



CLEVELAND HEIGHTS

MINUTES OF THE COUNCIL MEETING ON MONDAY, JUNE 2, 2003

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

Edward Kelley, presiding

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

Council Members absent: None

Staff present: Carbone, Carter, Czaga, Downey, Gibbon, Hull, Malone, Niermann
O'Neil, Wagner, Wong, Zins

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

Committee of the Whole adjourned at 7:30 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:43 p.m.

Edward Kelley, presiding

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

Council Members absent: None

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

The minutes of the Regular Council Meeting held Monday, May 19, 2003 were approved and signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

Diana Woodbridge, 1255 Oakridge Drive, stated, "I'm here tonight as Director of Home Repair Resource Center and I'm speaking about the proposed predatory lending regulation that is in front of you. I could say, 'right on' and sit down, but I do want to commend you from the Board and staff of the organization for responding to the very serious issue that, we believe and you believe, predatory lending is, with a piece of legislation that I think, and I'm not an attorney though, will address some of the most egregious practices - really appreciate and value your leadership. You've responded because you understand that a community cannot allow predatory lending practices to strip the equity from its homes and put excessive profits into the pockets of unscrupulous lenders all at the expense of its citizens. Once again, Cleveland Heights is in the forefront of tackling a difficult issue. Hopefully, other cities in first suburb communities here and throughout the state will follow your lead. Perhaps then, our state legislators will be compelled to pass meaningful state-wide legislation - a better answer for the

long-term. In the mean time with local legislation, that as I understand it, provides the ability to rescind a loan that meets specified prohibited criteria, the citizens of Cleveland Heights will have protection from the very worst of lending abuses. We applaud your efforts and we're proud to be part of a community with a courage of its convictions. Thank you."

Mayor Kelley commented, "Thank you, Diana, for those kind words. Thank you for all you do to make our community such a special place."

"Good evening. My name is Areda Walker and I'm a resident of Cleveland Heights at 3686 Randolph Road. I'm here on just the opposite end of predatory lending where it's affecting me trying to get my house refinanced. My husband and I got into some financial problems and we're finding that lenders don't want to lend to residents who have this predatory law that is going into affect in their area. So I'm coming to you on another aspect of it because of the fact that I am trying to do this (refinance my house). I have a lender that is really skeptical about what's going to happen if our city ordinance passes predatory lending law or is it something that's reiterating what the federal law is already? Is there some background wording in there, that's not already in the federal law?"

Mayor Kelley replied, "This Ordinance No. 72-2003 is basically a copy of the federal law, but I'm going to ask our law director, John Gibbon to comment now if he would. Please, John."

Mr. Gibbon stated, "What we would be doing with this legislation is to enact the federal law, which is also the Ohio law. It would give us the ability to enforce it. I'm sure that your lender or whatever lenders you're talking about would not want to take the position that they were interested in violating federal law and if they're not interested in violating federal law why they wouldn't be interested in violating our laws. So, I'm sure they'll stay on the right side of the law and we won't have any problems."

Mrs. Walker continued, "I have a person here with me, if he can speak?"

"My name is Eric Parker and I represent Third Financial Service Corporation. The question that I had in reference to the proposed ordinance was in reference to Section (D) (1). Every other section within the ordinance indicates covered loan. Section (D) (1) didn't specifically indicate covered loan. I personally don't know of many lenders that do cover loans any more which would be under Section 32 which is HOPA but Section (D) (1) says: 'Subject to division (D) (2) of this section, each creditor shall provide the disclosures required under this section not less than three business days prior to consummation of the transaction.' That is what is required under HOPA, but this ordinance doesn't specifically say covered loan in this section. In addition to that, the last part of that indicates that: 'After providing these disclosures, a creditor may not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided in accordance with this section.' It's saying that Section (D) (1) is subject to Section (D) (2) which (D) (2) indicates that 'A consumer may, after receiving the disclosures required under this section, they may waive their three-day rescinding period', but it isn't clear in reading this if it's talking about the HOPA three-day rescinded period or is it talking about the disclosure period at the time of signing, that that's the rescinding period on a refinance transaction?"

Mayor Kelley asked, "Mr. Gibbon, can you comment on that?"

Mr. Gibbon replied, "Well, I caught the last part of it, but frankly I wasn't sure what was being - -"

Mayor Kelley asked, "What section are you at again, Sir?"

Mr. Parker answered, "Section (D) (1) on page 3."

Mayor Kelley asked, "Under 757.02 Disclosure Required? (D) (1) on Page 3, Mr. Gibbon."

Mr. Gibbon said, "Yes. I see it. It says, 'Each creditor shall provide the disclosures required under this section not less than three business days prior to consummation of the transaction.' To me that's clear."

Mayor Kelley requested, "Please keep going."

Mr. Gibbon continued, "After providing those disclosures, 'A creditor shall not change the terms of the extension of credit if such changes make the disclosures inaccurate, unless new disclosures are provided in accordance with this section.' Is that the section that you don't find clear?"

Mr. Parker said, "It says: 'A creditor may provide such new disclosures by telephone, if both of the following are met:' This section doesn't say specifically 'covered loan'. Are we talking about all loans or just covered loans?"

Mr. Gibbon said, "But, I'd think we'd be talking about 'covered loans', but I think probably this is the sort of issue that if you want to meet with me after the meeting, then we could sit down and discuss if you're concerned as to whether the loan that you have in mind would be covered or not."

Mr. Parker said, "But a loan is not a Section 32 loan. I mean no loans that we do would be Section 32. The only concern that I have in trying to do a loan for any client in Cleveland Heights would be if we say Section 32 loan and we do, do a loan, are we then subject to it being a misdemeanor? I have another question for you. It indicates that: New disclosures - it says: 'A creditor may provide new disclosures by telephone, if both of the following are met:' But it is saying that the change must be initiated by the consumer. And (B) we do that anyway. My question is for Section (A), if the change must be initiated by the consumer and we're doing a loan for a consumer and there is a lien that comes up on title or taxes (back taxes that are due) if we call the customer and we say, 'look your taxes are past due, we need to increase your loan amount', are we now in violation of that ordinance? Because the way I'm reading it and the way that we're interrupting it is indicating that the change would have to come from the consumer. So if the change comes from the consumer, if we have to call the customer and say you're behind on your taxes - we have to increase your loan amount, now we're in violation of the ordinance. Can you see what I'm saying?"

Mr. Gibbon said, "The intention is to incorporate HOPA. If you've got a specific question why I think it's best if you and I talk about it after the meeting today. I'm available to talk with you about it, any specific provision and how we'd enforce it and so forth."

Mr. Parker said, "I understand. But after - you're voting on it tonight and so if we're not clear on this and you vote on it and it is passed and there is still a question of concern because it is not clarified then we won't be doing loans in Cleveland Heights."

Mr. Gibbon said, "The interpretation is in my court when we get to that point and I think that before you conclude that we have a problem then you and I specifically should talk about the interpretation of the ordinance."

Mr. Parker asked, "Do you understand?"

Mr. Gibbon continued, "The intention is, Sir, to comply with HOPA. That is to incorporate it. I'm sure that you don't intend to inviolate HOPA?"

Mr. Parker asked, "Would it be okay if this section then indicated 'covered - I guess the question is would this section be saying, 'covered loans', because it doesn't say that now?"

Mr. Gibbon said, "Well, we'll have to talk about it after the meeting."

Mr. Parker asked, "After you vote on it?"

Mr. Gibbon said, "Right, after the meeting."

Mr. Parker said, "Which means you'd have voted on it already, correct?"

Mr. Gibbon said, "Correct."

Mayor Kelley said, "Why don't we do this. Is that your last questions for the law director?"

Mr. Parker said, "I guess my thing is - -"

Mayor Kelley said, "Here is what we can do. I don't think the meeting is going to take more than 35 minutes so if you can bear with us, about 8:30 Mr. Gibbon will give you his full attention. If there is a point or two that needs to be changed, I'm sure this council would look to amend the ordinance. This is really, for us, a big starting point and a major step, so if there is something that really needs to be changed we will be more than happy to consider it and we appreciate you coming. But let's work specifically to do what we need to do, specifically you have a lady there that I know really wants to get her refinancing done and maybe at 8:30 you could sit down with Mr. Gibbon and work to that end and make yourself comfortable, make your client comfortable and I'm sure Mr. Gibbon will be more than available to sit down with you. If you just give us a half hour to finish our business. There is something wrong here. When substance counts, we'll be more than happy to take it under advisement and work through it at our next meeting. Rest assure."

Mrs. Walker added, "I want to thank the Council for hearing Mr. Parker on my behalf."

Mayor Kelley added, "Thank you for coming back. I know you had a meeting the other day and we really want you to get to go where you need to go, especially with interest rates as good as they are."

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have several items to report this evening. The first of which would be to advise you of Bid Document No. 2003-12, the Staunton Road Sanitary Sewer Replacement and Storm Rehabilitation Project. The lowest and best bidder is Northeast Ohio Trenching, in the amount of \$63,945.00. Bid Document No. 2003-14, the purchase and installation of dasher boards for the south rink at the Community Center. The lowest and best bidder is Construction Management Services, in the amount of \$56,454.00, and Bid Document No. 2003-15, 2003 Street Resurfacing Program. The lowest and best bidder is Schloss Paving Company, in the amount of \$577,454.00. Your Honor, I would request that the bid tabulations and award of contract be made a matter of record."

Mayor Kelley made them a matter of record.

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that 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. 3006(a) City Vision Development Corporation, Ltd., 3201-17 Euclid Heights Boulevard, off street parking regulations; BZA Calendar No. 3006(b) City Vision Development Corporation, Ltd., 3201-17 Euclid Heights Boulevard, yard requirements; BZA Calendar No. 3006(c) City Vision Development Corporation, Ltd., 3201-17 Euclid Heights Boulevard, accessory-use regulations; and BZA Calendar No. 3006(d) City Vision Development Corporation, Ltd., 3201-17 Euclid Heights Boulevard, accessory-use regulations. 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 PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans stated, "Thank you, your Honor. I'd like to present on second reading, Ordinance No. 71-2003(PSH), amending Section 553.07, "Noise Ordinances; Costs of Enforcement," of Chapter 553, "Abatement of Nuisances," of the Codified Ordinances of the City of Cleveland Heights to declare certain activities as public nuisances and to provide for the costs of abatement of such nuisances to be certified as a lien on the County tax duplicate; and declaring an emergency.

This was first read at our last meeting two weeks ago and we've had an opportunity to discuss this in lengthily detail, because after presenting it, in addition to excessive noises, there are other activities that occur on our properties in the City including, without limitation, drug use, assaults, public intoxication, public indecency, barking and vicious dogs, loitering, failure to disperse and other disorderly conduct violations, which have had a negative effect on neighborhoods. Such activities impair property values and livability of neighborhoods, adversely impact the aesthetics, vitality and value of the City's residential and commercial areas, and constitute public nuisances.

I certainly hope that people that have had an interest in this lengthily ordinance have obtained a copy or had an opportunity to read over the various different parts, most of which or all of which was read into record at the last meeting except under 553.07 Criminal Activity as a Nuisance; Costs of Enforcement under (b) (2) it was changed a little to read: 'Prior to the actual certification of any administrative and law enforcement costs pursuant to this section, the City Manager or his designee shall give at least thirty (30) days advance written notice of intent to certify such costs to the owner of the real estate against which the costs are to be certified. Any aggrieved party may appeal such intended certification to the Board of Building Code Appeals, which may affirm, reverse, or modify the proposed certification. All appeals must be filed within ten (10) days of the mailing/posting of the notice of intended certification.

We added number (3) which reads: 'Administrative and law enforcement costs shall not be charged against an owner who establishes: (1) He had no knowledge of the nuisance activities on the premises and could not, with reasonable care and diligence, have known of the nuisance activities occurring on the premises; and (2) Upon receipt of notice of the occurrence of nuisance activities on the premises, he promptly took all actions necessary to abate the nuisance including, without limitation, compliance with the requirements of Ohio Revised Code Sections 5321.17(C) and 5321.04(A)(9).' I'd like to present Ordinance No. 71-2003(PSH), Second Reading, As Amended, for passage this evening."

Mayor Kelley accepted Ordinance No. 71-2003(PSH), Second Reading, As Amended, for passage.

Council Member Caplan stated, "I'm really glad that we're doing this ordinance tonight, because every citizen in our community has the right to enjoy their home in peace and quiet and with the sense of what a residence is supposed to be. It is only a few people. It doesn't take many to really destroy the tranquility of one's life. I think one in a block or one in a several block area that can really make everybody uncomfortable and this will give the community the opportunity to really make Cleveland Heights even better than it is. So, I'm really glad we're doing this. That's all."

Council Member Dietrich added, "This is one more of those times that I am grateful that we did our visioning process, because this is actually a pretty important and bold piece of legislation and it is going to create a fairly strict ordinance. I think that our process was informed by having the visioning process happen beforehand, because we knew loud and clear or we know right now loud and clear, that there's a mandate from our citizens for quiet peaceful neighborhoods. I think this would be the kind of legislation that a group like a city council might hesitate on passing and I think that it's really important and really good and I'm glad that we are confident enough to pass this and part of that confidence is because of the visioning process. So, thanks to all of you that had input into that for giving us the impetus to do this."

Mayor Kelley added, "I want to weigh in real quickly. This is what makes Cleveland Heights a special place. The 99.99% of the people that do respect their neighbors and their neighborhoods this doesn't apply to. But that very very small small percentage of people, that are either too loud or too rowdy or disrespectful or throwing their garbage all over the neighborhood or disrespect people really need to be dealt with. And we are dealing with them in a creative, as Council Member Dietrich said, 'in a bold way', by doing this. We're not going to sit back and let other people be inconvenienced by the behavior of a very very small minority of people. I'm glad we're doing it and I'm glad we're in Cleveland Heights and I'm glad we're taking a lead in this. I want to give Rick Wagner credit for coming up with this and our police chief, Chief Lentz for coming up with this. This is just one more tool to make Cleveland Heights a more livable place to live, a more livable place to move to and a more livable place to be at and to recreate, to shop and to do things in a peaceful quiet way. I'm proud that we're doing this tonight."

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

Nays: None

Ordinance passed

Council Member Evans continued, "I'd like to read Ordinance No. 72-2003(PSH), Second Reading. It was read a couple of weeks ago. An Ordinance, enacting Chapter 757, "Prohibited Predatory Loans," of Part Seven - Business Regulation Code of the Codified Ordinances of the City of Cleveland Heights; and declaring an emergency. Whereas, predatory loans secured by residential mortgage are likely to result in default of the loans and foreclosure on the home of the borrower. Predatory loans are often made by lenders to low-income, minority and elderly borrowers. The United States Congress has enacted legislation prohibiting certain predatory loans. The State of Ohio has enacted legislation adopting the provisions of the federal laws. This Council has determined that regulation by the City of Cleveland Heights of predatory loans within the City is necessary to protect the citizens of Cleveland Heights from predatory loans and to protect the welfare and property values of the City. The state law provisions forbidding municipalities from enforcing prohibitions against predatory loans within the municipality are contrary to Article XVIII, Section 3, the Home Rule provision, of the Ohio State Constitution. Section 1 covers Chapter 757, "Prohibited Predatory Loans", including the Definitions, Disclosures Required, which is 757.01 and 757.02. Section 757.03 which is Prohibited Loans and 757.04 and 757.05 are fairly lengthily parts to this ordinance. I would like to submit Ordinance No. 72-2003(PSH), Second Reading for passage this evening."

Mayor Kelley accepted Ordinance No. 72-2003(PSH), Second Reading for passage.

Council Member Hicks commented, "Thank you, your Honor. I will be voting for this legislation this evening. I really hope, Mrs. Walker, your loan works out, but we have residents within this community and council people and city workers aren't excluded or exempt from being in a situation where a loan is needed by any means that is out there. The legislation on predatory lending is phrased correctly because these people are taken advantage of and being in the insurance business I found where people have gotten loans and didn't know that their insurance was not included. They didn't know that their taxes were not included like they were before and all of a sudden they thought they were in a good position and found themselves in a position worse than they were before they had gotten a loan. So, where people may be angry with us on this legislation, thinking that we're stopping them from getting the much needed funds that I do believe that they need, actually we're making the place fair for them, that the loan that they will receive will be a much better one for them and they won't have the surprises down the line. So, I will be voting for this legislation."

Council Member Wilcox added, "Thank you, your Honor. I, too, will be voting for this legislation tonight. I would just point out, that all we are asking lenders to do is comply with federal and state law. We're not imposing any special burden on anyone doing business in Cleveland Heights. At the same time, the federal and state governments fail to enforce their own laws. The city can step in and protect its residents now from these unlawful practices. Again, I will be supporting this legislation tonight."

Council Member Dietrich commented, "I just have a comment to Mr. Parker's question. I may be totally oversimplifying this, but I think that it just means that you have to do it in writing unless those two other things are met. I think we got it over complicated by kind of repeating it a few times and if that's it, then I think that sort of solves the problem. The other thing I want to say is a thank you. Diana Woodbridge thanked us and I think we owe Diana a thank you and the Home Repair Resource Center for giving us good input on this over the last year or so and working with the people who are actually victims of this and caring enough to help us take a stand on it really. Because when you think of what this really is, of what predatory lending really is, it is such a heinous thing. It is one of those things where you think, 'how could a company or business actually do that', because it is so well thought out. So, I thank you for helping us pass this."

Vice Mayor Montlack added, "This well-drafted legislation is actually a fairly modest effort in terms of working on the predatory lending network that is out there. Whatever good it does, is required by the inaction, relatively speaking, of both the federal government and our state government. There is a more comprehensive bill that has been submitted by actually our congressional representative, Stephanie Tubbs Jones, that would create an administrative process that would give a little better coverage. Of course, the state general assembly was specifically advised by many of us following in the lead of Diana Woodbridge on alternatives to address this problem and the state has chosen not to do anything. In fact, simply violates the physicians' rule which is, 'first do no harm'. The state has enacted, in effect, legislation that prohibits or attempts to prohibit cities from taking meaningful action and this leaves to cities a kind of Hobson's choice of trying to do something to stop this cancer of predatory lending and yet, of course, we know if every city enacted their own different legislation we would have a patchwork of uneven kinds of legislation. But in the situation this is all that we can do to try and begin to make an impact in this area. It is good work by our city, but we should all recognize that when we vote in those federal and state elections when we make any sorts of decisions we are impacting ourselves, our neighbors and our community. Thank you."

Council Member Evans added, "There will be a fair amount of publicity explaining this ordi-

nance to our residents and I would just like to encourage our residents to certainly come forth if they have some concerns or some experiences that they need to share and we'll be able to work on this even further."

Council Member Caplan added, "Last but not least. In this economic times, our community is seeing that paying bills is very difficult and as the market is not getting any better, the employment lines are getting longer and the temptation to make loans on ones' homes is very tempting because it is an easy way to get some money to pay bills and to take care of the things that one needs to do. By our doing this, the timing of this could not be any better in order to protect our community from getting themselves into an even bigger problem than they might have had before. So, I'm glad that we're going to be doing this. Thank you."

Mayor Kelley added, "This is very timely for me since I just refinanced my home. I guess I can say with Union Capital Mortgage. I went through miles and miles of paperwork. Some of which I understood on first reading and some took me a lot more time to read, so I can imagine what some other people might have been through when they go to refinance their house or take out another loan or what have you. But, more importantly to the 85% of the people that do loans the right way, the correct way, this ordinance certainly doesn't apply to you. And I thank you for what you do for our community day in and day out, but for the 15% of the people that are the scoundrels our there, that take advantage of the people in our community: the low-income, the minority, the elderly, the single-moms, we don't want you in our community. This is the step to start that and take the message back to where you are. Go somewhere else, do it somewhere else. We don't need you making loans at 11 - 12 - 14% when we know what the market really bears. Trying to take advantage of people when they don't make a payment to take their house away from them at any age is just plain wrong. This is a beginning to do something about it. Hopefully, we can do more in the months and the years to come. This shouldn't happen anywhere, especially not in Cleveland Heights. I feel that strongly about it. We've been working on it for a while. Thank you, Diana Woodbridge, for pushing us every once and a while. I also want to thank Jim Rich, who has been a voice out there advocating for this and many other people. It's simply the right thing to do. It is the right time to do it. Enough of this nonsense, enough of the stories. It's almost an everyday occurrence somewhere, not just in our town - it's just not right. People have enough on their plate, not to take out another loan or refinancing their house and then worry about it, three months or three years down the line and not being able to make a payment or being held up as Councilman Hicks said, 'the taxes aren't included or the insurances aren't included' and you find out you can't afford to do it or as I said get an interest rate at 12% when everybody knows the interest rate is somewhere between 4 _ and 6 _% depending on where you're at. We know who these companies are. They are on the front of your tv guide or wherever they're at or they don't really advertise and they have the fine print at the bottom that you couldn't read even if you had 20/20 vision and it was right in front of you. So, again, to the 85% of the people that operate and do a great job we thank you, but to the 15% of the people that I call the scoundrels, stay the heck out of Cleveland Heights and go somewhere, actually just get lost and go out of business. We don't need you. You're an epidemic, it's time to be somewhere else. Certainly, I'll support Ordinance No. 72-2003 and this coupled with Ordinance No. 71-2003 are probably the two most important pieces we'll pass this year. It's great we're doing it and I did promise somebody an 8:30 appointment with our law director, so Mr. Malone will you please call the roll?"

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

Nays: None

Ordinance passed

Council Member Evans continued, "Resolution No. 78-2003(PSH), declaring the property at 13001 Cedar Road to be a nuisance; authorizing abatement of the nuisance; and declaring an emergency. The City Manager has reported to this Council that the property at 13001 Cedar Road, has been the subject

of numerous complaints due to the noise generated by its air conditioning condenser on the roof of its building. At a public hearing on January 8, 2003, the Planning Commission approved a noise abatement plan submitted by the property owner which requires the relocation of the condenser to the ground. This Council has determined that the noise generated by the condenser in its present location constitutes a public nuisance disturbing the peaceful enjoyment of neighboring property owners and adversely affecting the value of their properties. I'd like to present Resolution No. 78-2003(PSH) for passage this evening."

Mayor Kelley accepted Resolution No. 78-2003(PSH) for passage.

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

Nays: None

Resolution passed

Council Member Evans concluded, "Lastly, it's just an announcement in reference to the West Nile virus larviciding that was started in our city probably about ten/twelve days ago. It will continue. Some of you may see people riding on bicycles with tablets treating these catch basins and we certainly hope that this will be the solution to the problem with the mosquitoes this year. That concludes the report of Public Safety and Health."

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "Thank you. I have nothing related to Administrative Services Committee but I did want to mention something that's related to the City's involvement in the Doan Brook Watershed Partnership. There is an event coming up on June 21. It's a Saturday. It's a free concert. It's a jazz concert, actually put on by a city council person from Cleveland and his group and it is at Rockefeller Park in the gazebo, which is part of the Doan Brook Watershed. It's on Martin Luther King Boulevard. So, for a free concert - mark your calendar for 3:00 on Saturday, June 21. The other thing related to the Doan Brook Watershed Partnership, I want to thank those hearty souls (there were about 30 of them) who came out to the cleanup this past Saturday at the Shaker Lakes Nature Center. We had three sites going and about 30 came to that one site and it was a terrible, terrible rainy day and these hearty souls came in their boots and their raincoats and picked up bags and bags of trash and we had expected to have a wonderful sort of festive cleanup day as a way to bring together the people in the upper and the lower watershed scene, the people in Cleveland Heights and Shaker Heights and people from along the Martin Luther King Boulevard area of the watershed. I think the rain got the better of us, but to those people who came out, good for you, thank you. That's all."

Mayor Kelley said, "I think every time we've had a cleanup day in Cleveland Heights it's rained lately. Who is the Cleveland councilperson?"

Council Member Dietrich answered, "Coleman, I think that's his name. Conwell."

Mayor Kelley responded, "Kevin Conwell."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Caplan stated, "Thank you. I have one piece of legislation. I have Resolution No. 79-2003(CRR), authorizing the City Manager to accept a grant from the Kulas Foundation on behalf of the City of Cleveland Heights; and declaring an emergency. The Kulas Foundation has awarded a grant of Five Thousand Dollars (\$5,000.00) to the City of Cleveland Heights to support the 2003 summer

program at Cain Park. Acceptance of said grant will aid in the City's efforts to present a diverse schedule of programming at Cain Park, and be of benefit to the City and its residents. Therefore, be it resolved, that the City Manager be, hereby authorized to accept a grant award from the Kulas Foundation in the amount of Five Thousand Dollars (\$5,000.00). The City Manager is authorized to execute any documents. Notice of passage shall be given and this resolution shall be passed as an emergency tonight. So, I offer Resolution No. 79-2003(CRR) for passage."

Mayor Kelley accepted Resolution No. 79-2003(CRR) for passage.

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

Nays: None

Resolution passed

Council Member Caplan continued, "Thank you. That should serve as a reminder about the wonderful programming that's going on at Cain Park. I do want to remind you that you all did get this brochure in the mail but that the pools are opening this weekend. On June 7th, pools will be open for the weekend and then they will be closed during the week and on June 14th, they will be open and be open for the next nine weeks. We're real excited about the pools being open and the sun is going to come out, I'm sure. So take advantage of our two pools and our three wading pools. Do look in the brochure to see what kind of programs are appealing to you. There are all kinds of things going on in the city.

The other thing I wanted to show you is if you get Cleveland Magazine there was a wonderful supplement. My Cleveland Magazine came today and in it is a wonderful supplement about Cleveland Heights and do look at it, it is just wonderful. It says all the things that we know are true about us, it's just a wonderful article.

The last thing I wanted to tell you is today was the Seventh Annual Luncheon for the Cuyahoga Mental Health Board and Zagara's won an award. The award that Zagara's won was for employing mental health consumers and the whole theme of the luncheon today was about how employment is a good thing for everybody and it is a particularly therapy for people who have mental illness. It gets them out. It makes them feel useful and it is a technique that is encouraged from lots of other employers. But because Zagara's does employ mental health consumers they got a particularly nice - beautiful award. Congratulations to Zagara's. That's all I have for tonight."

REPORT OF THE FINANCE COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There are four resolutions from Finance Committee tonight. These resolutions all involve our Community Development Block Grant funding and authorizes agreements with various non-profit organizations for funding programs eligible for these grants. The money is available from the Year 29 Community Development Block Grant funds of the City and these funds are federal dollars which are allocated to the City to provide funding for eligible programs under HUD guidelines which are important to our community. Since the City has participated in this program for 29 years now, its obvious that these funds have become essential to our community in assisting very important programs which would otherwise not receive the money they need to provide services to our residents particularly those of low and moderate income. This process actually started last year with our Citizens Advisory Committee making reviewing the applications and making recommendations to Council. I want to thank our Citizens Advisory Committee and Karen Knittel for their hard and excellent work in doing this. We are actually now in the process of entering into the written agreements and all the legislation tonight, the written agreements, are from the term of

July 1, 2003 and ending June 30, 2004. The first resolution is Resolution No. 80-2003(F), authorizing the City Manager to enter into an agreement with the AIDS Task Force, a non-profit corporation, for the use of Community Development Block Grant funds to provide partial funding for The Open House's Health and Wellness Program; providing compensation therefor; and declaring an emergency. This resolution authorized the City Manager to enter into the programs noted and provide total funding in the amount of Thirteen Thousand Dollars (\$13,000.00) from Year 29 Community Development Block Grant funds. Section 2 is notice of passage and Section 3 declares this to be an emergency. I offer Resolution No. 80-2003(F) for passage tonight."

Mayor Kelley accepted Resolution No. 80-2003(F) for passage.

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

Nays: None

Resolution passed

Council Member Wilcox continued, "Thank you. I next have Resolution No. 81-2003(F), authorizing the City Manager to enter into an agreement with the Center for Families and Children, a non-profit corporation, for the use of Community Development Block Grant funds for assistance with its FAME (Fun After-school Methods of Enhancement), and its Pinpoint Program at the RapArt Center; providing compensation therefor; and declaring an emergency. This legislation authorizes the City Manager to enter into an agreement with the Center for Families and Children, to provide funds in the amount of Fifteen Thousand Dollars (\$15,000.00) for the Fun After-school Methods of Enhancement ("FAME") program, and Twenty-five Thousand Dollars (\$25,000.00) for the PINPOINT Program, for a total grant of Forty Thousand Dollars (\$40,000.00). I offer Resolution No. 81-2003(F) for passage tonight."

Mayor Kelley accepted Resolution No. 81-2003(F) for passage.

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

Nays: None

Resolution passed

Council Member Wilcox continued, "Thank you. Next I have Resolution No. 82-2003(F), authorizing the City Manager to enter into an agreement with the Cleveland Tenants Organization, a non-profit corporation, for the use of Community Development Block Grant funds for assistance with its telephone information services and its Rental Rights Clinic for the Coventry / Superior area of Cleveland Heights; providing compensation therefor; and declaring an emergency. This resolution authorizes the City Manager to enter into an agreement with the Cleveland Tenants Organization to provide the telephone information services, operation of the weekly Rental Rights Clinic and consultation services. The total funding is in the amount of Six Thousand Dollars (\$6,000.00). I offer Resolution No. 82-2003(F) for passage tonight."

Mayor Kelley accepted Resolution No. 82-2003(F) for passage.

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

Nays: None

Resolution passed

Council Member Wilcox continued, "Thank you. Finally, I have Resolution No.83-2003(F), authorizing the City Manager to enter into an agreement with The Cuyahoga Plan of Ohio, Inc., a non-

profit corporation, for the use of Community Development Block Grant funds for assistance with its fair housing services; providing compensation therefor; and declaring an emergency. This resolution then authorizes the City Manager to enter into an agreement with The Cuyahoga Plan of Ohio, Inc., for a grant of Twenty-eight Thousand Eight Hundred Dollars (\$28,800.00) to assist it with enforcement activities and analysis of impediment activities. I offer Resolution No. 83-2003(F) for passage tonight."

Mayor Kelley accepted Resolution No. 83-2003(F) for passage.

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

Nays: None

Resolution passed

Council Member Wilcox concluded, "Finally, I wanted to make one comment and that is to extend my congratulations to the Heights Arts Collaborative and Peggy Spaeth and Sharon Grossman and all the people that worked on the Sweet Arts Second Chance Prom, Saturday night. The weather is much like what Councilwoman Dietrich described, it was windy, it was rainy, it was cold, but everybody had a great time and I really appreciate the support from the community for the arts by attending this fundraiser on Saturday night. That concludes the report of the Finance Committee."

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Hicks stated, "Thank you, your Honor. I have several pieces of legislation this evening. First I have Resolution No. 84-2003(MS), approving a Change Order with T & F Systems for a contract for roofing work for the Community Center; providing compensation therefor; and declaring an emergency. This resolution adjusts the original contract amount by an increase of \$49,694.00 due to changes in the scope of work. The original contract sum was \$1,563,900.00, with this increase the net contract sum will be \$1,613,594.00. Your Honor, I offer Resolution No. 84-2003(MS) for passage this evening."

Mayor Kelley accepted Resolution No. 84-2003(MS) for passage.

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

Nays: None

Resolution passed

Council Member Hicks continued, "Thank you, your Honor. I have Resolution No. 85-2003(MS), authorizing an amendment to the Cleveland Heights - WPS Energy Services, Inc. gas supply agreement; and declaring an emergency. The City Manager is hereby authorized to amend the current agreement between the City of Cleveland Heights and WPS Energy Services, Inc. to permit the City and WPS to "strike the price" for the second year based on purchases by WPS Energy Services, Inc. over a three-month period during the summer of 2003. The amendment to the current agreement shall be substantially in conformance with the draft amendment agreement on file with the Clerk of Council dated May 15, 2003, and shall be approved as to form by the Director of Law. Your Honor, I offer Resolution No. 85-2003(MS) for passage tonight."

Mayor Kelley accepted Resolution No. 85-2003(MS) for passage.

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

Nays: None

Resolution passed

Council Member Hicks continued, "Thank you, your Honor. I have Resolution No. 86-2003(MS), authorizing an agreement with Zwick Associates, Inc. to act as the City's full-time Resident Project Representative for the construction phase of the Severance Circle Reconstruction Project; providing compensation therefor; and declaring an emergency. The City Manager is hereby, authorized to enter into an agreement with Zwick Associates, Inc. The services to be performed in connection with the Project shall be as set forth in the Engineer's proposal dated May 14, 2003, a copy of which is on file with the Clerk of Council. Compensation for the aforesaid services shall be at the Engineer's standard hourly rates as set forth in the proposal, with total fees and expenses not to exceed the sum of Thirty Thousand Dollars (\$30,000.00). The agreement shall be in a form approved by the Director of Law. Your Honor, I offer Resolution No. 86-2003(MS) for passage tonight."

Mayor Kelley accepted Resolution No. 86-2003(MS) for passage.

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

Nays: None

Resolution passed

Council Member Hicks concluded, "Thank you, your Honor. I just want to say thank you to everyone who came out and made the Memorial Day parade a success. I believe the rain held back just one day and allowed us to have a good time. I want to thank Councilman Wilcox for bringing the Tootsie Rolls into our truck, because if we threw another green peppermint I think they would have thrown stones at us. Thank you. That's all that I have."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. First there are four calendars from the Board of Zoning Appeals that will be presented hopefully for approval. The first is BZA Calendar No. 3006(a) and this resolution indicates that in regard to City Vision Development Corporation, Ltd., 3201-17 Euclid Heights Boulevard, in a MF-2 multifamily district, the applicant has made application requesting a variance from the off-street parking regulations of the Zoning Code, to permit 2 dwelling units to have one-car garages. The Board of Zoning Appeals found that the applicant clearly demonstrated that there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, morals and general welfare were safeguarded and substantial justice was done.

You'll be happy to know, that in each of these four calendar items that will be presented, instead of repeating that requirement, all of the applications relate to City Vision Development Corporation, Ltd., at the address I just indicated.

So, in regard to BZA Calendar No. 3006(a) it is resolved that the applicant will suffer practical difficulty if the variance is not granted because the one-car garages for two units are necessary to make room for the first-floor master suite units that have a larger footprint because it will have no detrimental effect on the surrounding neighborhoods and because it will make the units economically viable at the site and the additional parking spaces are provided on the site; and the applicant's predicament cannot be resolved without a variance.

Probably, many of you already identified that we're talking about a variance being applied for the next phases of construction in the Euclid Heights-Lee area for the project known as Boulevard Townhouses. With that, I move that BZA Calendar No. 3006(a) be confirmed."

Second by Council Member Hicks.

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

Nays: None

Resolution confirmed

Vice Mayor Montlack continued, "Thank you. Now BZA Calendar No. 3006(b), is another variance of the same project by the same applicant, City Vision Development Corporation, Ltd., for a variance from the yard requirements of the Zoning Code, to permit a front-yard setback of 10' and a rear-yard setback of 5'. In this regard the Board of Zoning Appeals found practical difficulty in that the required setbacks would eliminate the economic viability of the development, due in part, to the curving nature of the abutting street and the resulting unusually-shaped parcel and that there would be no detriment to the surrounding neighborhood because the development is isolated from other residential properties; and the applicant's predicament cannot be resolved without a variance. BZA Calendar No. 3006(b) is presented for confirmation."

Second by Council Member Evans.

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

Nays: None

Resolution confirmed

Vice Mayor Montlack continued, "Thank you. Now, BZA Calendar No. 3006(c), regarding the same project and the same applicant, City Vision Development Corporation, Ltd., involves a variance requested from the accessory-use regulations of the Zoning Code, to permit a front-yard fence heights of 4'-6". As in each of these other calendar items this relates to the Board of Zoning Appeals hearing on May 21, 2003. Here the Board of Zoning Appeals found that the applicant would suffer practical difficulty if the variance is not granted because only the posts are 4'-6" high while the rest of the fence is only 3'-6" and mostly transparent. The proposed fence will aesthetically match that which already exists in front of the first phase of development of those townhouses that you've already seen that are constructed. Given the townhouse nature of the dwelling units, these front yards need additional definition and demarcation and the fence will create no burden on the surrounding neighborhood. That will mean that the owners will not be required to come forth in the future and tell us that their favorite tree must be protected by a new 4'-6" fence. We're going to take care of that right now, I hope. So, BZA Calendar No. 3006(c) is presented for passage on motion for confirmation, at this time."

Second by Council Member Caplan.

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

Nays: None

Resolution confirmed

Vice Mayor Montlack continued, "Finally, BZA Calendar No. 3006(d), City Vision Development Corporation, Ltd., relates to an application for a variance from the accessory-use regulations of the Zoning Code, to permit a circulation drive without setbacks from side property lines. Here the Board of Zoning Appeals found practical difficulty if the variance is not granted because the proposed drive impacts only two of the new dwelling units, interior to the project; conforming to the required setbacks would result in the loss of 2 dwelling units and make the project economically nonviable; and the drive will be only 1-way, limiting its impact. BZA Calendar No. 3006(d) is moved for confirmation."

Second by Council Member Dietrich.

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

Nays: None

Resolution confirmed

Vice Mayor Montlack continued, "One of the ongoing complaints that is sometimes heard by developers is that in many cities it is difficult to mend their way through permit approval process, and in this case, as in so many others, our staff worked diligently to both protect the community interest by putting in good design or insisting on that, but at the same time help steer this through the permit approval process so that good development was not inhibited, and we're basically ready now to get going on this project. Congratulations to the staff.

We have one piece of legislation from this committee. It is Resolution No. 87-2003(PD), authorizing an agreement with the Cuyahoga County Planning Commission for an Improvement Target Areas Identification Survey; providing compensation therefor; and declaring an emergency. This requirement relates to a scoring system on sites and neighborhoods that is referenced when block grant funds are going to be provided in relation to one set of criteria for those block grant funds so called, 'slum and blight upgrades'. The City Manager is authorized under this resolution to enter into an agreement with the Cuyahoga County Planning Commission for this survey to provide the final report, all the exhibits, for compensation not to exceed Twelve Thousand Dollars (\$12,000.00), to be paid from Community Development Block Grant Funds. Resolution No. 87-2003(PD) is presented on first reading for passage."

Mayor Kelley accepted Resolution No. 87-2003(PD) for passage.

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

Nays: None

Resolution passed

Vice Mayor Montlack continued, "Two very quick updates. First of all, you've heard us talking about all those new wonderful housing projects, well the good news is, with spring here, with interest rates low, etc., in each of those new construction sites the housing is selling like hot cakes. More to come on that.

The second, is just to remind, especially the folks who live in or around Coventry, Hampshire, Overlook, Euclid Heights Boulevard, Cedar-Fairmount area, the community circulator is now approximately 30 days away. So very shortly, especially if by any chance you may work or play in the University Circle area, you're going to have some wonderful, convenient, relatively cheap new transportation options available. Stay tuned, we'll have some more information to you as the weeks go by. That completes the report of this committee."

REPORT OF THE MAYOR

Mayor Kelley stated, "The circulator is indeed coming and we're looking for a target date of Monday, June 30 to begin operation. It'll be nailed down in the next day or two. It'll be exciting for the city. Council Member Caplan mentioned Cain Park. If you haven't got a brochure, certainly get a hold of one, there are a lot of exciting opportunities and events there. We'll have Fiddler on the Roof. Our award winning art show will be in July. Things are happening. Joe Crocker and Sheryl Crow, just to name a few people, but a lot of activity. Please by all means do not forget our youth baseball, both for

the older kids and for the younger kids every Saturday morning. Our four year-old tee ball stars, our five and six years old and our seven and eight years old stars of the future are playing on almost every school field around, so take in a game and enjoy yourself and sit back and relax. It was supposed to start last Saturday, but the wonderful rain that we all talked about, rained us all out. Our older kids are playing kid pitch from nine, ten, eleven, twelve, thirteen and fourteen years old at Denison Park. At Oxford and Forest Hill Park at almost any given night and any given Saturday - spend some time in our parks and enjoy our kids playing both boys and girls. Obviously, we have girls softball, obviously I don't want to forget that, both slow-pitch and fast-pitch. So get out in the parks and enjoy our kids. The weather will get a little hotter and it'll be nice to just sit back and relax and enjoy our facilities. Due to our interesting council vacation schedule, our next meeting of council will be Monday, June 23, 2003, three weeks from tonight at 7:30 p.m. not on June 16, so bear with us. Again, our next 7:30 council meeting will be on Monday, June 23, 2003. Council will stick around if there is anything you wish to speak to us about. The meeting will be adjourned at 8:50. Thank you for coming."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc