about the Ordinance No. 41-2006(MS), other than what is in front of you and that ordinance is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 41-2006(MS).

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

Nays: None

**Ordinance passed**

Vice Mayor Montlack commented, "Just one comment since I'm wearing a Municipal Services hat tonight, if Councilwoman Caplan were here tonight she would probably remind you about recycling and I would only give one perhaps slightly different angle on that. The recycling effort for those who make it, actually cuts down on expenses for the city; landfill expense and brings in some revenue. So, it is the same thing as a negative income tax in that those who spend a few minutes in the recycling effort and take part in that every week, are helping to reduce their income tax and everyone else's taxes and on the other hand those who choose to be ignorant about the recycling effort and never participate in it, in effect, are increasing the burden on all of us. With that said, that concludes the report of this committee."

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

Council Member Wilcox stated, "Thank you, your Honor. There is one piece of legislation and there are four matters from the Board of Zoning Appeals from the meeting of April 18<sup>th</sup> and I believe Councilwoman Dietrich attended that meeting, so I am going to ask her to read them."

Council Member Dietrich stated, "There are four BZA calendars tonight and they all relate to the same property. BZA Calendar No. 3099(a), Belleshire Ltd., 2748 Euclid Heights Boulevard, in an MF3 multifamily district.

Just to orient you, this is just east of Mornington Lane on Euclid Heights Boulevard, kind of across the street from the theater. Phase One of the Belleshire Condos has been in existence for several years. It is a six-unit condo building and Phase Two is now in the planning process, just east of it. This will be 18 units, arranged so that there is actually a good amount of green space facing Euclid Heights Boulevard and sort of between Phases One and Two. These are not town houses, all except for two of them are one-floor condos.

The first part of the variance is that they have requested a variance from the minimum yard requirements for principal uses of the Zoning Code to permit a 20'-front-yard setback from Euclid Heights Boulevard where a 30'-front-yard setback is required. This variance was granted by the BZA because the proposed setback is still greater than the setback of the other properties that surround it in the neighborhood, and having the smaller setback allows for more parking in the garage and really doesn't make much difference to anything surrounding it. They granted the variance. They are required to obtain approval of the Architectural Board of Review prior to construction and all construction subject to this application is to be completed within 18 months. I offer BZA Calendar No. 3099(a)."

Second by Council Member Evans.

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

Nays: None

**Resolution confirmed**

Council Member Dietrich continued, "The next one is BZA Calendar No. 3099(b), also concerning Belleshire Ltd. This request is for a variance from the building arrangement regulations of the

Zoning Code to permit a minimum distance between walls facing each other of 15', where the Zoning Code requires a 20' distance between walls facing each other. These are not walls of two separate buildings, these are walls that are in an alcove that's created by the entrance of the building. This also was approved and mostly because the - they called [it] a notch in the building that it creates an important architectural characteristic in the front of the building. Instead of having a negative impact, it actually has a positive impact. It's just where the notch goes like this - it should be 20' - 15' [was approved]. So that's BZA Calendar No. 3099(b) that I offer."

Second by Vice Mayor Montlack.

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

Nays: None

**Resolution confirmed**

Council Member Dietrich continued, "BZA Calendar No. 3099(c), also Belleshire, Ltd. This variance was requested from the accessory use regulations of the Zoning Code to permit balconies with 8'-setbacks from a side lot line where the minimum are 15'-setbacks and 17'-setbacks from the rear lot line where 25'-setbacks would be required. This was granted based on the fact that the lot is irregular and the topography wouldn't allow for code-conforming balconies and that the placement of the balconies does not present a privacy issue or the units in the development or neighboring properties.

I just want to comment here that I'm going to be voting no on this, because from the drawing it really does look to me that it presents a privacy issue to the neighboring property. There is a house just to the east of this that is very close to the lot line and to me when I look at the drawing the balcony really is too close to that house. I'm just explaining my vote, but I offer BZA Calendar No. 3099(c) for passage."

Second by Council Member Wilcox.

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

Nays: Dietrich

**Resolution confirmed**

Council Member Dietrich concluded, "Finally, BZA Calendar No. 3099(d), also the same property and this variance is for off-street parking requirements of the Zoning Code. The requirement is for 2 parking spaces per unit and they are actually one space short. They will end up with 1.94 parking spaces per unit, and so this variance was granted because it presents further encroachment into the front yard setback - the garage would have to be bigger and also because there is on-street, overnight parking on Euclid Heights Boulevard. Finally, I offer BZA Calendar No. 3099(d) for passage."

Second by Council Member Tumeo.

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

Nays: None

**Resolution confirmed**

Council Member Wilcox stated, "Next, I have Resolution No. 42-2006(PD), authorizing an agreement with ERDO, LLC for the use of a portion of the public property adjoining the building at 2263 Lee Road for outdoor dining purposes; and declaring an emergency. ERDO, which operates a business know as Felt at 2263 Lee Road intends to conduct outdoor dining on the east portion of its property.

They have requested permission to use a small corner of city-owned property adjoining its property for such outdoor dining and placement of its dumpster. The request will not interfere with the use of the public property for parking purposes, which is in short supply in that particular area. The use will enhance the Cedar-Lee Business District and be to the benefit of the City and its residents. If you notice along Lee Road there are more outdoor dining opportunities. I think the Stone Oven which is nearby there will be another one. Section 1 of this resolution authorizes the City Manager to enter into an agreement with ERDO, LLC for the use of a portion of the City-owned property adjoining 2263 Lee Road for the placement of a dumpster and/or picnic tables for outdoor dining for the business patrons of Felt. The agreement will provide for the placement of a dumpster and picnic tables as shown on an attachment to this resolution and actually the area that is city-owned is a very small portion of the outdoor dining area and the property lines in that particular area are very irregular. The term of the agreement is from May 1, 2006 through November 1, 2006 with optional seasonal renewals. The outdoor dining is between the hours of 7:00 p.m. through 2:30 a.m., Monday through Friday, and 1:00 p.m. through 2:30 a.m., Saturday and Sunday, and shall allow Felt to serve alcohol, subject to approval of the Ohio Department of Liquor Control. The agreement shall require the business to hold the City harmless from any claims resulting from the use of this area, and to carry insurance coverage acceptable to the City Manager and the Director of Law. Also, this agreement provides that it may be terminated by the City at any time if the City, in its sole discretion, determines it needs the property for public purposes or that the outdoor dining is creating a nuisance or is not in the best interest of the business district. I offer Resolution No. 42-2006(PD) for passage tonight."

Mayor Kelley accepted Resolution No. 42-2006(PD).

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

Nays: None

**Resolution passed**

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

Council Member Evans stated, "Thank you, your Honor. I'd like to present Resolution No. 43-2006(PSH), declaring the property at 3356-58 Desota Avenue to be a nuisance; authorizing abatement of the nuisance; and declaring an emergency. The City Manager and the Certified Building Official have reported to this Council that this particular property owned by absentee owner Paul Shaughnessy residing in Dayton, has not been maintained for a number of years and is in a state of severe disrepair. It has further been reported that the owner of the property has been cited by the Housing Inspection Department for several housing code violations on the property over the past year and that no progress has been made. It is further reported that the property has deteriorated over the years to the point that it is a hazard to the health, safety and welfare of the occupants and the public and is a blighting and deteriorating factor in the neighborhood adversely affecting the value of neighboring property.

This particular property, the amount of money assessed for the improvement is about \$16,750.00 and it is believed that this would certainly give the exterior of the property the necessary face lift to improve the look of the neighborhood. As all of you are well-aware, that each time we declare one of these properties a nuisance and there is a certain amount of money assessed, that dollar amount becomes part of the tax duplicate as a lien and that when the property is sold, that money comes back to the city. I'd like to present Resolution No. 43-2006(PSH) for passage."

Mayor Kelley accepted Resolution No. 43-2006(PSH).

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

Nays: None

**Resolution passed**

**REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE**

Council Member Tumeo stated, "Thank you, your Honor. I have no legislation tonight. While this will be too late for the television audience, I would encourage everyone to remember to vote tomorrow in the primary."

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

Council Member Dietrich stated, "Thank you, your Honor. I have no legislation either for this committee but I do have a couple of things to talk about. One is something that I saw in the paper this morning, so just in case anybody missed it, I'm going to tell you about it. You hear us talking about the problem that we have with foreclosures, not only in Cleveland Heights, but really throughout the state. Some groups have embarked on a state-wide campaign to prevent home foreclosures. These groups are affiliated with Neighbor Works America and they provide a toll free number that homeowners can call for help with negotiating repayments plans and possibly getting emergency loans, if they are in danger of being foreclosed. The toll free number is 888-995-4673 and there is another foreclosure prevention campaign that is being sponsored by Cuyahoga County and they encourage homeowners that are in danger of foreclosure to call United Way First Call for Help at 211 or at 216-436-2000. I thought I would just bring those to the peoples' attention because I know it is a big problem for us.

Secondly, on a happier note, because it is finally spring. I hope that people have read their spring and summer Parks and Recreation booklet. It is time now, starting today, signing up for swimming lessons and the other pool programs. Just to remind you that in order to sign up for the programs you need to have a recreation ID which you can get at the community center and once you have a recreation ID, it only costs \$1.50. You can then have free use of tennis courts, basketball courts, the wading pools, the skate park and also once you have your ID you can sign up for other programs. Once you have the ID you don't have to go to the community center and sign up for programs you can do it by mail or by phone.

When you go to Cumberland Pool this year, you'll notice that your tax dollars are at work. The money you voted - the Recreation .7 mill levy that passed recently, improvements have been done to the Cumberland Pool bath house, there are new partitions, the changing areas are larger, there is new paint, the lap lanes in the pool have been repainted, so you'll see your tax money at work there.

One summer program that I want to encourage people to sign up for is Safety Town. Safety Town is a program for children who are five years old who will be going to kindergarten in the fall, where the police teach the children how to cross streets safely, how not to go with strangers, how to know their address and their phone number, what to do in an emergency, how to dial 911, things like that. So, I encourage you to look in your parks and rec booklet and if you have a five-year-old, sign that little person up for Safety Town, it makes them be able to go to school in a more safe way if they have to walk to school.

Another thing to look for in the book is the Youth Scholarship Fund. If you have a child who would benefit from any of our parks and programs, but you feel that you can't afford the fee, the booklet will tell you how to access a scholarship for your child. It will also tell those of you who would like to make a donation, how to do that. It's our 85<sup>th</sup> anniversary and so an eighty-five dollar donation is the going thing this year, so if you'd like to do that, the booklet will tell you that as well.

Finally, summer hours have begun at the community center which means that the fitness center closes at 9:00 on the week days and 6:00 on Saturdays and Sundays. Two weeks from now I will tell you about

Cain Park. That's all that I have."

**REPORT OF THE FINANCE COMMITTEE**

Vice Mayor Montlack stated, "Thank you, your Honor. There is no report from this committee tonight."

**REPORT OF THE MAYOR**

Mayor Kelley stated, "There is no Mayor's Report, also. We will adjourn this meeting at a record setting 8:02 p.m. Our next meeting will be Monday, May 15, 2006. Thank you for coming tonight."

Respectfully submitted,

Edward J. Kelley, Mayor  
President of Council

Thomas K. Malone  
Clerk of Council

/mwc