



CITY OF CLEVELAND HEIGHTS, OHIO

MINUTES OF THE COUNCIL MEETING

OF MONDAY, AUGUST 3, 2009

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:23 p.m.

Edward Kelley, presiding

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

Council Members absent: Evans

Mayor Kelley excused the absence of Vice Mayor Evans.

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

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

Committee of the Whole adjourned at 7:31 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, Kelley, Montlack, Tumeo, Wilcox

Council Members absent: Evans

Mayor Kelley excused the absence of Vice Mayor Evans.

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

The minutes of the Public Hearing held Monday, July 20, 2009 were approved and signed by Council Member Montlack.

The minutes of the Regular Council Meeting held Monday, July 20, 2009 were approved and signed by Mayor Kelley along with the ordinance and resolutions passed at that meeting.

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have several items this evening.

The first would be to request authority to advertise for bids for the Norfolk Road waterline/ sewer line replacement project.”

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

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

Second by Council Member Tumeo.

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

Nays: None

Motion passed

Mr. Downey continued, “Thank you very much, your Honor. Staff recently opened bids for Bid Document No. 2009-08, the demolition of four single-family homes. There are two low bidders, the first is Lightning Demolition in the amount of \$18,400.00 for 2027 Revere, 903 Yellowstone and 3655 Randolph. The other bidder, your Honor, would be Krug Demolition in the amount of \$6,000.00 for the home at 924 Selwyn. Your Honor, I would request that the bid tabulation and the 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, “Your Honor, I have nothing to report tonight.”

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, “Thank you and this committee has nothing to report tonight either.”

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Dietrich stated, “Thank you. We do have something for Community Relations and Recreation and this is Ordinance No. 70-2009(CRR), Second Reading. Two weeks ago, Vice Mayor Evans went over this Ordinance in quite a bit of detail so I will be very brief with it. This is something that we do annually. It is amending the use regulations and rates for admission and other services for the Cleveland Heights Community Center and parks for the 2009-2010 fall / winter season; and repealing Ordinance No. 90-2008, which gave us last year’s regulations and rates. There are almost no changes at all this year. We made no changes for the price for Community Center passes or for the monthly passes. We adjusted the yearly passes in 2008 and we just added the monthly pass option in 2008. We thought that given the state of the economy that we want people to be able to use the Community Center and so we are not raising the basic rates. The only changes are that for the Ice Rink, group instruction lessons will be \$1.00 higher than they have been, those are monthly payments. Membership in the speed skating club has been changed so that it is a little bit less than 10% more than what it was. Also, Adult Men’s Hockey was increased by 10% and Adult Basketball, which is men, women and co-ed were also increased by a little bit under 10%. Other than that, everything else remains the same as it did for this past year. I offer Ordinance No. 70-2009(CRR), Second Reading for passage tonight.”

Mayor Kelley accepted Ordinance No. 70-2009(CRR), Second Reading.

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

Nays: None

Ordinance passed

Council Member Dietrich added, "Just one little announcement. In case anybody who uses the Field House at the Community Center or the Senior Center has missed the signs that are posted there, I just wanted to reiterate that the annual cleaning will take place during the week of August 17th to the 22nd so the Field House and the Senior Center will be closed all that week. That's all that I have."

REPORT OF THE FINANCE COMMITTEE

Council Member Montlack stated, "Thank you, your Honor. There is no report tonight."

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Caplan stated, "Thank you. There is no legislation tonight. I just wanted to do a little reminder that there are a few more weeks of Cain Park left. The Beach Boys are coming. Pippin is playing and I saw it Saturday night, it's fabulous. It is just fabulous. The dancing is stupendous. The singing is just marvelous and all the actors are very nice looking, so it is a very enjoyable experience. I encourage you to come and see Pippin. There is nothing nicer than going to the theater. It starts early at 7:00 and you're done at 8:45 and you can go on Coventry, on Lee Road and have some kind of snack after. So, do come and do see what else is playing. You've got about two more weeks. That's all I have."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There is one piece of legislation from this committee tonight. This is Ordinance No. 33-2009(PD). I think this Ordinance was actually on the agenda once before on this committee, but tonight we are going to hopefully pass this on first reading. Ordinance No. 33-2009(PD), adopting and implementing the procedures under Chapter 5722 of the Ohio Revised Code to facilitate reutilization of nonproductive land situated in the City of Cleveland Heights; and declaring an emergency. Chapter 5722 of the Ohio Revised Code sets forth procedures to facilitate reutilization of nonproductive land situated within the municipal corporation boundaries. There does exist sufficient and substantial nonproductive land within the boundaries of the City of Cleveland Heights, which is of such a nature and extent to require the implementation of a land reutilization program to foster either the return of such nonproductive land to tax revenue generating status or the devotion thereof to the public use. Section 1 of this Ordinance adopts and implements the procedures set forth in Chapter 5722 of the Ohio Revised Code for a land reutilization program as therein provided and agrees to abide by all provisions thereof. Section 2 authorizes the Clerk of Council to transmit certified copies of this Ordinance to the County Auditor, County Treasurer and County Prosecutor as provided in Section 5722.02 of the Ohio Revised Code.

5722.02 of the Ohio Revised Code is a Chapter that has been in the Code for sometime that allows the City to setup essentially a Land Bank. This is not to be confused with the County Land bank that Treasurer Rokakis is setting up separately. This is something that allows the City to essentially take title to property that has been foreclosed on for tax delinquencies. The reason the County Auditor, County Treasurer and County Prosecutor are involved with sending copies of this legislation to them is that they are involved, obviously, with the tax foreclosures and if properties do become available they will

notify the City and then the City would make the decision about whether or not they would want to take title to that foreclosed property. Essentially, what the City is agreeing to do is to hold this property and manage it under this reutilization program, try to find a more effective use for the property or a public use, manage the property and if you are interested in specifically what the program entails, 5722.06 lists certain things that the City is supposed to do including manage, maintain and protect that property, compile an inventory of the land that it holds, analyze and evaluate potential and future uses of the land and developing a plan for the best efforts to consummate the sale or other disposition of the land, etc. One of the advantages of this program is the City will be able to file for a tax exemption so the property can be held tax exempt without accruing anymore tax delinquencies. If the property is ever sold or redeveloped then the county would get back the taxes and the other taxing authorities would get back the taxes owing on that property. After fifteen years if there is no other use of that land it then goes up for public auction. So, again, this is a new program the City is enacting tonight and in the future if tax delinquencies become available to us we may take advantage of this plan and take title to those properties for future use.

I offer Ordinance No. 33-2009(PD) for passage tonight.”

Mayor Kelley accepted Ordinance No. 33-2009(PD) and added, “I just want to say as Councilman Wilcox said, this is separate from County Treasurer Jim Rokakis is doing or going to be doing in the future and if we identify a parcel, land or house or certain property in Cleveland Heights we have the option to get involved. We have the option also not to get involved. So let’s be clear of that about what we are doing here. I know that Councilman Wilcox did say all of that, but I want to go over that one more time for people that are out there listening.”

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

Nays: None

Ordinance passed

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Tumeo stated, “Thank you, your Honor. I have several pieces of legislation tonight. First is Ordinance No. 73-2009(PSH), accepting a grant from United States Department of Justice through the American Recovery and Reinvestment Act of 2009/Edward Byrne Memorial Justice Assistance Grant Program to assist with the purchase of five (5) new police cruisers; authorizing an agreement with Statewide Ford Lincoln Mercury, Inc. for the purchase of said 2010 Ford Crown Victorias through the Ohio Department of Administrative Services Cooperative Purchasing Program; providing compensation therefor; and declaring an emergency. This is part of the overall stimulus program. We did receive One Hundred Thousand Dollars (\$100,000) from the Department of Justice through that program to assist with the purchase of five (5) new police vehicles. We are also in the program with the state which allows municipal corporations and other governmental entities to purchase supplies, equipment and services through the Ohio Department of Administrative Services Cooperative Purchasing Program. It saves a lot of money, it is a group buying program. In 1988, this Council authorized participation in said Cooperative Purchasing Program. The City Manager has determined that the selected vehicles may be purchased through this State Cooperative Purchasing Program at a lower price about \$20,000 per vehicle and you know that is a good price for a Crown Victoria. Therefore, under this Ordinance the City Manager is authorized to accept the grant from the United States Department of Justice. The grant is in the amount of One Hundred Thousand Dollars (\$100,000.00) and he is authorized to purchase these five (5) new police cruisers. The five vehicles, with the additional options that will be needed, shall not exceed One Hundred Fifteen Thousand Dollars (\$115,000.00), Fifteen Thousand Dollars (\$15,000.00) of which the City will be making up. I would like

to introduce Ordinance No. 73-2009(PSH) for passage tonight.”

Mayor Kelley accepted Ordinance No. 73-2009(PSH).

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

Nays: None

Ordinance passed

Council Member Tumeo continued, “Thank you. Now I would like to introduce Ordinance No. 74-2009(PSH), repealing Section 1775.07, “Tattooing Prohibited”, of Part Seventeen, “Health Code”, of the Codified Ordinances of the City of Cleveland Heights; and declaring an emergency.

Section 1775.07 has been in the Code since 1918 and prohibits tattooing in the City of Cleveland Heights.

This was based on the fact that in 1918 tattooing was not something you wanted to have done unless you were a drunken sailor and wanted hepatitis. So the City said this was not something that was to go on in our domain. However, in 1998; and things have changed, believe it or not since 1918, but it took the State of Ohio eighty years. In 1998, the State enacted Ohio Revised Code Chapter 3730, provides for extensive regulation of tattooing and body piercing service by the local board of health here in the County to ensure that these services are performed in a sanitary and safe manner and are not provided to minors without their parents’ consent. [It] turns out that there are a lot of businesses out there that do now what is called “Body Art”. It would be in the best interest of the City to allow some of these commercial ventures in our City and; therefore, it would be in our best interest to repeal our prohibition that’s been in place since 1918. So, Section 1 and the only pertinent section of this Ordinance repeals Section 1775.07, “Tattooing Prohibited”, of Part Eleven, “Health Code”, of the Codified Ordinances of the City of Cleveland Heights. I would like to introduce Ordinance No. 74-2009(PSH) for passage tonight.”

Mayor Kelley accepted Ordinance No. 74-2009(PSH).

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

Nays: None

Ordinance passed

Mayor Kelley stated, “I think this is a record-setting Ordinance because it took 91 years to get to this point in time and I don’t think that has happened before.”

Council Member Tumeo continued, “I’m proud to be part of living in Cleveland Heights into the 21st century. Thank you. Now onto Resolution No. 75-2009(PSH), declaring the property at 3100 East Derbyshire Road to be a nuisance; authorizing abatement of the nuisance; and declaring an emergency.

I have some pictures here [displayed pictures]. This is a two-family dwelling located at 3100 East Derbyshire. It has been owned by Annie Robinson and Goldie Robinson since prior to 1975 and as such has been exempt from the Certificate of Occupancy and Interior Inspection’s programs. Since 1985 - that’s 1985, so we’re talking thirty years, the 3102 side has been vacant. In December of 2003, the elderly sisters, who lived on the other side, moved from the property and it has been vacant ever since. We’ve been working with them to try to take care of minor violations. As you can tell from the pictures, the house is literally falling down. The pipes have been broken inside and now it is occupied by an extensive family of racoons. It’s not a good place. The vandalism has added to the deterioration and it’s clearly become a nuisance. The cost to repair and remodel the property would far exceed the value

of the property. So, by this Resolution it is hereby found and determined by this Council, pursuant to Chapter 553 of the Codified Ordinances of the City of Cleveland Heights, that the premises owned by Annie Robinson and Goldie Robinson known as 3100 East Derbyshire 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. I'd like to introduce Resolution No. 75-2009(PSH) for passage tonight."

Mayor Kelley accepted Resolution No. 75-2009(PSH).

Council Member Wilcox stated, "If this was on any street in the City we would obviously be taking the same action, but I just wanted to point out that this is also on the block of Derbyshire where the City has a pilot program going on right now to renovate two-family homes in that area and also to convert some of those to condominiums. This will obviously add to the attractiveness of the street to have this blighted house removed."

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

Nays: None

Resolution passed

Council Member Tumeo continued, "Thank you. It is estimated that to raze the entire structure and clean up the debris will cost about \$12,000. Perhaps with the drop in construction prices we heard from the bid earlier, it will cost us a little less.

Next, is Resolution No. 76-2009(PSH), and in keeping with what was just said by Councilman Wilcox this is another abatement, different address. This is Resolution No. 76-2009(PSH), declaring the property at 1015 Oxford Road to be a nuisance; authorizing abatement of the nuisance; and declaring an emergency. The pictures just get worse [displaying pictures]. This is a single-family home. It has been owned by Peter and Frances Homzak since prior to 1975. These individuals have passed and it is now in an estate. The individuals who have inherited are out-of-state and appear not to be extremely interested in the house. It has been in Housing Court in and out for a period of four years. The violations have remained, because the individuals who now own the house don't live in the state and we can't get service to bring them to court. At the point of sale inspection that was conducted in 2008 there were thirteen interior and ten exterior violations which is a pretty high amount. The basement wasn't even able to be inspected. There are major repairs needed in the floor, the living room, the halls and the bath and as you can tell from the pictures water damage now is pretty extensive and the interior frame of the house is starting to rot away. So, based on the condition of the house, this Resolution declares that it is hereby determined by the Council, pursuant to Chapter 553 of the Codified Ordinances of the City of Cleveland Heights, that the premises owned by Peter and Frances Homzak/the Estate of Frances Homzak, Deceased known as 1015 Oxford 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 of the City of Cleveland Heights or in any manner determined by them to be appropriate and in accordance with law. I offer Resolution No. 76-2009(PSH) for passage this evening."

Mayor Kelley accepted Resolution No. 76-2009(PSH).

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

Nays: None

Resolution passed

Council Member Tumeo continued, "Thank you, your Honor. The last piece for this evening is Resolution No. 77-2009(PSH), declaring the property at 860 Woodview Road to be a nuisance; authorizing abatement of the nuisance; and declaring an emergency. Once again, this is a house - has a long history. In 2004 there was an Exterior Systematic inspection. It resulted in eleven violations. Following inspections in 2005, it was referred to Housing Court and then the violations were corrected. The Court decided to close the case and the house was sold at Sheriff's sale. There has been subsequently all kinds of violations. The house is actually owned by the bank now and due to its deteriorating condition we sent notice to the bank in 2008 that the building needed to be razed. The bank has - the best way to say it - ignored us. So, the property continued to deteriorate and it is where it is now. So, this Resolution determines and declares that pursuant to Chapter 553 of the Codified Ordinances of the City of Cleveland Heights that the premises owned by U.S. Bank, N.A. known as 860 Woodview Road is in a state of severe 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 said Chapter in any manner determined by them to be appropriate and in accordance with law. I'd like to introduce Resolution No. 77-2009(PSH) for passage tonight."

Mayor Kelley accepted Resolution No. 77-2009(PSH).

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

Nays: None

Resolution passed

Council Member Tumeo added, "This one is to be estimated to be about \$7,500.00 to raze and cleanup.

I think, you might be able to tell, we are moving very aggressively and I want to thank Rick Wagner, our housing official, for working very diligently to find these houses. The nice thing is that in many instances depending on where they are we do have now the NSP money, the housing program money that allows us to move forward with these things so we can up-front the cleanup of the nuisance. Not only on Derbyshire, where we have projects going, but all over the city we are working hard to make sure that these houses that can become an immense drain on a neighborhood are cleaned up, taken down, fixed up or removed. This is how we are fighting a very strong and I think we are starting to win the battle against some of these foreclosed and vacant homes. So, I want to commend Rick for the work he is doing and thank Council for their support by passing these resolutions. Thank you."

REPORT OF THE MAYOR

Mayor Kelley stated, "There will be no Mayor's Report tonight. Thank everyone for coming to this meeting. This meeting is adjourned at 8:08 p.m. Our next meeting will be two weeks from tonight, Monday, August 17, 2009. We'll see you then."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council
/mwc