



CLEVELAND HEIGHTS

MINUTES OF THE COUNCIL MEETING OF MONDAY, AUGUST 2, 2004

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

Kenneth Montlack, presiding

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

Council Members absent: Dietrich, Kelley

Vice Mayor Montlack excused the absence of Mayor Kelley and Council Member Dietrich.

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

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

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 7:38 p.m.

Kenneth Montlack, presiding

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

Council Members absent: Dietrich, Kelley

Vice Mayor Montlack excused the absence of Mayor Kelley and Council Member Dietrich.

Staff present: Carter, Czaga, Downey, McGuire, Niermann O'Neil, Ruane, Steigerwald, L. Wagner, R. Wagner, Zins

The minutes of the Public Hearing held Monday, June 19, 2004 were approved and signed by Council Member Wilcox.

The minutes of the Regular Council Meeting held Monday, June 19, 2004 were approved with one correction noted. Mayor Kelley will sign the minutes along with the ordinances and resolutions upon his return.

The minutes of the Public Hearing held Monday, July 26, 2004 were approved and signed by Vice Mayor Montlack.

“Good evening. My name is Mani Ayodele. I live at 2849 Mayfield Road, Apartment 6. I come here basically to show my appreciation to Councilman Reverend Jimmie Hicks, Jr., for helping me out in a situation last week between me and a clerk at the post office. I recognize [the] Cleveland Heights post office as being one of the best post offices I’ve ever attended and I was shocked to have a disagreement with one of the clerks since they are so courteous. I went to Jimmie Hicks’ business and he counseled me and gave me advice on handling the matter. It made me think that the purpose of me always attending Council meetings on a regular basis and getting the information to get familiar with the law-making body of Cleveland Heights, that when a problem came up, that I was able to go to somebody for counseling - counseling to me - someone helping you out, you know and giving you advice when you don’t have an answer to your problems. This I see as the value of coming to the Council meetings on a regular basis. So, I’d like to [express my] appreciation, once again, thank Councilman Reverend Jimmie Hicks, as well as the other law-making body of Cleveland Heights. Thank you.”

REPORT OF THE CITY MANAGER

Mr. Downey stated, “Thank you very much, your Honor. I have just one item this evening and that would be to request authority to advertise for bids for the Meadowbrook Boulevard Rehabilitation Project which will be financed by a grant and a loan from the Ohio Public Works Commission and City-issued General Obligation Bonds.”

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

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

Second by Council Member Wilcox.

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

Nays: None

Motion passed

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Ms. McGuire stated, “Thank you, your Honor. I wish 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. 3043 Robert Goldstein, 1608 Ridgefield Road, off-street parking regulations; BZA Calendar No. 2044 Zachariha Cohen, 1552 Oakwood Drive, minimum yard requirements for principal uses; BZA Calendar No. 3045 John and Christina Pringpuangkeo, 2787 Derbyshire Road, accessory use regulations; and BZA Calendar No. 3046 Karl Frericks and Marin Ritter, 2945 Corydon Road, accessory use regulations. I need to make these a matter of record.”

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

REPORT OF THE FINANCE COMMITTEE

Council Member Wilcox stated, “Thank you, your Honor. There is one piece of legislation from the Finance Committee tonight and before I read that, this will be on first reading tonight, I wanted to give an explanation as to why we’re proposing this ordinance.

The ordinance, itself, is a result of legislative action which was taken previously by the Ohio

General Assembly, which prohibits a municipality from taxing pass-thru or distributive share of net profits to a sub S Corporation shareholder. In plain English, the legislature has told cities that they can no longer collect taxes on certain owners of corporations in the manner in which they have been doing so for years. However, the legislature has provided the city an opportunity, which has been collecting the tax prior to December of 2002, to go to the voters and have the voters authorize the city to continue collecting this tax on owners of sub S Corporations by passing a ballot issue. This legislation will authorize that ballot measure to be placed before the voters on November 2nd. We will expect that many other cities will be doing this as well. We've received a copy of a letter from the Deputy Executive Director of the Regional Income Tax Agency suggesting this much to other municipalities. Although Cleveland Heights is not a member of RITA, many communities in Northeast Ohio are members of RITA and we would expect them to follow the advice. That letter summarizes the need for cities to put this to a ballot if they have already been collecting this tax in the past, they need to actually put it on the ballot so they can continue taxing in the same manner they have previously. The letter concludes by saying, "The Regional Income Tax Agency strongly recommends that you and your law director review the most recent copy of your Income Tax Ordinance and determine whether a ballot issue is warranted." Our Law Director, John Gibbon, has done that and provided us with this legislation. I want to emphasize that this is not a new tax, but if approved by the voters, this ballot issue will simply insure that the tax burden is shared fairly by all taxpayers in the manner it is done now.

I have, for first reading, Ordinance No. 117-2004(F), declaring the necessity of submitting to the electors of the City of Cleveland Heights the question of preserving the municipality's right to impose a municipal income tax on a shareholder's Ohio source distributive share of the net profits of an S Corporation; and declaring an emergency. And, again, as I said, the Municipal Income Tax Ordinance of Cleveland Height currently does, and prior to December 6, 2002 did contain the authority to tax the shareholders as noted. The City desires to preserve that authority and pursuant to the state's statute, which was recently passed which requires the municipality to submit this question of continuation to the electors at the general election to be held on November 2, 2004. Therefore, pursuant to State law, the City may continue the taxation of such income only upon the affirmative vote of a majority of the electors of the municipality voting in favor of doing so. Council desires to submit such question to the electors of the municipality at the general election to be held on November 2, 2004. Section 1 of this Ordinance then authorizes and directs the submission to the electors of the City at the general election held on November 2, 2004, the question as to whether or not the City should continue to tax a shareholder's Ohio source distributive share of the net profit of an S Corporation. Section 2 provides the foregoing issue, upon receiving an affirmative vote to continue such taxation by a majority of the electors voting thereon at the November 2, 2004 general election, shall become effective immediately upon its adoption. Section 3 authorizes and directs the Clerk of Council to forward a certified copy of this Ordinance to the Board of Elections of Cuyahoga County by August 19, 2004. Section 4 directs the Board of Elections to cause appropriate notice to be given of this election. Section 5, the Clerk of Council is authorized and directed to cause the full text of the issue to be published once a week for two consecutive weeks in a newspaper of general circulation in the City of Cleveland Heights with the first publication to be made at least thirty (30) days prior to the general election to be held on November 2, 2004. Section 6 is the actual ballot language and I will read that verbatim:

"Shall the City of Cleveland Heights continue to tax a S Corporation shareholder's Ohio source distributive share of net profits of the S Corporation to the extent that is currently permitted, and was previously permitted prior to December 6, 2002, by the City of Cleveland Heights Municipal Income Tax Ordinance?"

The voters will be asked to vote yes or no. I present Ordinance No. 117-2004(F), first reading tonight."

Council Member Hicks commented, "I just wanted to speak about this proposed ordinance from a personal standpoint in that I personally have a S Corporation and there are benefits to becoming an S Corporation when you have a small business. Those benefits will still exist if we pass this ordinance in the City of Cleveland Heights. It would be as Councilman Wilcox stated, it would be unfair to the rest of the taxpayers if S Corporations were able to not pay this particular tax if this were to fail in November. We would be - not to say I wouldn't enjoy the benefits, but it would be unfair, we would not pay our share of taxes in the City of Cleveland Heights. So, this is not going to be a burden to S Corporations. It is just going to allow us to continue to be taxed as everyone else. Again, we cannot lose, in this City, those tax dollars. We haven't determined the exact amount that would be lost, but we know it would in the hundreds of thousands that would be lost to the City of Cleveland Heights if the S Corporations could not be taxed in the way that they are taxed right now. As one, I am willing to continue to pay my fair share of S Corporation taxes. Thank you."

Vice Mayor Montlack stated, "I would only echo the comments made by both Councilman Wilcox and Hicks. I also am a participant in a S Corporation and it does seem to me as it does to the others it's simply a matter of paying your fair share and in the end if we don't, we know that the rest of the folks one way or another will have to pick up the slack and that would seem to be doubly unfair. With that Ordinance No. 117-2004(F) is accepted on first reading only tonight."

Council Member Wilcox continued, "I have one other comment and that is every year our Citizens Advisory Committee reviews our applications for Community Development Block Grant funding and that process is in full swing right now. The applications have been submitted and they will be holding public hearings on the applications Tuesday, August 10 and Tuesday, August 17, both at 7:00 p.m. in Council Chambers and there will be a number of presentations by the applicants and then questions by our Citizens Advisory Committee. This is a very good way to find out about how our CDBG program works and if you have any questions about this, you can call 291-4855. With that, that concludes the report of the Finance Committee."

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Hicks stated, "Thank you, your Honor. I have no legislation this evening, however, I would like to say that my prayers go out to the Kelley family, Ed Kelley and his immediate family. His brother's son was in a terrible automobile accident and so we should all keep them in our prayers. The Nordonia and Mentor schools - wish them luck tomorrow on their school levies. It makes it important for us. They'll go out tomorrow and if they do not pass tomorrow, they'll probably be out in November still trying to get those school dollars. It is not just in Cleveland Heights where voters are trying to convince their residents that it is not their fault that their school budgets cannot keep up with the economy, it is because of House Bill 920 and I just want to let the school board know that they have my support in November fighting the foes that would like to repeal the school levy that was passed in March. That whatever I can do to be of assistance I will be there for the school system. That's all that I have."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Vice Mayor Montlack stated, "For the report of the Planning and Development Committee I ask that committee's Vice Chair, Phyllis Evans, please to speak."

Council Member Evans stated, "Thank you, Vice Mayor Montlack. Resolution No. 118-2004(PD), authorizing the City Manager to enter into an agreement with Mark E. Bussey for a loan under the City's Commercial Revolving Loan Fund Program; and declaring an emergency. Mr. Bussey has ap-

plied to the City for a loan under the City's Commercial Revolving Loan Fund Program to assist in exterior renovations to the commercial space located at 2311 Lee Road at which the applicant operates his upholstery business. This renovation project will eliminate a blighted condition in the Cedar Lee Business District. This Council has determined that making the requested loan would be consistent with the objectives of the Revolving Loan Fund Program and would be in the City's best interest. There are Community Development Block Grant funds available for this purpose. Section 1 will authorize the City Manager to execute a loan agreement and all necessary documents to make a loan to Mark E. Bussey, under the City's Commercial Revolving Loan Fund Program, for assistance with exterior renovations to the commercial space. The amount of the Commercial Revolving Loan shall be Thirty Thousand Dollars (\$30,000.00), to bear interest at a rate of two and one-half percent (2 ½%) per annum, with no payments due for the first eighty-four (84) months and a balloon payment due at the end of the seven (7) year period. The loan previously granted under the Storefront Renovation Loan Program is in the amount of Twenty-five Thousand Dollars (\$25,000.00), at an interest rate of zero percent (0%), to be repaid in monthly installments on the following schedule: Year One — no payments; Year Two — Two Thousand Five Hundred Dollars (\$2,500.00); Year Three — Five Thousand Dollars (\$5,000.00); Year Four — Seven Thousand Five Hundred Dollars (\$7,500.00); and Year Five — Ten Thousand Dollars (\$10,000.00). The loans shall be secured by a first mortgage on the building at 2311 Lee Road. All documents shall be approved as to form by the Director of Law. Section 2 is notice of passage. I'd like to submit Resolution No. 118-2004(PD) for passage this evening."

Vice Mayor Montlack accepted Resolution No. 118-2004(F) for passage.

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

Nays: None

Resolution passed

Council Member Evans continued, "Next is Resolution No. 119-2004(PD), authorizing the City Manager to enter into an agreement with Emerman Realty, LLC for a loan under the City's Commercial Revolving Loan Fund Program; and declaring an emergency. Emerman Realty, LLC has applied to the City for a loan under the City's Commercial Revolving Loan Fund Program for assistance in the acquisition and renovation of a commercial building at 2267 Lee Road for the relocation of the Stone Oven Bakery and Café. Such project will eliminate a blighted condition in the Cedar Lee Business District and keep a viable business in the District.

As most of you probably well-aware this is the business that is currently operating at the corner of Meadowbrook and Lee.

This Council has determined that making the requested loan would be consistent with the objectives of the Revolving Loan Fund Program and would be in the City's best interest. There are Community Development Block Grant funds available for this purpose. Section 1, the City Manager will be authorized to execute a loan agreement and all necessary documents to make a loan to Emerman Realty, LLC, under the City's Commercial Revolving Loan Fund Program, for assistance in the acquisition and renovation of a commercial building at 2267 Lee Road for the relocation of the Stone Oven Bakery and Café. The amount of the Commercial Revolving Loan shall be One Hundred Fifty Thousand Dollars (\$150,000.00), to bear interest at a rate of two and one-half percent (2 ½%) per annum and to be repaid in sixty (60) consecutive monthly payments of Two Thousand Six Hundred Sixty-two and 10/100 Dollars (\$2662.10). The loan shall be secured by the personal guarantees of the principals of the Borrower, as well as a first mortgage on the building. All documents will be approved as to form by the Director of Law. Section 2 is notice of passage. I'd like to submit Resolution No. 119-2004(PD) for passage this evening."

Vice Mayor Montlack accepted Resolution No. 119-2004(F) for passage and stated, "I would only like to add to this that as you drive down Lee Road and think about the two properties now that are the subject - to the previous piece of legislation and this one, as you drive down Taylor going north from Cedar, in all of those areas you will identify a few buildings that range from somewhat tired to forewarned and in each of those cases including those addressed by the two pieces of legislation here tonight, this planning and development staff over the past many months has been working diligently to put together fair incentive packages and to work with a number of property owners. Frankly, I anticipate that now with the passage of this legislation also and the other work on Taylor Road that within the next few months, certainly before the leaves start to fall in fall, you will see some dramatic improvements in both of these important corridors that will reflect that. So, once again, congratulations to our Planning Department."

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

Nays: None

Resolution passed

Council Member Evans continued, "Next, are the calendars of the Board of Zoning Appeals. The public hearing to consider these four applications was held on Wednesday, July 21, 2004 at 7:30 in the evening. It is now the opportunity for Council to accept these. I will start with the first one which is BZA Calendar No. 3043 Robert Goldstein, 1608 Ridgefield Road, in a MF2 multifamily district, has made formal application requesting a variance from the off-street parking regulations of the Zoning Code, to permit no enclosed parking spaces for a 4-unit apartment building. The applicable provision of the Zoning Code is contained in Section 1161.03, which requires 4 enclosed parking spaces for a 4-unit building. In the opinion of the Board of Zoning Appeals, the applicant clearly demonstrated there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done. Therefore, it was resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted because there is no space for a 4-car garage and not even enough space for a Code-conforming 1-car garage; there will be no adverse impact on the neighborhood; there is ample off-street parking available in the area; and most of the adjacent apartment buildings have no enclosed parking spaces. The issuance of a special permit is hereby authorized to allow no replacement of the existing 1-car garage after its demolition, as shown in plans submitted to the Board. The applicant is required to obtain a demolition permit prior to razing the existing garage. All work which is the subject of this application shall be completed within 60 days of the date of approval of this resolution by City Council. I would like to move to accept BZA Calendar No. 3043."

Second by Council Member Caplan.

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

Nays: None

Resolution confirmed

Council Member Evans continued, "Next is BZA Calendar No. 3044 Zachariha Cohen, 1552 Oakwood Drive, in an 'AA' single-family district, has made formal application requesting a variance from the minimum yard requirements for principal uses of the Zoning Code, to permit a pool enclosure that is attached to the house, to be 5' from the rear lot line at its closest point. The applicable provision of the Zoning Code is contained in Section 1121.08, which requires principal uses to have a 30'-setback from the rear lot line. In the opinion of the Board of Zoning Appeals, the applicant clearly demonstrated

there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done. Therefore, it was resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted because the proposed pool enclosure is only occasionally connected to the house; the rear yard is enormous and buffered from neighboring properties by trees and bushes; and there is a golf course to the rear of the property. The issuance of a special permit is hereby authorized to permit the pool enclosure to be set back 5' from the rear lot line at its closest point, as shown in plans submitted to the Board. The applicant is required to obtain a building permit and a fence permit prior to installation, and to have a landscaping plan approved by the Planning Director. All construction which is the subject of this application shall be completed within 60 days of the date of approval of this resolution by City Council. I would like to move to accept BZA Calendar No. 3044."

Second by Council Member Hicks.

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

Nays: None

Resolution confirmed

Council Member Evans continued, "BZA Calendar No. 3045 John and Christina Pringpuangkeo, 2787 Derbyshire Road, in an 'A' single-family district, have made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit construction of a 6'-tall fence in the corner-side yard. The applicable provision of the Zoning Code is contained in Section 1121.12, which limits fences in corner-side yards to no more than 3' in height. In the opinion of the Board of Zoning Appeals, the applicants clearly demonstrated that there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and, further, that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done. It was resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted because the fence drops to a height of 4' in the front and rear of the property; there is existing screening from the street in the form of a continuous hedge more than 6' in height; and a neighboring property already contains a similar fence behind a similar type of hedge. The issuance of a special permit is hereby authorized to permit a 4' to 6'-tall fence in the corner-side-yard, as shown in plans submitted to the Board. The applicants are required to obtain a fence permit and approval of the Architectural Board of Review prior to construction; and to maintain the hedge in perpetuity as long as the fence exists; and to drop the fence to 4' in height in the sections shown in the plans. All construction which is the subject of this application shall be completed within 120 days of the date of approval of this resolution by City Council. I'd like to submit BZA Calendar No. 3045."

Second by Council Member Wilcox.

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

Nays: None

Resolution confirmed

Council Member Evans continued, "The last calendar this evening is BZA Calendar No. 3046 Karl Frericks and Marin Ritter, 2945 Corydon Road, in an 'A' single-family district, have made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit construction of a 4-foot-tall fence in a corner-side-yard. The applicable provision of the Zoning Code is

contained in Section 1121.12, which limits corner-side-yard fence height to 3'. In the opinion of the Board of Zoning Appeals, the applicants clearly demonstrated that there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and, further, that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done. Therefore, be it resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted because the difference in the height permitted is only 6 inches at the lowest point of the fence as proposed and 1 foot at the highest point; the proposed fence will be more Code-conforming than the existing deteriorated chain-link fence that will be removed; and the applicants' predicament cannot be resolved without a variance. The issuance of a special permit is hereby authorized to permit construction of a 4-foot-tall fence in a corner-side-yard, as shown in plans submitted to the Board. The applicants are required to obtain a fence permit and approval of the Architectural Board of Review prior to construction. All construction which is the subject of this application shall be completed within 3 months of the date of approval of this resolution by City Council. I'd like to submit BZA Calendar No. 3046 on a motion for acceptance."

Second by Council Member Caplan.

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

Nays: None

Resolution confirmed

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans continued, "Resolution No. 120-2004(PSH), declaring the property at 942 Pembroke Road 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 the residential property known as 942 Pembroke Road owned by Arthur Furlow and Rhonda D. Furlow has not been maintained for a number of years and is in a state of severe disrepair. The City Manager and Certified Building Official have further reported that the owners of the subject property have been cited by the Housing Inspection Department for numerous housing code violations on the property over the past several years and that little progress has been made toward correction of the violations. The City Manager and Certified Building Official have further reported that the back porch on the subject property has deteriorated over the years to the point that it is a hazard to the health, safety and welfare of potential occupants and the public and is a blighting and deteriorating factor in the neighborhood adversely affecting the value of neighboring property. Section 1 reads that pursuant to Chapter 553 of the Codified Ordinances of the City of Cleveland Heights, that the premises owned by Arthur Furlow and Rhonda D. Furlow at 942 Pembroke Road is in a state of disrepair to the extent that it constitutes a health and safety hazard and a blighting influence and is hereby declared to be a public nuisance. The City Manager and Certified Building Official and Director of Law are authorized and directed to cause the nuisance to be abated in accordance with Chapter 553 of the Codified Ordinances. The total amount for the demolition of this project is \$1,500.00. Therefore, I'd like to submit Resolution No. 120-2004(PSH) for passage this evening but I'd also like to remind our listeners again, that the money spent is money that we expect to eventually come back to the City. We don't want anyone to think that they can sit on their violations long enough that we'll take care of them and they'll never have any financial obligations. That's not the case. The lien is attached on the tax duplicate so it does eventually come back. So, I'd like to submit 120-2004(PSH) for passage."

Vice Mayor Montlack accepted Resolution No. 120-2004(PSH).

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

Nays: None

Resolution passed

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Wilcox stated, "Thank you. There is one resolution from this Administrative Services tonight and it is Resolution No. 121-2004(AS), authorizing the City Manager to enter into an agreement with Employee Benefits Consultants for the provision of services as a third-party administrator for the City's self-funded Emerald Health Network, prescription drug and dental programs; providing compensation therefor; and declaring an emergency. In comparison to traditional group dental and health care plans, the City remains competitive by contracting with a third-party administrator who administers the City's self-funded dental, prescription drug, and Emerald Health Network plans, and secures, on the City's behalf, medical and dental excess loss coverage. The City Council has previously authorized Employee Benefits Consultants who is currently providing these services in a capable and cost effective manner, under an annual contract with an expiration date of August 1, 2004. EBC has submitted a quote for the provision of the same services with a continued cost saving to the City. The City Manager has determined that the proposal from EBC is reasonable and competitive and recommends renewal of the agreement. Section 1 authorizes the City Manager to enter into an agreement with Employee Benefits Consultants for third-party administration services for the City's self-funded Emerald Health Network, prescription drug and dental programs. The fees to be charged shall be as set forth in the renewal proposal submitted by the consultants, a copy of which is on file with the Clerk of Council.

I did want to mention that the overall cost of this program is actually less than last year. The current contract is \$166,302 and the renewal cost is \$165,866 and that is based on 128 single employees and 325 family employees.

The term of the new agreement shall be from August 1, 2004 through July 31, 2005.

I did want to thank our Vice City Manager Kathleen Ruane for negotiating this contract at a cost-saving to the City. I offer Resolution No. 121-2004(AS) for passage tonight."

Vice Mayor Montlack accepted Resolution No. 121-2004(AS).

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

Nays: None

Resolution passed

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Caplan, stated, "Thank you. I have a few pieces of legislation. The first is Ordinance No. 105-2004(CRR), Second Reading, amending the use regulations and rates for admission and other services for the Cleveland Heights Community Center and parks for the 2004- 2005 fall/winter season, and repealing Ordinance No. 116-2003. The City of Cleveland Heights annually reviews its use regulations and rates for admission and other services for its Community Center and parks, and in anticipation of the 2004-2005 fall/winter season, it is deemed desirable to reaffirm the 2003-2004 regulations with some rate changes and additions due to the upgraded facilities and programming.

Rather than reading all of this to you because it is many pages long, let me just affirm a few

things. One is that admission to the Cleveland Heights Ice Rink building and the use of the Ice Rinks shall be limited to legal residents of the City of Cleveland Heights who are authorized holders of a proper Recreation Identification Card issued by the City of Cleveland Heights, or an authorized guest of the holder of such a Recreation Identification Card, or to non-residents properly registered with organized ice programs or who pay authorized non-resident rates for ice programs. Recreation Identification Cards shall be issued only to Cleveland Heights residents. Each holder of a Recreation Identification Card shall be entitled to purchase not more than three (3) guest tickets for each public skating session. The seasons' passes, some of the prices have not changed, but there are some that have increased slightly. We've increased slightly the cost of skating for individual sessions and have added a new category. This is actually a response to a concern from the community that the youth categories are now two sections. There is one section that is kindergarten through eleven [years of age] and then twelve [years old] through high school and we've added a young adult category which is eighteen to twenty-four years in recognition of there being young people who are still at home and still in our community who want to use the recreation facilities. We've also added a speed skating club and that's also in response to some of the exciting times that we had this past winter at our ice rinks. As you know, we had the Olympic time trials for the Olympics for speed skating and that re-energized peoples' interest in that whole sport and so along with that we've organized a new program called, 'Special Olympics Skating'. We've taken on another program which is Youth Soccer which is kindergarten through sixth grade and that's primarily to fill the void when the school board went out of business doing the community service programs with soccer, so now we're doing that also. The other prices are small changes, small increases in the charges and we pay attention to what goes on in other communities and try to be competitive and also try to not be outrageous for our own residents. I present Ordinance No. 105-2004(CRR), Second Reading, for passage tonight."

Vice Mayor Montlack accepted Ordinance No. 105-2004(CRR).

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

Nays: None

Ordinance passed

Council Member Caplan continued, "Thank you. I now have Ordinance No. 122-2004(CRR) and first I want to tell you a story before I read the ordinance because this is complicated. In 1987, the electorate in Cleveland Heights voted to pass a 1.35 mill bond issue (maybe there's a word - levy at the end of that) but in any case, in 1987 the residents voted to tax themselves so that they could do a variety of things to our parks and recreation. Some of those things, actually you may remember that Cain Park - the Evans Theatre got a roof, got new seats. The whole Cain Park Theatre group was updated. Also at Cumberland Park the pool deck was enlarged. There were repairs done. A new playground shelter was added. At Denison, there was a major renovation of the bath house and pool. Caledonia got a park fixed up. Forest Hill got four lit softball diamonds and expanded picnic areas with shelters and there were a whole range of things that happened in our parks and the community felt that was a good thing to do and they were willing to tax themselves. That tax today in today's dollars at a \$100,000 house - our tax at the moment at \$41.34 per \$100,000 value of your house. As it turns out since 1987 with these dollars that we have been collecting from all of our residents, the bond is now paid off and the bond will be retired at the end of 2004. So, this is an interesting time. It is an opportunity to look at our facilities and ask the voters to come again in November to vote to tax themselves again. But this time, what we're asking is (as I said we were taxed at the moment 1.35 mills) and what we're asking is that we all tax ourselves at .7 mills. What that means if you're paying \$41.34 now, you'll be paying \$21.44, so rather than asking the residents to tax themselves at a greater rate, we are asking that we tax ourselves at a lesser rate than we've been paying - what is that? Fifteen years - sixteen years ago. That's what this is about. What would that money be used for? Maintenance on our wonderful properties. If you go to

Cain Park and you know that every time I talk in the summer, I talk about Cain Park, the stone walls need to be re-fixed. Some of the bathrooms need to be updated. There are a whole range of things that need to be maintained. If you own a home and this summer seems to be my year of taking care of my home and I know it is for a lot of you, you need to keep taking care of the properties that you own. Cleveland Heights has lots of beautiful properties, but they're old and they need to be continually maintained. So, that's what some of this money would be for. The other thing is we've taken on this new attitude that we call ourselves, *The City of the Arts*, and some of the money would be used to promote art in our community. One of the things for example, we've talked about this before, we're looking to do with the Arts Collaborative to have a contest and have some sculptures come around the whole Severance ring and some of the money could go for that or it could go for other kinds of public art projects. The money would come in as long as we continue to tax ourselves and it could be used for art, for maintenance, for prevention of erosion, for doing a whole variety of things in our parks. So with that little prologue I'd like to read to you this Ordinance which is very convoluted actually, so I thought that maybe telling you that story would help. Just remember that the difference is - we're asking to tax ourselves at about half the rate that we've been taxing ourselves since 1987.

This is Ordinance No. 122-2004(CRR), providing for the submission to the electorate of an amendment to Article IX, Section 11, of the Charter of the City of Cleveland Heights; and declaring an emergency. Be it ordained by this Council, the question of the amendment of Article IX, Section 11, of the Charter of the City of Cleveland Heights shall be submitted to a vote of the qualified electors of the City at the general election to be held on Tuesday, November 2, 2004, in the manner provided by law, with the proposed amendment of Article IX, Section 11 consisting of an additional paragraph reading as follows:

In addition to the general levy provided for hereinabove, Council may, by two-thirds (2/3) affirmative vote of the members of Council eligible to vote, levy annually, commencing with a levy on the 2004 tax duplicate for collection in calendar year 2005, a tax not to exceed seven-tenths (.7) of one mill per dollar of all property in the City assessed and listed for taxation for the acquisition, construction, reconstruction, rehabilitation, renovation, improvement, equipping and maintenance of land, facilities, buildings and structures belonging to or operated by the City and used for parks, playgrounds, play fields, swimming pools, indoor recreation and community centers, municipal amphitheaters and cultural facilities, and the equipment therefore, and for the debt charges on general obligation bonds and bond anticipation notes issued to pay the cost of the improvements specified herein.

Now you know why I told you that story. Section 2, by the way that was all one sentence.

The Clerk of Council is hereby directed to forthwith certify a copy of this Ordinance to the Board of Elections of Cuyahoga County. He is further directed to publish the full text of the proposed Charter amendment as set forth in Section 1 of this Ordinance once a week for not less than two (2) consecutive weeks in a newspaper of general circulation in the City of Cleveland Heights, with the first publication being at least thirty (30) days prior to the general election referred to in Section 1 of this Ordinance, in accordance with Article VIII, Section 5 of the Cleveland Heights Charter, and to take all other such actions required by law relative to the submission of said proposed amendment.

What I think that means is we're going to do a lot of publicity about this so you'll really know what you're voting for.

Section 3, this Ordinance is hereby declared to be an emergency measure immediately necessary

for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the fact that this Ordinance must become effective not less than sixty (60) days prior to the next general election if the amendment submitted is to be voted upon at said general election. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

We're not going to vote on it tonight. This is on first reading so that the electorate can have the opportunity to ask questions and we will vote on it on the next - we'll probably have a public meeting - which is probably in about two weeks. That's Ordinance No. 122-2004(CRR). If you have a question call the Clerk of Council, call the City Manager or call one of us. That's my presentation of Ordinance No. 122-2004(CRR)."

Vice Mayor Montlack accepted Ordinance No. 122-2004(CRR) on first reading only.

Council Member Hicks stated, "Thank you, your Honor. I was not here on July 19, but as I was looking over the minutes, there was a Mr. Blake - Clifford Blake who had some comments from the audience and when he ended his comments he said, "You should know we are highly taxed and I think you should give second thoughts before you levy taxes toward people in this community." I want Mr. Blake to know that not only do we give second thoughts, we give third and fourth thoughts on this tax and it is something that we feel is a win. It would not be additional taxes as colleague Councilwoman Caplan pointed out. I won't go over that, but it will not be additional taxes, but we must remain competitive in Cleveland Heights. One of our assets is our recreation and our recreational programs and our parks; Denison, Caledonia, Cain Park, Cumberland and it takes money to maintain them. We cannot maintain them out of our general budget and we must - we must with all of the new housing and all of the new facilities being built in these outer-ring suburbs, we must keep our appeal and this is the only way we can do it. So, please look over this as the advertisement and the campaign begins - please give us your support."

Council Member Wilcox added, "I just want to weigh in as well. Just on the importance of this levy. The citizens of this community have invested substantial dollars over the years in their parks, recreational and cultural facilities and we've mentioned a lot of them; Forest Hill Park, the Superior School House, Cain Park, Cumberland, Denison and many others. I agree with Councilman Hicks, it's important for the city to remain competitive, that we continue to invest in these facilities and not just to maintain but to offer new and improved facilities for our residents as they've come to expect over the years. We're looking to offer some new [tape unclear]. Some might argue that any tax we levy is too much, but I would point out as Councilwoman Caplan stated that we're talking about on \$100,000 house about \$40.00 tax today to the resident and that is going to be reduced by this replacement millage to \$21.00 and then we have to remind ourselves this is *zero point seven* mills (0.7), it's less than two dollars a month to make sure that we maintain and keep our parks, recreation, cultural facilities first class. Thank you."

Vice Mayor Montlack stated, "I would only add to what I think was an excellent nitty-gritty description of the needs and the outline of this tax proposal by Councilwoman Caplan and the good comments by other council people here that you just heard that speaking for myself, I have a lot of confidence in how our City Manager and his staff spends money, an account for funds spent. I think I can assure every voter that there will not be frivolous expenditures and that when any funds are spent with or without this tax issue they will be necessary. In fact, if any other evidence of that were needed based on the starvation diet that the federal and state governments have handed to us, you need only look at the last two years, especially, by this city and its staff. We have tightened belts. People have

frankly under gone sacrifices, speaking of employees and have done all that in order to provide the best service possible, cut out anything that wasn't necessary. As Councilman Hicks just said, we wouldn't have gone this extra step if we weren't absolutely convinced that for a healthy community and its residents these funds are needed. Ordinance No. 122-2004(CRR) is accepted on first reading only tonight."

Council Member Caplan concluded, "Thank you. Just a few comments. The International Children's Games have just concluded and I mean literally just, they may - it's almost 9:00 and they're probably just winding up. I want to tell you that if you saw any part of it, it was really wholesome, exciting, hopeful to see these children from all over the world who came to the Cleveland area to participate, to share experiences and to participate in what really playing on a team means. That is thinking of a bigger picture, representing the country that they're from or the community that they're from for the American children. It was a wonderful opportunity and we in Cleveland Heights hosted the baseball games here at Forest Hill Park. It was an enormous amount of work to get ready and to run a smooth show and special thanks to Larry Shaw and his whole recreation staff, to the Public Works Department who took care of the fields in a beautiful way even when they got rained on and to the Police Department who made sure security was at the highest most efficient rate. It was a wonderful time for all. So thank you all for all things that you have done and thank you for those people who participated. It really was a wonderful experience.

My last comment, probably the last for the season is that Cain Park has only two more weeks to go. Do come to Cain Park if you haven't been there. There is a new play called, 'Tick, Tick, BOOM'. Bruce Hornsby is coming. There are several other artists who are coming. The ballet is coming this week. Look at your program, find out what's playing. You can see it online. Many things are free. It's a wonderful experience. I go frequently and there is nothing so pleasant as we bring picnic suppers and then you're sitting outside and the breezes are blowing and it's amazing to see professionals come and perform for us here in Cleveland Heights and five minutes later when it's over, you're home. It's not a long drive. Do try and come to Cain Park if you haven't participated yet. That's all I have. Thank you."

REPORT OF THE VICE MAYOR

Vice Mayor Montlack stated, "On behalf of all us, as Councilman Hicks has already commented that to Mayor Ed Kelley and your family, we are thinking of you at this time. With that at 8:45 p.m. we will adjourn this meeting. Council Members will stay for those who may have some questions or personal communications after the meeting and we are adjourned with the next Council meeting for Monday, August 16, 2004."

Respectfully submitted,

Kenneth Montlack, Vice Mayor
Vice President of Council

Sharon E. McGuire
Clerk of Council Pro Tem

/mwc