



CITY OF CLEVELAND HEIGHTS, OHIO MINUTES OF THE COUNCIL MEETING OF MONDAY, MAY 3, 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: Evans, Kelley, Montlack, Stephens, Tumeo, Wilcox

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

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

Topic of discussion included general information pertaining to the City Manager's weekly memo. Representatives of the Plain Dealer also attended the Committee of the Whole.

Committee of the Whole adjourned at 7:25 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: Evans, Kelley, Montlack, Stephens, Tumeo, Wilcox

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

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

The minutes of the Regular Council Meeting held Monday, April 19, 2010 were approved and signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

"I'm Mary Dunbar, and I live at 2880 Fairfax Road. A couple of months ago, I mentioned at a City Council meeting that I was submitting an application for Cleveland Heights to be recognized as a Bicycle Friendly Community by the League of American Bicyclists. In preparing the application, I had great input from people at City Hall, especially Director of Planning and Development, Richard Wong, and Police Chief Martin Lentz, as well as from others, such as Sally Hanley at the Northeast Ohio Areawide Coordinating Agency (a.k.a. NOACA), David Beach at GreenCityBlueLake and Joy

Henderson, a Cleveland Heights bicycle advocate, who joins me tonight. The result of the application was that the League of American Bicyclists announced two days ago on May 1st that our City received Honorable Mention. This is good news. It means that we have a solid base on which to build for an award as a safe and strong bicycle friendly community. For you information, the awards from top to bottom are Platinum, Gold, Silver and Bronze and we can apply again next year. Once we have an award, it's good for four years.

A few of our civic strengths in bicycling include a Safety Town program going back to 1961. Our City is in the top 10 percent nationally in the use of bicycles by residents to commute to work. Our quiet residential streets are safe for bicycling to schools, City recreational facilities and business areas. For those who promise to wear a helmet when bicycling, our Police Department waives the \$2 fee for registering residents' bicycles, as required in Cleveland Heights. These are important strengths, but we also clearly have room for improvement. I am still awaiting complete feedback on the application so that we can develop an action plan, but I talked to the head of the Bicycle Friendly Community program at the League of American Bicyclists and had some feedback from him about where we could go from here. The League's Bicycle Friendly Community program has what it calls the five E's – engineering, education, encouragement, enforcement, and evaluation and planning. To get to where we need to be will take collaboration between bicycling advocates and the City.

Let me outline a few preliminary ideas of steps City Council and our City could take to help us improve in each area.

In the **engineering** area, we already have a few bike lanes and are on track for more. It would be excellent for City Council to make an explicit policy commitment to "complete streets," which means streets that enable pedestrians, bicyclists, motorists and transit riders of all ages and abilities to safely move along and across the street. I believe that, through participation in NOACA, Cleveland Heights already implicitly embraces complete streets. City Council could also submit Congressionally Directed Projects involving bicycling to our national Congressional representatives to be considered for inclusion in an upcoming appropriations bill. An example would be the project to build a multipurpose trail on the south side of Cedar Glen, as proposed by transportation engineers in the recent study of transportation in the Cedar Fairmount area.

Education is second area for improvement. It would be great if we could develop what is called a Safe Routes to Schools program, which enables community leaders, schools and parents to improve safety and encourage more children to walk or bicycle safely to school. Other benefits include reduced traffic congestion, reduced environmental impact, improved health and a more livable community. After some preliminary work, Shaker Heights recently obtained \$50,000 from the Ohio Department of Transportation (a.k.a. ODOT) for Safe Routes to Schools. ODOT has more funds available. A key benefit is that ODOT engineers would visit our schools and help plan transportation enhancements.

One area where Cleveland Heights could be much stronger is in **encouragement** of bicycle usage and safety. A first step would be for City Council to join many other cities and states in a resolution for a Bicycle Month in Cleveland Heights or for a Bike to Work Week.

The fourth area for improvement relates to **enforcement**. Due to cutbacks, our Police Department, for the first time after many years, no longer has anyone assigned to bicycle issues. There are some easy things that could be done to boost police awareness of bicycle issues. For example, a police force bicycle liaison could share the American League of Bicyclists' video on bicycle issues with other officers at roll call or on other suitable occasion.

The final area for improvement is **evaluation and planning**. We're already in the top 10 percent nationally for bicycle commuting, but what would we have to do to get even more of our residents using bikes for commuting? As another example, we have few reported bicycle accidents and incidents, but what could we do to make people even more sure that bicycling in Cleveland Heights is safe?

To conclude, I am a strong believer in building on your strengths. In Cleveland Heights, we have a lot of strengths, and we already are moving in the right direction on bicycling, which can be a component of both sustainability and wellness programs in our City. Being recognized as a Bicycle Friendly Community would give our City even more cachet, and that's good for our image. Awareness of environmental and health issues is growing, and becoming even more of a bicycle friendly community plays to people's desire to do something. It's already happening. I was at Zagara's on Saturday and saw five bicycles, including three with carriers that could take home as much as a week's worth of groceries. Yesterday, the Coventry Library had a family bicycle ride down Washington Boulevard to re-enact a ride by the authors of the Curious George stories to escape Nazi-occupied France. One of our City's newest businesses is Buddhaful Spin, which combines bicycle spinning and yoga on Coventry Road.

To those of us who enjoy biking [we] ask for your support in making Cleveland Heights even more bicycle friendly than it already is, and ever more a regional leader for bicyclists. We'd like to come back with a doable, specific, no- or low-cost action plan that takes advantage of excellent opportunities for bicycling in Cleveland Heights. We'd like to work to build a collaborative effort with our City in this area.

So, thank you for listening and considering. Please let me know if you have any questions or comments or if we can help you as you consider bicycling in Cleveland Heights."

Mayor Kelley thanked Ms. Dunbar and commented, "I do want to make just one point clear. Our safety forces, our police department is back up to full force. So, Mr. Downey, could you look into her fourth point about the bicycle awareness within the force and we'll work with her on that?"

Mr. Downey agreed.

Mayor Kelley continued, "So, we're back to full force and we've been there since February 1st and I assume you had a conversation with the Chief before that, so it is time to look into that and Mr. Downey will be your point person on that as our Safety Director."

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have just one item this evening. Pursuant to Ordinance No. 65-2009, which authorized the City Manager to purchase vacant, abandoned and foreclosed homes for the purposes of demolition or rehab and sale to an owner-occupant, I would like to report and make a matter of record that the City has entered into an agreement for the purchase of property at 3423 Spangler Road in the amount of \$10,500.00 plus closing costs. Your Honor, I would request that this be made a matter of record."

Mayor Kelley made it 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 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. 3216 A. Malachi and Tasha G. Mixon, 17495 North Park Lane, permit a 3-car garage addition set back 5.93' to 8.51' from the west property line; and BZA Calendar No. 3217 Merrill N. and Linda Foster, 2304 Noble Road, build a 2-car garage. Your Honor, I need to make these a matter of record."

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

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There are two BZA resolutions and two pieces of legislation. I'll take the BZA resolutions first. They are from the April 21st meeting of the Board of Zoning Appeals. The first is BZA Calendar No. 3216 A. Malachi Mixon IV and Tasha G. Mixon, 17495 North Park Lane / 17495 North Park Boulevard, in an 'AA' single-family district, making an application to request a variance from the minimum yard regulations of the Zoning Code to permit a 3-car garage addition 5.93' to 8.51' from the west property line, where the Zoning Code requires a 10' minimum side yard setback. A public hearing was held on April 21st at 7:30. In the finding of the Board of Zoning Appeals, the applicant will suffer practical difficulty if the variance is not granted because the house is located on a difficult site with a steep slope to the south and the house is not centered on or parallel to the property lines; the applicants desire to keep the addition perpendicular to the existing house to complement the home's traditional architecture; the topography and site layout is not conducive to garage placement south or east of the house; and it is desirable to any owner to have a large, continuous yard area east of the home; and in addition there is extraordinary support from the neighborhood for the variance. The applicant is required to obtain approval from the Architectural Board of Review, obtain a building permit, and complete the construction within 18 months of the date the variance is approved by City Council. In addition, the applicants are required to come back to the Board of Zoning Appeals for another variance should the property owners consider future modifications that would increase the addition's height or length. I would move for approval of BZA Calendar No. 3216."

Second by Council Member Tumeo.

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

Nays: None _____ **Resolution confirmed**

Council Member Wilcox continued, "Thank you. Next, I have BZA Calendar No. 3217 from their April 21st meeting, Merrill N. and Linda Foster, 2304 Noble Road, in an 'MF-2' multi-family district, made an application to request a variance from the accessory use regulations, to permit a two-car garage at their existing two-family home, where a four-car garage is required by the Code. The Board of Zoning Appeals found that the applicants would suffer practical difficulty if the variance was not granted because this lot is unique and that it is an exceptionally deep lot, but it is only 43.35' wide; construction of a Code-conforming four-car garage with a 3' side yard setback is not possible and a three-car garage would limit access and visual connection from the house to the 120' deep yard that exists behind the garage; and in addition two trees would be lost if a four-car garage was constructed. So, the applicants are required to obtain a building permit prior to construction. There also must be provision for two surface parking spaces in a turn-around area and all construction to be completed within 4 months. I offer BZA Calendar No. 3217 for passage."

Second by Vice Mayor Evans.

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

Nays: None _____ **Resolution confirmed**

Council Member Wilcox continued, "Thank you. Next, I have Ordinance No. 44-2010(PD), authorizing the transfer of vacant City-owned property at 924 Woodview Road to Hope Gardens, an Ohio nonprofit corporation, for community garden purposes; and declaring an emergency.

As you may know, Council has previously elected to participate in the United States Department of Housing and Urban Development \$1.00 Home Sale to Local Government Home Program and one of the properties that was purchased, under this program, was the property mentioned, 924 Woodview Road for a dollar. Council then enacted program requirements and authorized the City Manager to develop program guidelines to govern the purchase and disposition of these dollar homes. Pursuant to those guidelines the structure at 924 Woodview was demolished and now the dollar home group of the City has recommended the transfer of this lot to Hope Gardens which is an Ohio nonprofit corporation which operates a community garden on the adjacent parcel to this property. So the transfer would allow the expansion of this community garden and it would be a proper development purpose under the Dollar Home Program and would be in the best interest of the City. I should point out that we heard tonight, as well, that the produce from this garden goes to local food banks and hunger programs so that this is a garden that is truly a community garden. It's a good news story for the City and the Hope Gardens.

Section 1 provides the City Manager be authorized to enter into an agreement with Hope Gardens, to transfer the City-owned property at 924 Woodview Road which is Permanent Parcel No. 681-38-002 for expansion of the community garden. The agreement shall provide that the Lot be transferred by quit-claim deed with consideration being Hope Garden's agreement (and I'm going to read this, because it is slightly different than the version we first had) to assume responsibility for the maintenance and taxes of the Woodview Lot, and to use the same for the operation of a community garden. The City shall pay for the preparation and recording of the deed. The agreement shall contain such further terms as recommended by the City Manager and Director of Law, and shall be approved as to form by the Director of Law. The City Council further makes the finding that the property is not needed for municipal purposes, and the transfer to Hope Gardens for community garden purposes is a valid public and community development purpose. I offer Ordinance No. 44-2010(PD) for passage tonight."

Mayor Kelley accepted Ordinance No. 44-2010(PD).

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

Nays: None _____ **Ordinance passed**

Council Member Wilcox continued, "Thank you. Next, I have Resolution No. 45-2010(PD), declaring May, 2010 as National Preservation Month; and declaring an emergency. Historic preservation is an effective tool for managing growth, revitalizing neighborhoods, fostering local pride and maintaining community character while enhancing livability. Historic preservation is relevant for communities across the nation. In the past years our City staff has been involved in a wide variety of projects that help the City to preserve and promote its historic resources, including helping residents research their homes' histories, entering original building permit data into a database, providing on-

site rehabilitation advice on topics such as paint color selection, paint removal, and window repair, and working with businesses through the Storefront Rebate and Loan Programs. The City has shown a continued dedication to promoting the City's history, architecture and historic preservation through our partnerships with the Cleveland Restoration Society to administer the Heritage Home Loan Program. It allows owners of older homes to access low-interest loans and technical assistance necessary to sensitively rehabilitate their older homes. The City has operated the Cleveland Heights Historical Center at Superior Schoolhouse which draws visitors for tours and research. This year, "Old is the New Green" is the theme for Historic Preservation Month 2010, co-sponsored by the City of Cleveland Heights and the National Trust for Historic Preservation. Section 1 of this Resolution declares that Council proclaims May, 2010 as National Preservation Month, and calls upon the residents of the City to join their fellow citizens across the United States in recognizing and participating in this special observance. I offer Resolution No. 45-2010(PD) for passage tonight."

Mayor Kelley accepted Resolution No. 45-2010(PD).

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

Nays: None

Resolution passed

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Montlack stated, "Thank you. There is one piece of legislation from this committee tonight, Ordinance No. 46-2010(PSH), amending specified sections of Part Three, Traffic Code, and Part Five, General Offenses Code to conform such Ordinances to current State Law; and declaring an emergency.

As most people know, the State sets certain standards, procedures and criteria in the area of traffic control and criminal law. Each year or so, as the State passes various changes in those regards, it is incumbent upon cities to change their ordinances accordingly. That is to say if they want their ordinances to mirror the state law and coincidentally have offenses for which there are penalties under the city ordinances. There are a number of changes. I will not go through them all. One or two that you've heard about has to do with the new change in the Child Restraint Systems which require certain children between four and eight years of age to be secured in a booster seat and making different rules with regard to younger children. You may have heard of that and quite frankly one that I haven't had a chance to check out adds exceptions for persons possessing a permit for and being in an electric-powered all-purpose vehicle and also clarifies when carrying concealed weapons does not apply. So, if you are in the State of Ohio we frown on texting while driving, but if you're going to waive a gun around, probably in certain situations, you're quite alright. Ordinance No. 46-2010(PSH) is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 46-2010(PSH).

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

Nays: None

Ordinance passed

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Stephens stated, "Mr. Mayor, I have no report from this committee this evening."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Vice Mayor Evans stated, "Thank you, your Honor. I'd like to present Resolution No. 47-2010(CRR), proclaiming May of 2010 as Mental Health Month and promoting the *Live Your Life Well* campaign; and declaring an emergency. Whereas, National Mental Health Month was first observed in 1949, and has helped to improve the health and lives of millions of Americans by letting people know that caring for their minds, as well as their bodies, is good for overall health and key to their success at home, work and school. With increasing economic troubles piled on to the stress of work or unemployment and family demands, more and more Americans are suffering from mental health problems; and recognition of the current difficult times, the Cuyahoga County Community Mental Health Board has joined with Mental Health America and numerous other agencies, governmental entities and organizations to promote the *Live Your Life Well* campaign during the 2010 Mental Health Month. The purpose of the *Live Your Life Well* campaign is to provide people with ten specific, research-based tools that can combat stress and promote mental health and well-being. This Council wishes to join with the Cuyahoga County Community Mental Health Board and cities throughout this nation to recognize May as Mental Health Month and to promote the *Live Your Life Well* campaign. Therefore, be it resolved by this Council that Council hereby proclaims May of 2010 as Mental Health Month in the City of Cleveland Heights and declares its support of the *Live Your Life Well* campaign. I'd like to submit Resolution No. 47-2010(CRR) for passage this evening."

Mayor Kelley accepted Resolution No. 47-2010(CRR).

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

Nays: None

Resolution passed

Vice Mayor Evans continued, "I'd like to announce that our wonderful 2010 Cain Park brochure will be mailed out this week. Take time to look in it. There are many acts. There is something for everyone. There are a number of special events. We have \$5.00 Fridays. We have \$2.00 Tuesdays. We have special kids matinees at a low cost and our Arts Festival this year will be July 9, 10 and 11. Friday will be free admission and Saturday and Sunday the admission has been increased to \$5.00, but as always, Cain Park is going to be just wonderful this summer and so I do encourage all of you to look through the brochure. The calendar is fairly complete. We may have an act added to here and there, but it's a good thing. So, please join us this summer. That concludes my report."

REPORT OF THE FINANCE COMMITTEE

Council Member Tumeo stated, "Thank you, your Honor. I have no legislation, but I have just one item. I would like to wish everyone in the community a Happy Mother's Day, that's coming up this coming Sunday. I would like to encourage everyone to take time to recognize the women in your life who help you, who nurture you and love you, whether it be your mother or your grandmother or your wife or your partner, but make sure you reach out and acknowledge the effort it takes to support and take care of you. Thank you."

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Montlack stated, "Thank you, your Honor. There are two pieces of legislation from this committee. First is Ordinance No. 48-2010(MS), authorizing the City Manager to participate in a Consortium to invite proposals for recycling processing services; and declaring an emergency.

There are a number of cities, mostly in the eastern part of Cuyahoga County that have been holding meetings to determine whether by joining together in a consortium, among other things, could increase the fees or decrease the penalties for recycling materials in relation to the entities or entity that may want to make a deal for those materials. Interestingly, as reported to us by our Public Works Director Alex Mannarino, there are different rates given to different communities. Our staff including Mr. Mannarino and Tony Torres, the solid waste division supervisor have been attending those meetings and are participating in the discussion.

Under this Ordinance, the Council authorizes Tony Torres, in that position, to meet with the Cuyahoga County Solid Waste District and the municipal participants in the consortium for the development of proposal documents, to review those documents and to make recommendations to the City of Cleveland Heights in regard to any successful contractor. Ordinance No. 48-2010(MS) is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 48-2010(MS).

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

Nays: None

Ordinance passed

Council Member Montlack continued, "Resolution No. 49-2010(MS), authorizing the City Manager to enter into an agreement with Meter Products Company, Inc. for refurbished parking meter components; providing compensation therefor; and declaring an emergency. Under this Resolution, the City Manager is authorized to enter into an agreement with that company for the purchase of those refurbished parking meter components, which as everybody who has put coins in a meter knows seem to wear out just before you put the coin in. This is in relation to the Cedar-Lee Parking Garage and other City lots and street locations. The agreement shall provide for compensation for that equipment in the sum of Forty-two Thousand Eight Hundred Eighty-one and 60/100 Dollars (\$42,881.60) as detailed in the memorandum from the City's Capital Projects Manager dated March 30, 2010, a copy of which is on file with the Clerk of Council. Resolution No. 49-2010(MS) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 49-2010(MS).

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

Nays: None

Resolution passed

Council Member Montlack continued, "Just to comment, recently the fund for our economic future, which is in effect a consortium of various funders around this region, put out a challenge grant project asking for projects that would further regionalism. It applied to sixteen counties in the Northeast quadrant of Ohio. One of those projects was set forth by the First Suburbs Consortium, actually its Development Council, which is composed of or represented in the economic development directors and their counterparts from all of the various members of the First Suburbs Consortium. What is also encouraging is that this particular project that I'm going to tell you about briefly also comes to us through the cooperation of the City of Cleveland which is using some of its funding on a loan to the First Suburbs Consortium to allow Cleveland and the First Suburbs to develop a proposal, which now has been done, for the creation and implementing of a solar special improvement district to provide solar energy projects and to help fund those projects to various private dealers - private entrepreneurs. They have submitted this project to the fund for our economic future.

Now, here is the important part. Everyone in the county and in the region is invited to vote on any of the projects that are submitted. So, in order to not only support green energy, but to support Cleveland Heights and in fact all of the First Suburbs or inner-ring suburbs and to support regional cooperation with those cities and the City of Cleveland. You can vote. Each person gets one vote or one vote per computer and I know you would never cheat, by going on your computer, plugging in www.efficientgovnow.org/vote. There are other ways of voting, but if you can possibly remember this or write it down it would be helpful. The winner will participate in a grant of \$330,000. So if you get a chance, cast your vote. That completes this report."

REPORT OF THE MAYOR

Mayor Kelley stated, "Very simply, "Go Cavaliers". Our next meeting will be two weeks from tonight, Monday, May 17, 2010. This meeting is adjourned at 8:13 p.m."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc