



CLEVELAND HEIGHTS

MINUTES OF THE COUNCIL MEETING OF MONDAY, AUGUST 16, 2004

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 5:15 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, Ruane, Wagner, Wong

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

Committee of the Whole adjourned at 7:33 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:44 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, Ruane, Tomaro, Wagner, Wong

The minutes of the Regular Council Meeting held Monday, August 2, 2004 were approved and signed by Vice Mayor Montlack along with the ordinance and resolutions passed at that meeting.

Mayor Kelley stated, "Now, before we move to personal communication from the citizens, it's my great honor to read a proclamation tonight and I am going to ask our Chief to step to the podium, because tonight is your night. It's my pleasure to read this proclamation to you and it's probably one of the wordiest proclamations I've read by far. It's the most well-deserved and well-earned one. Stand back and relax and here goes. I know Council will want to join in when I get done.

Whereas, Martin Lentz began his career as a police officer with the City of Cleveland Heights in February, 1959, and rose through the ranks with distinction, becoming Chief of Police in July, 1974; and

Whereas, under his leadership, the Cleveland Heights Police Department has gained the well-earned and well-deserved reputation of being the finest police force in the area and keeping our community crime rate one of the lowest in Northeast Ohio; and

Whereas, Martin Lentz, as a man and the son of a distinguished police officer, has lived and believed in the police motto to protect and to serve, instilling it into the hundreds of officers who have come under his command; and

Whereas, Martin Lentz has played a key role in the City of Cleveland Heights over the last thirty years, both as a resident and as Chief, to support the ongoing goal to maintain our city as an integrated, full-serviced, well-maintained community; and

Whereas, he has always understood the importance of education and has supported and encouraged his officers to further their education, and as a result, Cleveland Heights police officers are among the most highly educated officers to be found in Ohio; and

Whereas, Chief Lentz has supported and reached out to our school children through programs such as Safety Town, Bicycle Rodeos and classroom visits; and

Whereas, he has implemented creative and innovative police procedures (many of which have been duplicated by police forces around the country), such as deploying shift patrols based on activity at time of day, and allowing officers who reside in the city to take their cars home, giving them a highly visible presence in the neighborhoods; and

Whereas, Chief Lentz has uniquely understood the role between the police and the neighborhoods, assigning officers to attend street meetings and discuss safety concerns one-on-one; and he himself has attended countless meetings with Realtors, lenders, merchants, neighborhood groups and individual residents to answer questions and respond to concerns; and

Whereas, under his leadership, the Cleveland Heights Police Academy has become the largest training center for police officers in the State of Ohio with the highest graduation rate; and

Whereas, Martin Lentz has sought and provided the best technology and equipment for his officers, such as computers in patrol cars, which enable officers to quickly track and identify any problems; and

Whereas, also under his leadership, he has developed and implemented the highly effective and sophisticated Police Hazardous Devices Bureau, which consists of the Bomb Squad and the Biological-Chemical Unit; and

Therefore, on behalf of the City Council, the City staff and the people of Cleveland Heights, we offer thanks and appreciation to Chief Martin Lentz for his steadfast attention and commitment to the safety and well-being of the people of Cleveland Heights for the last thirty years. We look forward to his continued leadership in the years ahead.

Signed:

*Edward J. Kelley, Mayor Robert C. Downey, City Manager
August 16, 2004*

Cleveland Heights Council:

*Kenneth Montlack, Vice Mayor; Bonita W. Caplan;
Nancy J. Dietrich; Phyllis L. Evans; Jimmie Hicks, Jr.; Dennis R. Wilcox*

My pleasure and honor and privilege to give this to you tonight, Chief. I know you have a few words to say, but I know Council wants to chime in."

Chief Lentz spoke, "I wish to thank you, Mayor Kelley, this Honorable Council, the City Manager, for this recognition. It certainly was unexpected. The years have gone by very fast and I really haven't counted them over the years. Forty-five years ago when I was appointed to this police department it was one of the happiest days of my life and I felt fortunate to be a part of this organization - this city for these many years. The city has risen to heights, I think, beyond anyone's dreams of expectations. It's a great city. It's a great place to live and it's a great place to raise a family and I certainly feel privileged to be a part of it and thank you."

Vice Mayor Montlack stated, "I've known Chief Lentz and just plain Marty Lentz from - I won't go back too far, but from the time when there were a couple of fairly young law students at Cleveland Marshall holding forth with each other on Miranda versus Arizona and other fine points of the law and it was in every sense of the word a privilege also to know Chief Lentz while I served as an acting judge before coming on City Council. Certainly, as a council member, I won't try and repeat all of the things in this proclamation - all very well-deserved, but I will say that rarely does a month go by that I don't think about how well-served this city, this community is by Chief Lentz and the high professional standards that you set and follow. For those, perhaps relatively few people in the community who haven't met Chief Lentz around City Hall or seen him out at all hours of the day and night, riding through the neighborhoods or otherwise - let me just say what most of us know, Chief. Chief Lentz is smart, he's tough, he's courageous, he has one heck of a sense of humor and I think most important of all he is fundamentally fair-minded and that's why, for example, I know that when he sets policy, he thinks about things like the constitution and he thinks about equal protection under the law and he does more than think about it, he makes these attributes part of the policies, practices of the city. We are grateful. Thank you."

Council Member Evans added, "Chief Lentz, it's been a pleasure knowing you all these years and knowing that you made it possible for most of us to live in a city that we have a lot of pride in and knowing that it's a great city to raise a family, being that you also did. And that you sort of challenged each of us as residents to do our part to help make the city the best that it can possibly be. It's been great. I know you'll continue being on the force for many years to come and that proclamation could have been many pages long, not just many words long. And so next time around, we'll have one that is many pages. Congratulations. Thank you."

Council Member Caplan stated, "Today I heard a wonderful conversation. A woman, who is a new resident in our city, who came from a major east coast city told me she had a conversation with her old police chief, who said, "Cleveland Heights, you are so lucky. Their police department is so well-run. I wish that we had a police department like theirs and that it's run with smarts, with energy, with freedom to do the things that are right and it's run the way a police department should be run." Honest to goodness, I had this conversation this morning with someone and I said you are so right. So, you're famous and we're famous because of you and we're safer because of you. So congratulations and thank you from all of us."

Council Member Hicks stated, "Chief Lentz, when you were made police chief of Cleveland Heights I was 11 years old. I never thought I'd have the opportunity, not only to get to know the police chief, but to get to know you and I have appreciated that opportunity. I have grown to respect you. I

appreciate your help with the racial profiling legislation. How you worked with me on that and helped us put together something that was both respectful to the police and the residents of this community, but let people know that how we felt about that issue. I really appreciated that because it could have gone a number of ways and you took the time and you took the initiative to work with me on that. I appreciated when you made me the police chaplain, one of the police chaplains in Cleveland Heights, and gave me the honor to pray for the men and women who serve this community and I don't take that lightly and I have appreciated being a part of that and seeing the respect you command from the police department throughout this county, who come and send their men and women to be trained by you. That means a lot. So, I just haven't had the opportunity to thank you for the respect that you've shown to me, where you've taken me under your wings, so to speak, in terms of the police issues. Again, I appreciate that and we are lucky to have you and blessed to have you in Cleveland Heights. Thank you."

Council Member Dietrich stated, "I take my safety for granted and I'm so glad that I can live in a place that I can take my safety for granted. I never feel afraid in my house. I never feel afraid walking alone at night in Cleveland Heights or when my kids were little sending them walking to school and that is because your police are there in a flash, if we need them and I know that that's because of you doing your job with all your being. I also want to say something in a little less serious vein which is that way back in the 70's, my very first contact with anything that had to do with City Hall or the City of Cleveland Heights was a contact that I had with you and I was directing a running race in Forest Hills Park and I was so scared to have to call City Hall and coordinate with the Chief of Police how a race was going to be. I thought that was such a huge task. I called you up and you were accessible to me, so friendly to me. The officers did their job so beautifully and we had that same relationship for several years after that. It gave me my whole feeling about what the City of Cleveland Heights was like and that's because of you. Thank you."

Council Member Wilcox added. "Congratulations, Chief Lentz. It's a well-deserved recognition for a job you do every day. I think your dedication and hard work shows in this community because of the police force - the great police force we see every day in our community. One observation that I have, you truly have the interests of the citizens of Cleveland Heights at heart and their safety and I think that's largely because you are a part of the community. You are really a part of this community and that's important to all of us. We're very fortunate to have you and I want to thank you for everything you do for our community. Thanks."

Mayor Kelley stated, "Chief, I just want to say, too, thanks for all you do. Of course, we have one of the most diverse police forces, probably in the country. I always tout that we are the most diverse city in the United States and you've successfully carried that over with our police force. I'm proud that you've done that. I'm also proud of the fact that for forty-five years you've called this place home. I know you work more hours than most of our employees. A story that Jeff Sikorovsky told me one time when he went on a police matter with you, you drove the bus and you were the first one in on the call and he'll never forget it, although I think he was hiding under the seat because he was worried that he might have to do something. But it shows what you do, you lead by example - no job is too big or too small for you to do. The fact that the men and women that work for you, take the cars home, build up the community, build up spirit, also saves a few people from speeding up and down the streets and I'm pretty happy that two or three cars that surround my house. I think I have more protection around my house than Mike White did during his hey days in Cleveland. But, really, I want to thank you for all you've done. Just recently, with my nephew, you called right after you heard about the accident and you were very reassuring. You do so much for the community, in so many little things, that people don't realize what happened. The fact that year in and year out the crime rate goes down. I don't know how you do it, but keep on doing it. We're lucky to have you in Cleveland Heights and just keep doing

the things you do and thank you for what you do. How many fire chiefs have come and gone during the thirty years?"

Chief Lentz responded, "Five."

Mayor Kelley continued, "You're working on number six."

Chief Lentz continued, "This will be number five."

Mayor Kelley continued, "But really, congratulations. Councilwoman Evans was right. This proclamation could be pages long and this is just a small snapshot of what you've done for the city. Really, to the men and women who work for you, we're very proud of what they do day in and day out. But, again, the diversity of the people that work for you - the fact that a lot of them have excellent educational backgrounds is just a plus and I know you push that and work very hard to accommodate people. We're very proud of what you do and I think it's 8:00 and I think you have something to get back out to, so you don't have to stay and get bored by the meeting - unless, of course - oh yes, we have a picture for you with us, if you don't mind? I know you're not that photogenic. I think once in forty years we'll take another picture with you. Do you want to come up?"

Pictures were taken with Council, Mr. Downey, and Chief Lentz.

James Redhed, 3236 Redwood Road, stated, "I'd just like to make my own Chief Lentz comment as long as it's tonight. My wife and I lived in Cleveland Heights for about a year before we bought a house and at the recommendation of the Housing Service we had some questions about neighborhoods that we were thinking about living in and they said call Chief Lentz and the idea of just picking up the phone and talking to the chief of police was odd to say the least. They said there was a particular time of the week, I don't know if they still do this, when you could call directly to him - not even through a secretary."

A comment was made by one of the Council Members stating anytime.

Mr. Redhed continued, "Well, most of the time we get a secretary, but there was a time when the housing person, whoever that was - I can't remember who they were - they said you don't even go through the secretary, you go directly to him during these few hours a week. So we called him and we had three addresses we were wondering about and one of the things that impressed us was what he knew about two of them. One he said, 'Yes, we know that house - there was some trouble a few years ago. We'd love to have somebody stable buy that house.'" The one that we're actually in, he said, "Nice neighborhood. You will have some trouble with the Cain Park parking during the summer, but that's no big deal. If they're blocking your driveway, call us, we'll take care of it." The third place he was just quiet for a moment and then he said, "There must not be any trouble on that street, because I'm not sure where that is." It impressed us a lot at the time and that's not just a Chief Lentz thing, because that requires a broad attitude, not only from the chief of police but from the staff who hire him, the Council who hires the City Manager who hires those staff and that attitude of service and availability, I think, kind of filters from the top all the way down. Just from our little thing ten years ago, we really appreciate that and I remember that."

Mayor Kelley asked, "Bob, will you do the research to find out who really hired him in 1959?"

Mr. Downey replied, "I'll do that, your Honor. Those are in the records somewhere outside of this building."

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. And once again, thank you and Council for the proclamation for Chief Lentz. It's well-deserved. I have one item this evening and that would be to talk to you about Bid Document 2004-21, the purchase of thirty fire hydrants. The lowest and best bidder is Hughes Supply, Inc., in the amount of \$33,440.00¹. Your Honor, I would request that the bid tabulation and the award of contract be made a matter of record."

Mayor Kelley made it a matter of record.

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that one (1) Fiscal Officer's Certificate pertaining to proposed legislation to be introduced later in the meeting to provide for the issuance of bonds: For the purpose of paying the property owner's portion, in anticipation of the collection of special assessments, and the City's portion of the cost of improving Ring Road, including its access roads to Mayfield and Taylor Roads, by reconstructing the roadway and installing sidewalks, curbs, water lines, storm sewers, traffic signals, retaining walls, lighting and streetscape, together with all necessary appurtenances. Your Honor, I need to make this a matter of record."

Mayor Kelley made it a matter of record and referred to the Finance Committee.

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Hicks stated, "Thank you, your Honor. I have one piece of legislation this evening. I have Ordinance No. 123-2004(MS), authorizing the City Manger to enter into an agreement with Kenilworth-Mews, LLC for the relocation of water and sewer easements over property identified as Permanent Parcel No. 685-02-003 in the City of Cleveland Heights; and declaring an emergency. The City Manager is hereby authorized by this ordinance, to enter into this agreement with Kenilworth-Mews, LLC for the relocation of existing easements for water and sewer line across property owned by Kenilworth-Mews, LLC, and identified as Permanent Parcel No. 685- 02-003. The agreement and any other related documentation shall be approved as to form by the Director of Law. Your Honor, I offer Ordinance No. 123-2004(MS) for passage this evening."

Mayor Kelley accepted Ordinance No. 123-2004(MS).

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

Nays: None

Ordinance passed

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There is one piece of legislation from this committee, Ordinance No. 100-2004(PD), Second Reading, and for passage tonight. This is an ordinance, amending Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights to create a new Commercial District classification to be known as the C-2X Multiple Use District. Before going to some further explanation of the legislation, I would first move that at Section 1. Regulation Roman Numeral VI, the portion that begins with two asterisks, that the phrase *Corner Side* be added as follows and with the addition it will read: *The Planning Commission may conditionally approve a front or corner side yard use, other than parking, that would result in a building being set back more than the maximum*

distance permitted from the "built-to" line. That amendment proposed comes as a result of simply the Planning Department staff noting that there was a minor omission. I move for the amendment as proposed."

Second by Council Member Evans.

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

Nays: None

Motion passed

Vice Mayor Montlack continued, "I believe that when this was on for first reading before going to Planning Commission that there was a fairly substantial explanation of the items in here, so I won't try to go through every word here. The bottom line is this, that planning staff, being ahead of the curve has proposed what I'm understanding now is being accepted as a form-based zoning. A little more progressive way at zoning and the requirements that come out of that field and are specifically designed with Cleveland Heights' districts in mind. The items in this proposed C-2X Multiple Use District looks something like this. The permitted uses include all of those that are now in our standard commercial district or more/less standard district which is known as the C-2 Zoning District. The conditional uses are also all of those in the C-2 Zoning District except, that is to say, not permitting automobile dealers, gasoline stations, car wash establishments, auto service stations providing minor repairs and auto service stations providing major repairs. The permitted accessory uses are identical to the C-2 Zoning District, accessory uses. The conditional permitted accessory uses are of the same nature. In terms of lot area and width regulations, there shall be no minimum area or width requirements for lots in this new district. Among the differences of yard regulations without going through all the front and side yard, the minimum has been cut down to zero or to the "built-to" line so that in some of the districts, it may come to mind, it would be something like (although we are not dealing with designation of districts in this legislation) some of our districts along Lee Road or Coventry are alike. Here are some additional requirements, that in this C-2X district, the buildings shall not exceed 65 feet in height. That is a recognition that buildings of greater height have their place in some of these districts. The portion of a building in such a district, which is within 30 feet of a residential district, however, may not exceed 45 feet in height. A building in this district that exceeds 45 feet in height, must have transparent glazing covering at least 15% of the face area of each wall that exceeds 50 feet in width, unless prohibited by the Building Code or other applicable regulations. When a building exceeds 45 feet in height, at least one-half of each building face on the building's top floor shall be set back at least 8 feet from the building's setback at street level. Really indicating an architect's sensitivity to the neighboring housing. The off-street parking requirements, as they have been modified in regard to Cedar Fairmount, Coventry and the Cedar Lee commercial districts, whereby the stream of people going to the Board of Zoning Appeals to get variances, which they always get, because there isn't enough parking, has been modified.

I just tried to cover very basically some of the requirements here, and again, I think that the fine reception that this has received from citizens' groups commenting on it, from the Planning Commission, and also the fact that we have basically heard no objections, says a lot about the kind of thinking, the kind of knowledge and just plain hard work that the planning staff has put into this forward thinking zoning change. With that, Ordinance No. 100-2004(PD) is presented on second reading [as amended] for passage tonight."

Mayor Kelley accepted Ordinance No. 100-2004(PD) Second Reading, As Amended, for passage.

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

Nays: None

Ordinance passed

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans stated, "There is no report this evening, thank you."

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "Thank you. I have no legislation tonight but I would like to say a few words about the Citizens Advisory Committee which we call the CAC. It is one of our boards and commissions in Cleveland Heights. These twenty-two volunteers on the CAC have the responsibility of advising Council on how to divide up approximately the 2 million dollars that we get in Community Development Block Grant funds each year from the federal government because we are an entitlement city of 50,000 or more residents. The CAC is having its busiest time right now. In August and September they work very very hard. They just concluded their hearings where they listen to the applicants for the CDBG money and this year there were twenty applicants that they heard from ranging from public service organizations like Heights Parent Center or the JCC After Noon Out Program or the AIDS Task Force Open House Program all the way to the city. The city has to apply for these funds and the city would use the funds like street or water line improvements or for programs to assist people in painting their houses and winterizing their houses or rehabing commercial buildings. There are always many more worthwhile requests for dollars than there are dollars. That is the difficult task of the CAC as to decide how to spend this money - how to allocate it. While they do have very capable staff help from Karen Knittel, a lot of work falls to them. They divide up into sub-committees and they study in depth the applications and then they get back in their large group and come to a consensus and then present their recommendations for how to allocate the funds to Council and then we make the final allocations based on their input. Actually these twenty- two folks have a huge responsibility for how the city uses some of its resources and they have quite an influence over the direction that the city takes and the kinds of things the city supports. It's an extremely conscientious group and they take their job very seriously. So on behalf of all of us at this, their busiest time of the year, on behalf of Council and staff, I want to thank the CAC members for their willingness to serve the city. Thank you, that's all that I have."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Caplan added, "Thank you and I think that my colleague Councilman Montlack had a really good idea, because I have an ordinance that's very complicated. First I'd like to take care of the amendment and then talk about it. I have Ordinance No. 122-2004(CRR) and before I even tell you what it's about, some of the wording has been changed. Primarily, it's about creating a new section in the prior - when I read it the first time and we didn't vote on it - when I read it, it was just a piece of Section 11 and now it's its own little piece. It is Section 11(A). Limitation on Rate of Taxation for Improvement and Maintenance of City Owned Parks, Recreation and Cultural Facilities. Also there were a few word changes like the addition of the word, 'rights of way'. So of the changes there, just to make it all clear and when I tell you about it, perhaps it will make it more clear, but I'd like to have the amendment to this ordinance before I talk about it. I move that we accept the amendment to Ordinance No. 122-2004(CRR) first."

Second by Council Member Hicks.

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

Nays: None

Motion passed

Council Member Caplan continued, "Good. Now I can talk about what this is. Last time when I read this I told a story. Now I am going to try to explain this in a different way. Many years ago, my husband and I bought a house, just like many of you have and we've lived in this house a very long time and besides owning the house and paying on the mortgage, every year something happens. The gutters fall off, the roof needs some more shingles, the kitchen needs to be redone, the yard needs some more plantings, the windows need re-fixing and the longer I live in an old house (most of our houses are old in Cleveland Heights) it needs maintenance and you have to do it every year so that it continues to look nice. The same thing is true of the facilities that we have in Cleveland Heights. In 1987, the citizens of Cleveland Heights were very smart and what they did - they passed a levy taxing themselves; to put the roof on Cain Park Amphitheater, to take care of a variety of facilities within our parks for recreation purposes. That's the time when we built the ballfields at Forest Hill Park. There were a whole lot of other things that were built at the time. We did a children's playground, we improved parking, there were a lot of things that were done with the money and the amount of money that we voted for ourselves was 1.35 mills. That equals for today, \$41.34 on a \$100,000 home. Well, since 1987, every year the money these \$41.34 that you've been paying on your \$100,000 house has been going to pay off that bond and this year we're done. So that we will have paid off, essentially the mortgage on these things that we agreed to do in 1987. However, lucky us, our facilities are still there, but they do need continual maintenance. So what we are presenting to you, as the voters, is to put on a tax, it's not a replacement because one is coming off, we're offering to the residents of our community a .07 which is almost half of what you're paying now, which equals to \$21.44 a year for a \$100,000 home, so that we can continue to maintain all of our parks and recreation facilities. So we can add perhaps some sprinklers to the wading pools at the children's playgrounds, we can upgrade some of the bathrooms in our public facilities, so that we can keep us looking spiffy, keep us looking beautiful, take care of some of the cultural things that we'd like to do within our community and just keep all the recreational facilities looking terrific and inviting so that we can all continue to use them in a wonderful way and actually, I hope you've been using all of our parks and recreation facilities, particularly this summer. So, that's what this ordinance is about. It is about that we've chosen this time, because we are done paying on the money we had borrowed in 1987 that we voted on ourselves and we're asking us and you to vote in November to pay about half as much as you're paying now so that we can continue to maintain and upgrade the facilities that we have. That's what this is about. This is Ordinance No. 122- 2004(CRR), Second Reading, As Amended, providing for the submission to the electorate (that's you) of an amendment to Article IX, "Finances," of the Charter of the City of Cleveland Heights to enact a new Section 11(A), "Limitation on Rate of Taxation for Improvement and Maintenance of City Owned Parks, Recreation and Cultural Facilities"; and declaring an emergency. Be it ordained by this Council that the question of the amendment of Article IX, "Finances," of the Charter of the City of Cleveland Heights to enact a new Section 11(A), "Limitation on Rate of Taxation for Improvement and Maintenance of City Owned Parks, Recreation and Cultural Facilities," 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 Section 11(A) to read as follows:

Section 11(A). Limitation on Rate of Taxation for Improvement and Maintenance of City Owned Parks, Recreation and Cultural Facilities

Notwithstanding the 8 mill limitation on current operating expenses contained in Section 11 of this Article, and in addition thereto, Council may 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 mainte-

nance of land, facilities, buildings and structures belonging to or operated by the City and used for parks, playgrounds, play fields, rights of way, swimming pools, indoor recreation and community centers, municipal amphitheaters and cultural facilities, and the equipment therefor, and for the debt charges on general obligation bonds and bond anticipation notes issued to pay the cost of the improvements and/or maintenance specified herein.

Which is - after you heard - that was one sentence - after you heard me read that, that's why I told you what this is all about and that's the language that will be on the ballot when you go to vote on November 2 - what I just read to you. Section 2, the Clerk of Council is hereby directed to forthwith certify a copy of this Ordinance to the Board of Elections of Cuyahoga County (so that we can all do this and vote on November 2 - yes). He is further directed to provide for official publicity for the proposed amendment as specified in 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. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights. This ordinance is hereby declared to be an emergency measure immediately necessary so that we can all vote on this on November 2. I offer Ordinance No. 122- 2004(CRR), Second Reading, As Amended, which allows this - what I read to be put on the ballot so that all of the people in the City of Cleveland Heights can go and vote yes. I offer this for passage tonight."

Mayor Kelley accepted Ordinance No. 122-2004(CRR).

Council Member Hicks stated, "Thank you, your Honor. I just want to real quickly point out one small point that it says that this Council may levy annually if this is approved. Which means that each year this Council or a council will look to see if the needs for these items here exist for the following year and decide if this tax will be placed upon the residents of the City of Cleveland Heights. And so, residents still have some control even over this - their side. It means, we do need it, but there is still the opportunity each year for the Council to decide if our facilities need to be improved the next year or some other things need to be improved, so I think that was on behalf of this Council something that I think was a good thing that we did."

Vice Mayor Montlack added, "Well, I kind of hate to get into this negative state-bashing mode, but very briefly, frankly for the past few years and unfortunately for the foreseeable future what is happening to our city budget and many, many city budgets is that down in Columbus where the fixation is on other issues rather than on what is happening with the economies of our cities and indeed our state, that as a result of that we are - our tax dollars that go to the state and that traditionally and actually by implicit promise were returned in some form have now been cut off to a great extent. This applies to the changes in the estate tax law, in the cap on the local government fund which is a very important source of shared local state taxes, shared in the sense that the taxes we pay to the state - a portion of that comes back. So while our local income tax and other revenues have held steady, even through these hard times at least at this point, we are lacking those funds. When I say, 'we', I mean all of us in this community. We also know that we must continually make the kind of re-investments that I think Councilwoman Caplan demonstrated is the same for your family as for your community and that is a fact of life. I thought that needed to be said. Thank you."

Council Member Wilcox added, "I just wanted to bring it down to a more local level and point out that the current levy on the owner of a \$100,000 home as Councilwoman Caplan said, is \$40.00 a year. This levy would require an investment of \$20.00 a year on a \$100,000 home and that is less than \$2.00 a month to maintain our recreation, park and cultural facilities in first class shape. I think that's a good investment for this community. Thank you."

Council Member Evans added, "A different look at this. I had the opportunity this weekend to attend performances at Cain Park and each evening I had a different out-of-town guest with me or guests. As I walked through the park they all commented on what a beautiful site it is. It truly is a gem. It's one of our jewels that people envy all around the county and even outside the area. Certainly we want to do what we can do to keep our wonderful, wonderful areas as terrific as they are and this is one way that we can continue to offer these resources not only to our residents but to people who come into our city to visit."

Council Member Dietrich mentioned, "I have nothing to add."

Mayor Kelley said, "I'm just going to add a little something. It's very simple. It comes down to less than six cents a day, about thirty-eight cents a week, which is less than a pack of chewing gum to invest in our parks and our recreation - our cultural facilities. A lot of great things happen. Whenever we get that funky Cleveland Magazine, Rating the Suburbs thing, we always rate one of the highest in recreation as in many other categories. But we don't fit all their other great profiles which we don't really care about. But as far as recreation, we know we have it all. During the past few years we've gotten a skate board park, which many other cities long for. We've gotten a slide at Denison. We've done great things at Cain Park as Councilwoman Caplan said, from 1987. We are looking to do some more things. This will give us the opportunity not only to maintain our parks, recreation and cultural facilities but minimally we will upgrade the two little wading pools that Jimmie Hicks and I learned how to go under water for the first time - and our kids probably did too. It's time to really bring them up to speed to compete with some of the other communities. We'll be able to dream a little bit, maybe do some other things - not that we can promise everyone everything. This isn't a catch all to bring us all kinds of money, but we're very conservative to bring it down to point seven. Twenty/twenty-one dollars a year on a \$100,000 house like I said is less than six cents a day. We don't come to the ballot all the time. We're a fiscally responsible city. There are a lot of reasons we're doing this, but we really care about our parks. We care about our ballfields, our tennis courts, our skateboard park, our sledding hill at Cain Park, our basketball courts, our lovely soccer field. We have it all here in Cleveland Heights. But if we don't invest a little bit in ourselves every once in a while, who is going to do it? The Vice Mayor is correct, the state has choked us at every turn, taken money away from our tax dollars, cut inheritance tax, shared government tax and there is no reason to believe that they're not going to do it in the future and keep on doing it. This is a very interesting proposal. It's something that we've done in the past - 1987. We're very fortunate that we built the beautiful community center - one of the best community centers around and one of the highest used community centers, every day, twelve months of the year, not like some other community centers where people take a rest in the summer - do other things. Our community center is well-used almost every hour of the day. We're very proud of it. So this is a sound investment in the future. I wish every person would vote for it, but I realize that some people can't afford to or for other reasons they won't vote for it, but I'll take a 50% plus 1 or a 60/70% vote. This is a great investment in our future and I'm proud that we're putting this on the ballot and I'll defend this way past November 2. It's a good investment in our future. As I said, we're not into the ballot every few years. It's a good support for our parks, recreation and cultural facilities, which means we'll be doing a lot of things at Cain Park. I think everyone of our park facilities will come back and be healthier because of this."

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

Nays: None

Ordinance passed

Council Member Caplan continued, "Thank you. That takes care of the legislation but there were a few other things that I wanted to comment on. Number one, Cain Park season has been just

wonderful and I hope that you've all had the opportunity to go, whether it's to the Arts Festival or to hear some of the Kidzart program or some of the free programs or the plays. Tick Tick Boom was really an amazing play and it was a privilege to have had it down at Cain Park and the professionalism of all the acts that have been there this summer really - it's wonderful. We frequently go and take a picnic so we can get a good parking space and enjoy the ambiance and then go to the show. I have a special thank you really to all of the staff and all of the volunteers that help make the Cain Park season, such a success. You know lots of people volunteer down there. And a very special thank you to Janet Barlow who has been running Cain Park and helping to choose the acts and making sure that it all goes smoothly and she's leaving us. She's going to get a wonderful job in another community and is really leaving us and thank you, Janet. What a wonderful job you have done for this community. Thank you to all of the staff and the volunteers that have worked with Janet. Our loss will be another communities' gain and those are really going to be hard shoes to fill.

The other comment, because I can't resist encouraging you, please remember to recycle. Recycling is something that we can do. It's easy. It's good for the environment and it's something that everyone of us can do in our own home. When you open - you know that mail that comes that you throw away. Put it in a paper bag so you can put it out with your garbage on your garbage day. Take those empty cereal boxes and put them in recycling. Take your newspapers and tie them up. It all goes away. We do this recycling thing so easily. Please participate in recycling. It is good for the environment. It's good for the community and it saves this city money if you recycle because then we don't have to pay for those recyclable materials to go into the landfill, because we do pay for landfill. It's a reminder. Try to recycle. Pay attention a little bit. A little bit goes a long way and it's a really good thing for our community. That's all I have. Thank you."

REPORT OF THE FINANCE COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There are four pieces of legislation from the Finance Committee tonight. The first one is Ordinance No. 117-2004(F), Second Reading, 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.

When I read this at the last meeting, I mentioned that essentially what is involved here is that the city and many other cities have tax business entities such as partnerships and S Corporations for many years now and they share a profit from those. What the State of Ohio has done is to prohibit us from continuing to do that unless we submit this issue to the voters of Cleveland Heights. So, again, following up on what Councilman Montlack and Mayor Kelley said, the state is not only cutting funding through the local share, they are also passing laws that prohibit the city from collecting taxes they've always collected before. I want to stress that this is not a new tax that we are putting on the ballot and we wouldn't put this on the ballot except the state has required us to do this to continue to collect the taxes we have collected for years and to do anything else would give an unfair advantage to one form of business entity over another one. So I look at this as a matter of tax fairness in sharing the tax burden equally among our tax payers in the city. I read this ordinance last time and I'm just going to summarize a couple of the points again.

This Ordinance would authorize Council and directs the submission to the electors of the City of Cleveland Heights at the general election to be held at the usual places of voting of said municipality on Tuesday, 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. The Ordinance also authorizes the Clerk to file this with the Board of Elections of Cuyahoga County on or before August 19,

2004. It will also be published in a newspaper once a week for two consecutive weeks prior to the election. I am going to read Section 6 of this Ordinance which is the actual ballot language which states as follows:

“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?”

YES

NO

A majority affirmative vote is necessary for passage.

I know a lot of voters may be confused with this language, but this is the language that the state legislature has forced upon us and I would just again emphasize this is strictly a matter of tax equity - tax fairness. I offer Ordinance No. 117-2004(F), Second Reading, for passage tonight.”

Mayor Kelley accepted Ordinance No. 117-2004(F), Second Reading, for passage.

Mayor Kelley added, “Just a quick comment. Those of you who are an S Corporation [tape unclear] or anything like that - business as usual as Councilman Wilcox has said, this is just something our friends down state have passed on to us to do because they didn’t really address it when they passed the new tax code. So don’t despair. Don’t think it’s the city trying to double tax you, re-tax you, triple tax you, or whatever, this is just the city trying to do business as usual, what we’ve done for years. We now have to go to the ballot to collect the taxes in the manner we’ve collected in the past. Correct, Finance Director?”

Mr. Malone affirmed, “That is correct, your Honor.”

Mayor Kelley continued, “That is what this is about. So don’t despair. I know it affects a few people in our community, but this will be business as usual, once this is voted on and passed, optimistically on November 2.”

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

Nays: None

Ordinance passed

Council Member Wilcox continued, “I have Ordinance No. 124-2004(F). This ordinance and the one following have to do with essentially paying for the new Severance Circle Drive or the Ring Road as we sometimes call it and Ordinance No. 124-2004(F), is an ordinance levying an assessment for the improvement of Severance Circle aka Ring Road, including its access roads to Mayfield and Taylor Roads, located at Severance Town Center, and all appurtenances; and declaring an emergency. Council previously declared the necessity of implementing through assessment the improvement of Severance Circle aka Ring Road, including its access roads and the improvements had been requested by a petition signed by the owner of one hundred percent of the area to be assessed for the improvements. By Ordinance No. 17-2003, this Council determined to proceed with the implementation through assessment of the improvement and Clerk of Council has reported that the final costs have been in-

curred for this Improvement Project in the sum of Three Million Nine Hundred Eighty Thousand Dollars (\$3,980,000.00). Section 1 of this ordinance then provides it is the determination of this Council to assess the following parcels of property for a portion of the costs of the Severance Circle Improvement Project in accordance with Resolution No. 17-2003 passed on February 3, 2003: Permanent Parcels No. 683-25-001, 683-31-008 and 683-25-016. Section 2 of this ordinance then has Council determine that Two Million One Hundred Sixty Five Thousand Dollars (\$2,165,000.00), which represents the portion of the costs of the Project to be assessed pursuant to the Agreement with the predecessor in title of the owner of the properties in question, plus interest upon the unpaid principal amount at the same rate or rates of interest as shall be borne by the bonds to be issued in anticipation of the levy and collection of the unpaid special assessments. These assessments will be collected for a period of twenty-five (25) years. The ordinance also provides for the assessment to be certified to the County Auditor for collection. I offer Ordinance No. 124- 2004(F) for passage tonight.”

Mayor Kelley accepted Ordinance No. 124-2004(F) for passage.

Council Member Dietrich commented, “Just to make sure that nobody is confused, I just think it’s important to say that the assessment is not on residents, this is just an assessment on those businesses right around Ring Road. I’m not positive it was really clear.”

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

Nays: None

Ordinance passed

Council Member Wilcox continued, “Thank to Councilwoman Dietrich for clearing up the actual assessment being against the business owners. I just wanted to summarize that this improvement to the Ring Road has actually three sources of payment. The prior owner, Winmar, contributed 1 million dollars to the Ring Road improvement and then the owner share of the Ring Road is reflected in part by the assessment that we just passed so that will be collected against the owner of the shopping center. Now, what we have are bonds to be issued to pay the entire cost - the remaining cost of the improvement. This is Ordinance No. 125-2004(F), to provide for the issuance and sale of not to exceed \$3,300,000 of bonds for the purpose of paying the property owner’s portion, in anticipation of the collection of special assessments heretofore levied, and the City’s portion of the cost of improving Ring Road, including its access roads to Mayfield and Taylor Roads, located at Severance Town Center and all appurtenances thereto, by reconstructing the roadway and installing sidewalks, curbs, water lines, storm sewers, traffic signals, retaining walls, lighting and streetscape, together with all necessary appurtenances thereto, and declaring an emergency. Previously, the Director of Finance has certified the useful life of the assessment or the improvement rather. This ordinance then authorizes the city to issue bonds in the amount of \$3,300,000 for the purpose of paying the property owner’s portion, in anticipation of the collection of special assessments heretofore levied (which was passed in the prior ordinance) and then this will also include the city’s portion of the cost of improving Ring Road as well. The rest of this ordinance deals with the technicality and legality of selling bonds and I’m not going to go through this in its entirety other than to say this is at a private sale. Certificate of award is to indicate that the bond interest should not exceed 9%, but we would expect the bond sale slightly more than 4 1/2%. The maturity of the bonds will be 25 years and these are for the purpose of paying the property owner’s portion, in anticipation of the collection of special assessments heretofore levied, qualified tax-exempt obligations. I offer Ordinance No. 125-2004(F) for passage tonight.”

Mayor Kelley accepted Ordinance No. 125-2004(F).

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

Nays: None

Ordinance passed

Council Member Wilcox continued, "Next, I have Resolution No. 126-2004(F), authorizing the reprogramming and reallocation of Community Development Block Grant Funds; and declaring an emergency. There are a number of important community development projects which need funding. The City staff has made recommendations for the programming of available funds; and the proposed programming of the additional funds has been approved by the Citizens Advisory Committee.

As Councilwoman Dietrich pointed out earlier, the Citizens Advisory Committee is reviewing applications right now, but they did take time at their last meeting to review this request for contingency funds to help us pay for part of the water line rehabilitation in the Canterbury neighborhood that is being done right now.

Section 1 of this resolution states as follows: The following reallocation of Community Development Block Grant Funds is hereby approved for the purpose outlined: \$30,000 from the Contingency Fund to the Water Line Rehabilitation Fund. I offer Resolution No. 126-2004(F) for passage tonight."

Mayor Kelley accepted Resolution No. 126-2004(F).

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

Nays: None

Resolution passed

Council Member Wilcox concluded, "Finally, I just want to report on our sale of our multiple purpose notes for capital improvements that we authorized in July. Those notes in the amount of approximately \$3,500,000 were sold at an interest rate just slightly more than 1.7%. A good note sale on those and we thank our City Manager and Finance Director for their hard work on that. Thank you."

REPORT OF THE MAYOR

Mayor Kelley stated, "Our meeting is adjourned at 8:55 p.m. Our next meeting will be Tuesday, September 7, 2004 at 7:30 p.m. Thank you for coming. Have a safe Labor Day weekend."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc

¹ Actually amount \$34,440.00