



CLEVELAND HEIGHTS

COUNCIL MINUTES OF THE MEETING OF TUESDAY, SEPTEMBER 2, 2003

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 5:45 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, Reddy, Ruane, Wagner, Wong, Zins

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

Committee of the Whole adjourned at 7:40 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:47 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, Zins

The minutes of the Regular Council Meeting held Monday, August 18, 2003 were approved and signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

"My name is Tom Merritt. I live at 3614 Langton Road. Where do I start? I've been living there for about 15 years now. I've had sewer backup at least six times. Every time I call City Hall they send me here, they send me there, they send me to the water department, sewer department - nothing has been done. This past Friday, I had about 6 - 7 inches of water in my whole basement. I called up here and they sent me to the water department, which - what can the water department do? I've got water in my basement. Then they sent me to the sewer department. They came out and they said, 'You probably need to get your drains cleaned out, that'll be \$75.00.' I pay \$4,000.00 a year in taxes and I have to pay \$75.00 to get my drain cleaned-out because the sewers will not take the water. It doesn't make much sense to me. We pass a lot of stuff in Cleveland Heights but I've never seen anyone mention anything about the inadequate sewers that we have. We need to do something about it. I'm a real estate agent and it's very hard to sell houses that have sewers backing up and Reverend Jimmie Hicks, you are an insurance person, I know you all do not like to see those claims."

Council Member Hicks responded, "No, we don't."

Mr. Merritt continued, "Right now I'm scared to turn a claim in because they'll probably kick me out, because this will be my fourth claim. It doesn't make much sense, as I've said, for the taxes that we pay and I don't see the service - really to be honest with you. So I wish someone would address this immediately. You can come by my house, if you want. I've got pictures, too. There are more people on my street that have the same problem. So I wish someone would really look into it. Thank you."

Mayor Kelley responded, "Thank you. Mr. Downey, do you want to take that one on?"

Mr. Downey replied, "Yes, your Honor. Mr. Merritt, I actually appreciate you coming and telling us this evening. On Friday and today, I was only aware of one call from Langton Road and not that I'm asking you to have all of Langton Road call."

Mr. Merritt interjected that there were other residents present.

Mr. Downey continued, "Good, good. It tells us a lot when we know that one person has a flooding problem or if the entire street does. Generally, if one person has a problem they probably have a blockage in their own line, but if a number of people do then we've got a problem on the whole street and it could be a city block main and that helps us greatly in trying to figure out what the problem is. I'd very much like to have our people come out and begin at the very beginning and that's inside your sewer and make sure your sewer is fine as well as the sewer in the street. You did not get any water yesterday, did you - this was the big storm on Friday I believe? Yes, there was no rain yesterday?"

Mr. Merritt replied, "No water yesterday."

Mr. Downey continued, "Okay. That's very helpful. If you don't mind, if you and the lady behind you that you were pointing to would leave your name with one of my staff people. Eddie, could you get Mr. Merritt's name and address because I want to have some people out there tomorrow to see those sewers and the lady with her hand up, the lady nodding her head next to her."

Mayor Kelley requested, "You come to the podium, please."

"My name is Norma Meaker. I live on Langton Road."

Mayor Kelley responded, "Hi, Norma, we talked on the phone Friday."

Ms. Meaker continued, "Yes, we did and I also talked to -"

Mr. Downey interjected, "You talked to me. We also talked on the phone on Friday. Yes."

Ms. Meaker continued, "My sewers are clean. I just had them cleaned two or three weeks ago, so I know it's not that problem. Eight years ago when I had a bad flood I was told it's the storm of the century, we can't do anything about it. This is not the storm of the century, Friday night. There aren't that many storms of the century. You know this is just a storm that should be taken care of in some way. The City, I fault, in one way also, they have never made a suggestion to me in the six floods that I've had in fourteen years, what could be done on my property or on Cleveland Heights property so that the floods would not affect my basement so I wouldn't have any more flooding. A neighbor on the other side of me suggested screw-in plugs, but that didn't come from the city and that's a wonderful thing except if you're not home to screw the plugs in (which I wasn't on Friday) then you get a back up. It has

ruined my furnace, my washer, my dryer. Hopefully, my insurance company will take care of it, but I'm sure my insurance cost will go up. I'd like to know what you folks can do about the problem?"

Mr. Downey answered, "Ms. Meaker, we still want to get inside anyway. The first and foremost, we have to know are we talking about a storm sewer situation or a sanitary sewer situation and we have to get inside to know what that is before we can fix it. Mr. Zentarski, I think you talked with him too?"

Ms. Meaker replied, "No."

Mr. Downey continued, "Well, you will, because he is going to schedule a time for us to come out so we know which sewer is the problem."

Ms. Meaker replied, "Okay, thank you."

Mayor Kelley asked, "So, we'll get out this week so we can define the problem? Tom, are we going to get out this week and define the problem and find some solutions?"

Mr. Merritt replied, "Yes, sir. One more thing, when the water people or the sewer people - when they were out there Friday, they told me that the sewer in the sanitation lines were connected and he said that is probably the problem. Not all homes on that street are connected like that. So, he mentioned a few things to me that I could do, but with my taxes I don't feel that I should have to do anything."

Mayor Kelley reiterated, "Why don't we clearly define the problem. Get the right personnel out there to clearly define the problem and let's figure out the solutions to try to avoid it in the future."

Mr. Merritt answered, "No problem."

Mayor Kelley continued, "I appreciate your commitment to Cleveland Heights. Let's get the proper personnel out there to define the problem and come up with some permanent solutions so it doesn't happen again. Councilman Hicks doesn't want to hear about insurance claims. I know you don't want to hear about it. Let's do something permanently to avoid the problem again."

Mr. Merritt said, "I'd appreciate that."

Mayor Kelley continued, "I think the City Manager knows how Council feels about this. Norma, it was nice to talk to you Friday afternoon - sorry under the circumstances."

"My name is Miss Acey and I also live on Langton Road. I'm here because I'm very upset about the problem over there with the sewer situation. I don't think that there is any type of excuse for this type of thing to be going on because it is not only in one area or one house, it's connected - it's like going down the whole street like a whole complete river. This is just completely uncalled for. I don't feel like I am getting any type of service for my money - for my taxes that I'm paying out here. I don't know where the care or concern or consideration that this City, Council, Mayor or anybody else here has for the citizens of this community. I feel like there is a breakdown in communication - some type of wait - and they need to do something about it because it is just not acceptable for the type of money that we are paying out here - we should not have to go through anything like this. Because, first of all the inconvenience that I had to go through today for one thing not to be able to use my water to wash my clothes, to do anything around my house - this is just terrible. I've never seen anything like this in my life. I don't think this is right and I feel like the City should be able to do more about it than just sit here and tell us all these excuses. I don't feel like we're getting the right answers that we need. That's what I wanted to

say about that. I don't feel like it's being handled properly and I don't feel like anybody here is giving us the consideration that we need."

Some one interjected, the water main break.

Miss Acey continued, "The water main break, this is what it's all about. The water main break on Langton Road. I was inconvenienced today and I feel like I said, when it first started a couple days ago, they started trying to do something out there about it, but why didn't they continue? Why didn't they work over the holiday? They should have received over pay, double time, what ever, to get our problem corrected. They just made us wait until today before anybody really even came back out to address this. This is ridiculous. I do not like it. How are the people in Cleveland Heights going to be able to stay here and have confidence in this city with this type of thing going on? That's all I have to say."

"My name is Nathaleace French. I live at 14634 Superior Road. I have been living in Cleveland Heights, the middle of this month will be 37 years. Here, recently on July 6th, which was on a Sunday, I had a backup of sewage in my basement. It only went half way at that time. So my husband and I cleaned it up. On July 21st, on a Monday, when we had this thunderstorm to go through Ohio, I smelled this vile odor. I went and looked down my steps. My basement was flooded up over the bottom step. When I had the first problem, and this is raw sewage this is not water - raw sewage, I had to call Matt Phillips to come out and open my sewer. When it happened on the 21st and all this water was there I heard my sewer (swish sound). Spoiled water - I had in the first part of my basement - I had 1 _ inches of raw sewage. I went in the back part where I have my washer and dryer, I had mounds of raw sewage - 2 _ to 3 inches high. I had my daughter and my son-in-law clean all this mess up for me. I called the sewer division and I talked to Tom Webster later on and I told him about it and I said I feel that it was the main line. He confirmed it. He told me, "Yes, it was the main line. It became so full because of all the rain and I will send someone out to check the line - the main line here." He had someone come to my house and talk to me about this. I was reassured that the main line would be cleaned up. We got all this taken care of. I find out that the Cuyahoga County had been declared a disaster area so I was able to contact FEMA who came out to see about this, because that thing put out my furnace, it put out my hot water tank, it ruined my dryers, my washer, my freezer, my refrigerator and everything else. I had things down there that were from my children, antiques, and original things of toys that were completely destroyed. I put it out on the lawn. I cleaned up after this. I'm thinking that this problem is solved. My husband went away for the weekend, for Labor Day. I went out Friday feeling assured that I'm about to get ready to replace, because I've cleaned up my basement and put everything back because everything has been taken care of. I come home and I go upstairs. Eleven o'clock I decided I'm going to go downstairs, and I hit the bottom landing and I get this vile odor and I looked in my basement and here again I've got raw sewage all over my basement. I go back in the part where my washer and dryer are, I've got about 2 inches of raw sewage and this time it's mixed with gravel. Gravel, pieces of cement. I've got snails. I've got baby snails climbing up the walls. I've got worms. This is a health hazard. My daughter came and we cleaned this mess up. Today, she contacted and talked to the City Commissioner. I think she said his first name is Dennis. He took it upon himself and he went out and found that the main line was completely blocked and he got someone to come over and open that drain supposedly, because he called my daughter back and told here that he did this and that he talked to [someone] because Tom Webster was not in because she tried to contact him also. That now, he is supposed to have made a commitment - he told her that he will have Tom to clean this sewer out every six months. And I do hope, that Council will see that it is done because this is a health hazard. My neighbor here had the same problem. My other neighbors had the same problem. These are elderly people. I am a senior citizen myself. I am retired. I'm on a fixed income and the only one that I got to help me was FEMA at the time. Now the City Commissioner is the only one, according to my daughter, that is seeing that something is being done about this. This is a crying shame. This is the first time. I've

never been this upset for 37 years why should I have to do through this? Why should anybody have to go through this? Why should we have raw sewage on our floors that we have to clean up? Because nobody helps us. We can't - when I talked to Tom he didn't tell me that we had been declared a disaster area [and] that I could contact FEMA and have them come out. When they came out they took care of business - they came out. They even called me and talked to me about this. This came out, they went down and they saw everything. I have pictures of this. I have it on video. I hope and pray that this is the last time that I have to clean up something like this. I hope you do your job and see that everybody else does what they are supposed to do. No citizen should have to go through this. Thank you."

"Hi. My name is Sally Rushin. I live at 14642 Superior Road. I have two complaints. She [Mrs. French] said it just about all for me. My daughter had been staying with me and all her stuff got ruined and that's what caused me to call FEMA. She had the greatest loss. Aside from that, I want to know how do I get petitions to make us if we can get this thing changed about having Cleveland Heights be the first people to invite homosexual lifestyles and give them all the benefits - it just isn't right - you just can't make something crooked straight. And Lord knows it's not right and I want to petition so we can get the other side of the people. Because my granddaughter told me that somebody came by her house last summer or spring, but they didn't come to my house. But I want the opposing argument to be made and see if we can do something because it's not right. We don't want this community to turn into Sodom and Gomorrah. It's already bad enough. We've got to do something about this mess and that's all I have to say. I want to petition to get that petition -"

Mayor Kelley explained, "Sally, you don't have to do a petition. You'll have the opportunity on November 4th to vote yes or no on that issue. Go to the voting booth. I think you vote at Taylor so you'll have the opportunity to vote yes or no on that."

Ms. Rushin asked, "How will I get other people to know what's going on?"

Mayor Kelley said, "I'm sure there are people that will get the word out in a door-to-door thing. Thank you for coming, it's nice to see you again. Want to introduce your grandson to us?"

Ms. Rushin said, "Oh, yes sir. This is Noah, my great-grandson."

Council Member Hicks interjected, "Just see me, Sally. I'll get you all the information you'll need."

Mayor Kelley added, "You took the words right out of my mouth."

"Hi. My name is John Parsons. I live at 3817 Kirkwood Road. I have three things to talk about today from the minor to something important. On the minor level, would it be possible for the City to find another cable and Internet provider other than Adelphia? I'm having difficulty with them. They blame, when their service goes out, they blame the consumer. The next day the service is back. I haven't changed a thing, but they still blamed me and this is not acceptable. A friend of yours, William Hanna has told me to remind you about green boxes."

Mayor Kelley asked, "Who is this?"

Mr. Parsons replied, "Mr. Hanna."

Mayor Kelley asked, "McCarthy?"

Mr. Parsons continued, "Mr. McCarthy, sorry, asked me to remind you about green boxes."

Mayor Kelley said, "My blood pressure is rising already. My two favorite subjects; Adelphia and green boxes."

Mr. Parsons said, "It would be easier if you guys got a competitive service. The school system has competitive services. One of the strengths of this community is that we have a public school system and we have a private school system and if you don't like one you can always put your kid in the other and the two re-enforce each other."

Mayor Kelley interrupted, "Let me start, before you get to your major point and I think I speak for everybody involved. We'd love to have another service here beside Adelphia. We were negotiating with Ameritech SBC to come in here and shortly before they decided they will no longer expand we were probably within days or weeks of signing with them to have a competitive service. So we'd love to have another service in here. We'd probably have someone yesterday if we could. The cable market just isn't going in that direction right now. There would be a major expense for anyone to come in and wire the city, but I think I speak for everybody here we are not necessarily enamored by Adelphia. They do not have an exclusive contract for Cleveland Heights. So, we'd love to have somebody else here. As far as the green boxes that are up cluttering our skyways. They were here for people that had no boxes in the old system. We are currently looking at how to get rid of them and what to do about them and what is necessary and we also have a Cable Television Commission that just got done meeting. Mr. McCarthy is right there. It would be a great place for you to raise a lot of these concerns. We're glad to hear from you about it and you are hitting the same notes we hit. I think something will happen, but you're singing music to my ears. I know the Vice Mayor - he used to head Cablevision in the old days and I know Councilman Wilcox is the liaison. So you are hitting on a lot of notes we're hitting. We probably will be looking at a new franchise agreement somewhere in the next 2 to 3 to 4 years. So we are starting to renegotiating - so we'd love to have somebody else for a lot of different reasons. Besides half the Adelphia family is probably in jail right now, but that's enough, I've said enough. So let's go to your major point."

Mr. Parsons continued, "My major point is I want to take some time out and say thank you to Mr. Hicks for his fervent support of opposition of this referendum that's going to go and I just wanted to tell him that you are not alone and I listened to what you said at that meeting. I was at home and watched. Your defense was heroic and I just wanted to say thank you for that."

The third thing, actually there is no third thing I just wanted to get those two things across."

Mayor Kelley added, "Thank you for coming, John, thank you very much. Cable Commission does meet, if you have service interruptions and you have problems with Adelphia feel free on the first Tuesday of the month at 7:00, they usually meet in these very chambers or you can file a written complaint. We'd be very happy to do that and to really go after them on your behalf. Please feel free to do that."

"My name is Helen Hertz. I live at 3023 East Derbyshire Road. I'm here tonight for several things. One, the most important thing to tell you is how pleased I am as the chairman of the Cedar Lee Landlord Group to see that the ordinance on first reading for the lifting of the prohibition of for rent signs in the multi-family areas is being considered by our City Council and Vice Mayor Montlack gave me a timetable for public input from the Public Hearing and referred going to the Planning Commission so that we'll have an opportunity to give you some other thoughts. Along the lines of multi-family property problems besides the for rent signs which identify a problem of significant vacancies, we are

also having problems with insurance. Some of you may know that I moved from my multi-family into the East Derbyshire single-family property and my insurance carrier told me that unless I install central air conditioning they are going to cancel my insurance or they are unable to continue my insurance on my multi-family property. I thought that was kind of interesting. I just wonder what people do when they have a boiler system and can't add central air to it. So that is a problem that we're finding in the investment property area, so we have some other things to talk about.

Third thing I'd like to say is, I've seen Mr. Czaga and I can't tell you how happy I am that East Derbyshire got paved this summer and I thank you very much. It's very hard to sell properties and rent properties when you don't have a street that is slick to drive down on and it sure is now and I thank you very much for that. The last thing, I just want you to know is that there are some of us that don't know what green boxes are, so maybe that's good. There may be a time when you'd like to tell us so we can have an opinion about that, too and thank you for listening."

Mayor Kelley said, "You won't like them, Helen."

Marianna Stein, 2727 Lancashire Road, stated, "We're getting concerned and also looking forward to Coventry being finished and I'm not sure and I want to ask you this question, are there possibly going to be a few benches where some of us who are getting older can sit down on the way to shopping, etc.? Does anybody know approximately when they will be finished?"

Mayor Kelley answered, "Those are two great, very good questions. The easy answers are yes and yes. Benches, of course, there are going to be some benches. There is going to be a brand new streetscape with benches and trees and new street lighting. My guess is by somewhere by the middle of October, probably within six weeks it will be completely done."

Ms. Stein replied, "On my birthday, October 19th."

Mayor Kelley responded, "That's when we planned it for, October 19th. Mr. Downey and Councilman Hicks will be joining you for lunch that day at a restaurant of your choice."

Ms. Stein answered, "No. That's not what I had in mind."

Mayor Kelley continued, "There may be some things that need to be tweaked or done next spring, the tree planting may have to wait depending on the fall and the weather, but probably about 90 - 95% of it will be done, including the new road, the sidewalk, the new crosswalks will be in. We're getting there. It's a little slower than what we wanted but when it's done it will be done and there might be a few things that will be left out that will have to be done next spring due to either weather considerations or some things that have to be ordered or back ordered, but progress is happening."

Ms. Stein replied, "We're looking forward to those benches. A few people have brought up also a problem that they are concerned about is vagrancy at night and people possibly sleeping on the benches. I really don't have an answer to that. I think we still need them and I believe that we have really good police coverage and that it should be okay. I don't know if anybody else--"

Mayor Kelley said, "We'll talk to the owners of the Grog Shop about those kids sleeping on the benches."

Ms. Stein interrupted, "I'm sorry, what?"

Mayor Kelley continued, "We'll talk to the owners of the Grog Shop about those kids sleeping on the benches, again."

Ms. Stein thanked the Mayor.

"My name is James Redhed. I live at 3236 Redwood Road. I hadn't intended to speak on this particular -."

Mayor Kelley stated, "Welcome, Jim."

Mr. Redhed continued, "One of three - but the folks on Langton Road and I don't want to in anyway diminish the problems that you've had, but our house on Redwood Road, nine years ago we purchased it in the winter, unfortunately, in a bad winter and didn't find out until spring that the basement had a huge problem. Since it was our house and we not only had problem with leaks but our drains were cross connected also on our property - where in this case the storm drains were running into the sanitary which is the lesser of the two problems. It's still a problem. We weren't especially pleased when the City said we had to fix that even though it had been done in 1920, but it was on our property and our responsibility and our experience at the time was very good. We had a little problem with one city member but with all of the others the attention was uniformly good. People came out several times because we dug the whole foundation ourselves. It was a huge problem and project but the city was there and again, I know that your frustrated and I know we would have been if they hadn't been there, but not wanting to diminish the problems that you've had because it's actually more serious than what we had. We just had water running off from rain going to the basement, not sewage backing up and that's a much more serious problem. I guess I just wanted to relate our experience, that our experience with the City - the various departments; sewer, building department especially, were really excellent. So, I hope that in your interactions with staff from this point forward that you will get the same kind of good service that we got because we were really very pleased, being novices in dealing with houses of this age and the city people were really good, I know they're good people - we dealt with a lot of them. If you get connected with the right people you'll be able to get some help too.

My second point was to revisit briefly my last question at the last meeting because I'm not sure that the question asked was understood. My question was, how does Council decide which grass roots effort they support or oppose? I did not ask which issues were supported or opposed. I'm well aware, Mr. Mayor, you told me personally that you would take no position on the issue. That wasn't my question, I was not challenging that or saying that you were taking a position on it, likewise Councilwoman Dietrich. I'm well aware that your vote this year was strictly speaking a procedural matter, that you had no choice in, but even that vote was not on the issue nor on the grass roots effort. That was simply something you're required to do. It may have been unreasonable of me to expect a substantive answer, but the fact is that there was opposition for some - not all of Council - was not - wasn't saying that everybody had taken a position on the grass roots effort, it was only addressed to those who had - and it may have been unreasonable to expect an immediate answer in this forum, but that was just the intent of my question.

My third thing, when I was in Zagara's the other day and I had a brief conversation with John Zagara - not long ago. That project - I was a (some of you may remember) very reluctant supporter of [it]. I supported it because of what was there was not very interesting, but was reluctant because of the precedent that I felt the scale in that neighborhood set - as well as the demolishing of houses that were perfectly good. Recognizing how much work went into that project on the part of the city from Council and staff and just kind of reflecting when I was in the store there, I would just like to say looking back over more than a year of operation to staff and Council - 'job well done', because that is a good project,

not just good compared to what was there, although that is true, it is much better than that. It is a good thing for our community and I just wanted to express my appreciation to Council and staff for more forward-thinking, more forward than mine on that project. I think it's very good for our community. Thank you."

Mayor Kelley said, "I just want to say one thing to the people that came tonight with the water problems. I'm very, very sorry that you had to come under these conditions. I would have really rather have met you under different conditions - at a block party or knocking on your door to ask you to vote for me for re-election (I'm certainly not up this year). But rest assure that we will get to the bottom of this. We will identify the problem and we will do all that we can to help you - to make things better for you so it doesn't happen next time and that's the best we can do. We will work together with you and try to do things better for you as residents whether you are here a year or a week, fourteen years - whether you pay \$1,000 in taxes or whether you pay \$4,000 in taxes, rest assure we will do that for you. Again, I'm sorry we had to meet you under these circumstances, but you can rest assure the City Manager and his staff will be out there as soon as possible to try to figure out things to do better for you on your street and that's the commitment you have from this City Council and this City staff."

Council Member Hicks added, "I was just a little concerned that I don't think that anyone should be cleaning the raw sewage or anything that comes up in the basement. You should not be cleaning that yourself. You should be making sure that you have a professional company because it's a very dangerous thing to have happen in your basement and that you want to make sure that you have a professional company to clean that. I was just concerned when I heard that you cleaned it a couple times by yourself. We will deal with the problem but you don't want it to look clean and then have bacteria growing and things that you can't see might be affecting your family. So, please have someone look at that and have that looked at professionally cleaned whenever it happens in any ones basement whether they are here in this room or at home watching this meeting, but that's a very serious thing when sewage backs up into your basement. It needs to be professionally cleaned."

One of the speakers from the audience said, "Yes, I know, but no one gave me any suggestions. No one told me who I could call or what. I've tried (unclear)."

Mayor Kelley responded, "We'll work on that too. I'm glad you brought that to light and we will work on that too and Councilman Hick's experience as an insurance agent - we're going to try to - I'm not going to say we're going to make this a positive experience, but maybe we need to figure out how to tell people what to do when this happens to them and we can use Councilman Hick's experience as an insurance agent and we could use our workers just as we did years ago when they used to do housing inspections and everybody got mad at them. Now they are diplomats when they come out and they give you that notice that says you have five violations. We're going to make this somehow, someway a positive experience in the future. Don't ask me how. I probably said that wrong, but we're going to learn from this. We're going to move on together and we're going to make this better and we're going to do stuff for you and that's the commitment. It's very simple. And again, sorry to meet you under these circumstances. We're going to somehow put a smile - somehow."

There was further comment from the audience but it was unclear.

Mayor Kelley continued, "Mr. Downey is here, he is the City Manager. He is going to look at. He has obviously heard you. I think he understands where we are coming from and he will be on it first thing in the morning. Believe, he will be in the office between 7:30 and 8:00 and you are now on the top of his list. Right, Bob?"

Mr. Downey answered, "Sure."

There was further conversation from the audience but it was unclear.

Mayor Kelley said, "I'm not going to defend. Well, the other thing you've got to remember - [added interruption]. We're going to move on. The city was built somewhere around 1914 - 1934 and so we're working on it. You're going to get the attention, believe me. Really, sorry we met under these circumstances. Norma and I had a great conversation on Friday. I said the same thing to you then. We are going to get to the bottom of this. Right? We're going to get to it."

There was further conversation from the audience. Part of one of the citizens stated, "I talked to Webster. In April, I had the sewer people to come out and open drains and they said that I had to have a different [unclear] cleaned before they could do anything."

Mayor Kelley again repeated, "Let's let the professionals do it. I can't debate you. Some of this may be your responsibility. Let's let the professional people do their work. We have a meeting we have to get onto. I don't mean to cut you off. Let's let the professional people do their stuff and the City Manager and his staff do their work and let's try to get through it so we don't have another problem four weeks from now when we have one of these half century storms or whatever they call it, you know what I mean, but let's try to make you whole and get some positives come out of this, even though it's very hard for you to think of that now. Let's try to avoid what could happen in the future. Besides the library guys have a couple of orders of business here. We've got to get him home to see his wife before 9:30."

REPORT OF THE CITY MANAGER

Mr. Downey said, "Thank you very much, your Honor. Very briefly, two items this evening. In your packets you received a copy of bid tabulation and award of contract. First is Bid Document No. 2003-18, the purchase of a propane polypatch applicator for the street maintenance division. The lowest and best bid was from D.J.L. Material and Supply, in the amount of \$29,980 and Bid Document No. 2003-21, the Lacona Drive Sanitary Sewer Relocation, Fabrizi Trucking and Paving was the lowest bidder in the amount of \$39,348. Your Honor, I would request that the bid tabulations and award of contract be made a matter of record."

Mayor Kelley made them a matter of record.

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I need to notify council that four (4) 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. 3014 Donald Bickle, owner of a 2-family dwelling, 3165 Kensington Road, accessory use regulations;

BZA Calendar No. 3015 Dennis Kutash, 1804 Cadwell Avenue, accessory use regulations;

BZA Calendar No. 3017 Joseph Ayers, 2915 Fairfax Road, accessory use regulations; and

BZA Calendar No. 3018 Joel Lancry, owner of an 18-unit apartment building, 12471 Cedar

Road, area and width regulations and the dwelling -unit requirements. Your Honor, I wish to make these a matter of record.”

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

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans stated, “Thank you, your Honor. I’d like to present Resolution No. 134-2003(PSH), proclaiming September 11, 2003 as a Day of Remembrance to honor the victims of the terrorist attacks on September 11, 2001 and the thousands of firefighters, police officers and other persons who participated in the rescue and clean-up operations, and to pay tribute to our local safety forces; and declaring an emergency. Whereas, on September 11, 2001, this nation suffered the most serious attack on American soil in its history, leaving almost three thousand persons dead, including hundreds of firefighters and police officers. One of the worst tragedies in American history became one of American’s finest moments, as the American people became united in their efforts to recover the remains of the victims, assist their families, and demonstrate to the world that terrorism is ineffective and cannot destroy the spirit of a diverse, freedom-loving people. The 9/11 tragedy also reminded us of the thousands of everyday heroes such as firefighters, police officers, paramedics and other safety force personnel who place their lives on the line on a daily basis to provide security and protection to their fellow citizens. The community of Cleveland Heights is proud every day of the excellent services provided by our police and fire safety forces. Therefore, be it resolved by the Council of the City of Cleveland Heights that this Council hereby proclaims September 11, 2003 as a day of remembrance to honor the victims of September 11, 2001 terrorist attacks on the United States and the thousands of firefighters, police officers and other persons who participated in the recovery and clean-up operations, and to pay tribute to our local safety forces, and this Council further urges all residents to use the occasion as an opportunity for reflection, remembrance and celebration of American unity and the American spirit. I would like to present Resolution No. 134-2003(PSH) for passage this evening.”

Mayor Kelley accepted Resolution No. 134-2003(PSH).

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

Nays: None

Resolution passed

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, “I have nothing tonight, your Honor.”

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Caplan stated, “Thank you. I have one piece of legislation and that is Resolution No. 135-2003(CRR), authorizing the City Manager to enter into an agreement with York International for emergency repairs and maintenance of the North Ice Rink at the Community Center; providing compensation therefor; and declaring an emergency. The refrigeration system at the North Ice Rink of the Community Center has failed to perform up to standards. In order to meet both operational and legal needs it was necessary to obtain professional and emergency repair/maintenance services on an immediate basis to identify the sources of the problems and to perform necessary repairs and maintenance. Entering into an agreement with the same company to perform longer-term maintenance of the system would be in the City’s best interest and is most cost effective and conducive to the efficient

operation of the system. Such services are professional services for which no bidding is necessary. Therefore, be it resolved by the Council that the City Manager be authorized to enter into an agreement with York International for the inspection and performance of repairs on the cooling equipment at the North Ice Rink of the Community Center, and for two years of maintenance and other professional services, as set forth in the proposal dated July 28, 2003, a copy of which is on file with the Clerk of Council. Compensation for said services and costs shall be at the company's customary rates, with total fees and expenses not to exceed the sum of Fifty-five Thousand Three Hundred Twelve Dollars (\$55,312.00). All documents related to said agreement shall be approved as to form by the Director of Law. Notice of the passage of this Resolution shall be given and this resolution is declared an emergency for passage tonight. I offer Resolution No. 135-2003(CRR) for passage."

Mayor Kelley accepted Resolution No. 135-2003(CRR).

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

Nays: None

Resolution passed

Council Member Caplan stated, "Thank you. The only other comment is the summer season has ended in our Community Center and at our parks and recreational facilities and it was really a wonderful summer. Thank you to all the staff for providing a wonderful summer of recreation and community involvement for everybody in our community. Now it's time for fall; soccer, baseball, whatever all those sports are that everyone can get involved in - hockey (I don't have little children to remember what all the sports are in the fall) but hockey, all the sports. It's time now to sign up. There are lots of programs going on. Remember when it's time to come inside when it starts getting cooler. There are lots of things for you to do at the Community Center. So, enjoy the services that the community has to offer and thank you again to the staff and for everybody who participated. Your coming out has made it really a wonderful season. So, thank you to the community too. That's all I have."

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 that one resolution and one later in this meeting, involves the project for renovating the main library and the former YMCA building on Lee Road in connecting the two with the pedestrian walkway. Earlier this year, it didn't look like this project would be preceding or at least anytime in the near future. That is why this Council approved the use of air rights to build a walkway and also recognized the need for a better overall design and agreed to help the library by paying part of the cost of the design by providing for cost of a design consultant to help come up with an improved design. As a result, I believe we do have a better design and although it does not necessarily satisfy everyone in the community, it is an improved design not only of the walkway itself but of both buildings which have quite different architecture. Although no one likes delays on a project of this magnitude, certainly the end result, I believe, is a better one with a library complex that will be an important symbol for this city for many years to come. With that, I have Resolution No. 136-2003(F), authorizing an agreement with the Board of Trustees of the Cleveland Heights-University Heights Public Library for reimbursement for architectural fees; providing compensation therefor; and declaring an emergency. In order to support the Main Library Renovation Project, the City agreed to share with the Library the costs of a design consultant. The Library has paid fees in the sum of Fifty Thousand Dollars (\$50,000.00) to Ricciuti Balog and Partners Architects for such design services; and it is in the best interests of the City and its residents that the Library be reimbursed for fifty percent (50%) of these costs. Section 1 authorizes Council to enter into an agreement with the Board of Trustees of the Cleveland Heights-University Heights Public Library for the payment of fifty percent (50%) of the fees of the

design consultant, Ricciuti Balog and Partners Architects, for the Main Library Renovation Project, and directs the City Manager to provide reimbursement to the Library in the sum of Twenty-five Thousand Dollars (\$25,000.00). Section 2 is notice of passage and Section 3 declares this to be an emergency measure. I offer Resolution No. 136-2003(F) for passage tonight.”

Mayor Kelley accepted Resolution No. 136-2003(F) for passage.

Council Member Hicks commented, “I just want to congratulate Mr. Wood and thank him for everything that he had to go through, he and the library board. You know, one man’s art is another man’s trash, so we’ll never know if this is truly the best design or the perfect design. We just know that it’s one that the Architectural Board of Review finally got whittled down enough to go through. I haven’t seen anyone go through the process you went through, because you said it was a better project, then I will take your word for it. The arches and the things that the library had to go through or was put through because precedent was changed in terms of the Architectural Board of Review where people were allowed to speak who never were allowed to speak before, but things were changed when it came down to you. Thank you for staying with it and going at it and thank you to the Mayor for coming to us and saying, “Let’s help them out, let’s get another architect in there because these guys are butting heads with the one that they have.” Again, what you went through, was that the right thing? Were you supposed to go through that? We don’t know, but we’re glad that it’s now over and we’ll have something that connects the two buildings. How about that?”

Mayor Kelley responded, “I kind of like that.”

Council Member Hicks ended, “That’s all I have.”

Mayor Kelley responded, “Thank you for the compliment.”

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

Nays: None

Resolution passed

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Hicks stated, “Thank you, your Honor. I have three pieces of legislation today. First I have Ordinance No. 137-2003(MS), authorizing the City Manager to enter into an agreement with the East Ohio Gas Company, dba Dominion East Ohio, for an easement for the relocation of a gas pipeline on City Hall property along Access Road No. 2; and declaring an emergency. The City Manager is hereby authorized to execute an easement to East Ohio Gas Company, dba Dominion East Ohio. The terms and revised location of the easement shall be substantially as shown in “Exhibit A” attached hereto and incorporated herein. All documents related thereto shall be approved as to form by the Director of Law. Your Honor, I offer Ordinance No. 137-2003(MS) for passage tonight.”

Mayor Kelley accepted Ordinance No. 137-2003(MS) for passage.

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

Nays: None

Ordinance passed

Council Member Hicks continued, “Ordinance No. 138-2003(MS), authorizing the City Manager to enter into an agreement with Valley Ford Trucks for the purchase of a truck for the Refuse and Recy-

cling Division of the Public Works Department; providing compensation therefor; repealing Ordinance No. 120-2003; and declaring an emergency. The City Manager is authorized to enter into this agreement. Said agreement shall provide for a purchase price for said vehicle in a sum not to exceed Twenty-four Thousand Nine Hundred Ninety-nine Dollars (\$24,999.00), and shall be approved as to form by the Director of Law. Your Honor, I offer Ordinance No. 138-2003(MS) for passage tonight.”

Mayor Kelley accepted Ordinance No. 138-2003(MS) for passage.

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

Nays: None

Ordinance passed

Council Member Hicks continued, “Resolution No. 139-2003(MS), authorizing the City Manager to make application to the State of Ohio, through the Office of the District One Public Works Integrating Committee, for Issue 2 funds to be used for the Meadowbrook Boulevard Waterline, Sewer and Road Improvement Project; and declaring an emergency. The City Manager is hereby authorized to make application for financial assistance for the Meadowbrook Boulevard Waterline, Sewer and Road Improvement Project. Your Honor, I offer Resolution No. 139-2003(MS) for passage tonight.”

Mayor Kelley accepted Resolution No. 139-2003(MS) for passage.

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

Nays: None

Resolution passed

Council Member Hicks concluded, “Thank you, your Honor. I had comments for the people who were here in terms of municipal services, but as there are still a couple of people here I would like- and hopefully I can speak for everyone on Council, and say that we would like the opportunity, if you would give us a call - if you have problems - we would like an opportunity to try to help you. A lot of us - we did run - so that we could represent the residents of this community. When people come to this meeting and they are upset and they haven’t given us an opportunity to talk with them or to help them as their representatives, so it feels as though we’ve been taken out of the equation. So, please give us an opportunity to help you with your problem before you come to the Council meeting. Thank you.”

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Vice Mayor Montlack stated, “Thank you, your Honor. There are several pieces of legislation from this committee, some of them are on for second reading. The first is Resolution No. 124-2003(PD). It is the first of two resolutions that approves petitions for the establishment of special improvement districts. Resolution No. 124-2003(PD), approving the Cedar Fairmount Special Improvement District, Inc. Petition, Articles of Incorporation, and Plan of Services. Under this resolution, which I gave some explanation for at our last Council meeting on first reading. The Council would approve the Petition for the creation of the Cedar Fairmount SID, copies of which are on file with the Clerk of Council and incorporated herein by reference, as well as the Initial Plan of Services for the SID, a copy of which is attached as Exhibit “A”. With this legislation, briefly, after a process of meetings, discussions and then a formal circulation of petition with signatures that represented sixty percent (60%) or more or I should say which were signatures of the owners of properties containing sixty percent (60%) or more of the

frontage - the front footage on the properties involved. That Plan of Services is fairly extensive. Again, which will be reflected in assessments that the owners are placing on themselves in effect for all those places that are in the SID. The cost of that plan is Forty Thousand Dollars (\$40,000.00) a year for each of five years (5) of the plan and that translates into an assessment annually of \$321.18 per One Hundred Thousand Dollars (\$100,000.00) of market value. Resolution No. 124-2003(PD) is presented on second reading for passage tonight."

Mayor Kelley accepted Resolution No. 124-2003(PD) for passage.

Council Member Dietrich commented, "I'd just like to acknowledge the people who were on the steering committees for both the Cedar Fairmount Special Improvement District which is what this resolution is about and the Cedar Lee Improvement District which is what the next resolution is about. It's not easy necessarily to convince your neighboring property owners that they do want to assess themselves so that they can have more freedom in running their own merchant districts. Each of these improvement districts had a steering committee composed of the merchants in that district who really did have to explain to their fellow landowners the benefits of this. And it was not an easy process. There was some reluctance. Sometimes people don't understand the good that could come of this thing. Hopefully, this will benefit all of these merchants, just like the one at Coventry has been done, benefiting those merchants. I'd just like to acknowledge the persistence and the enthusiasm of the people who were on the steering committees of these two special improvement districts for the good job that they did of spreading the word among the other landowners in the district."

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

Nays: None

Resolution passed

Vice Mayor Montlack continued, "The second such resolution is Resolution No. 125-2003(PD), approving the Cedar Lee Special Improvement District, Inc. Petition, Articles of Incorporation, and Plan of Services. This relates, of course, to properties along the Lee Road corridor, which has also come up with an extensive Plan of Services and an assessment of Four Hundred Nine Dollars and five cents (\$409.05) per One Hundred Thousand Dollars (\$100,000) of market value. That Plan of Services will also be for a five year (5) period and provides an annual budget of Ninety Thousand Dollars (\$90,000.00). What Councilwoman Dietrich said, certainly applies equally to this SID. Now with this affirmative vote, the City will have three SID's and it will really bring to fruition something that began with the Coventry SID of a true partnership - truly between the City and the property owners and merchants in these commercial districts whereby among other things you won't have a situation where a property owner gets the choice of paying dues or to a voluntary organization or receiving services for free that his or her neighbor pays for. It's really going to take this to the next level in my opinion. Resolution No. 125-2003(PD) is presented on second reading for passage tonight."

Mayor Kelley accepted Resolution No. 125-2003(PD) for passage.

Council Member Caplan commented, "I'd just like to, in addition to the people who worked so hard in making this happen, is to congratulate the people in both of these areas who are willing to tax themselves for the better of the whole community. It really does make good neighbors and it is hard to tax yourself, as we know every time we go to the poles and have to vote whether we should tax ourselves about one thing or another that's important for our community. I think this is really terrific and the fact that we have three SID's in Cleveland Heights and there may not even be three in the rest of the state, I think it's really terrific. That's all."

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

Nays: None

Resolution passed

Vice Mayor Montlack continued, "The next piece of legislation on for second reading is Ordinance No. 129-2003(PD), amending Ordinance No. 29-2003, to authorize the City Manager to enter into an agreement with the Cleveland Heights-University Heights Library Board of Trustees to permit the Library to construct and maintain two arches as well as a bridge/ walkway over Lee Road to connect the Main Library building and the former YMCA building; and declaring an emergency. Previously, during an earlier presentation of the library expansion design, this City agreed through legislation to grant air rights over the right-of-way to the Cleveland Heights-University Heights Library for the bridge/ walkway. Some people call it a bridge, some people call it a walkway - we won't go there now. At any rate, as this design now finally appears to have reached fruition and a couple of additional arches are added, then we are now, through Ordinance No. 129-2003(PD), authorizing additionally, air rights over the right-of-way for those arches and the agreement will contain, for this legislation, all other terms set forth in Ordinance No. 129-2003(PD), including the requirement that the construction of the bridge/ walkway and arches are subject to the approval of all necessary permitting authorities and approved as to form by the Director of Law. Ordinance No. 129-2003(PD) is presented on second reading for passage tonight."

Mayor Kelley accepted Ordinance No. 129-2003(PD) for passage.

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

Nays: None

Ordinance passed

Vice Mayor Montlack continued, "The next piece of legislation is Resolution No. 140-2003(PD), authorizing grants and a loan to Ray and Robin Elsoffer, Trustees of the Elsoffer Trust, pursuant to the Commercial Mixed-Use Renovation Program, for renovation of property located at 2307-2309 Lee Road, Cleveland Heights, and declaring an emergency.

This Council through endorsing the excellent work of staff voted to create a new program some months ago, a Commercial Mixed-Use Renovation Program. Mixed-Use generally being retail on the ground floor, offices and/or residential units upstairs. It's the way Cleveland Heights is mostly built - a lot of other cities, but it was rediscovered in the last few years by fellows who sold a lot of books and now we are back in style again. At any rate, under this program which utilizes Community Development Block Grant funding, in order to encourage these kinds of upgrades and make sure that the amenities and the appearance and the qualities inside and out match the 21st century, this program now will provide both grants and loans. As usually happens, the first one to get started often gets the best bite of the apple because in a sense they're a pioneer and we're happy with the great work of our staff in getting this first project off the ground.

Under this Resolution, the City Manager is authorized to enter into an agreement with the owners of the property that I named for both rebate grants and a deferred loan for improvements at this property which is at the southeast corner of Silsby and Lee. The agreement provides for a fifty percent (50%) rebate grant for exterior improvements, in an amount up to Forty-five Thousand Dollars (\$45,000.00); a forty percent (40%) rebate grant for interior improvements, in an amount not to exceed Fifty Thousand Dollars (\$50,000.00); and a loan for Seventy-five Thousand Dollars (\$75,000.00), with interest at a rate of two percent (2%), and a loan term of ten (10) years with a one (1) year deferral period, (one year when no repayment need be made) and the agreement shall provide for the loan to be secured

by a first mortgage on the building at 2307-2309 Lee Road.

That building, as you drive by it, you'll see contains three retail stores on Lee Road and around the corner on Silsby, as well as office and residential units above. This is a good first start. Resolution No. 140-2003(PD) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 140-2003(PD) for passage.

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

Nays: None

Resolution passed

Vice Mayor Montlack continued, "Finally, in terms of legislation, Ordinance No. 141-2003(PD), is on for first reading only tonight because it proposes amendments to the Zoning Code. It will now be subject to a procedure whereby a public hearing before the Council will be scheduled, immediately following it will go to the Planning Commission for its review and of course, public hearing or hearings. Under this Ordinance No. 141-2003(PD), amending Sections 1103.03(b)(92)(B)(9), 1163.06(f)(1)(B), 1163.06(f)(2), and 1163.06(f)(6) of Part Eleven, Zoning Code, of the Codified Ordinances of the City of Cleveland Heights to permit "for rent" signs in residential neighborhoods under specified conditions.

Without going through the whole process that led to this legislation - to summarize quickly, this Council for sometime has discussed whether it would be appropriate to permit "for rent" signs under specified conditions so that on the one hand we can give some recognition to the need for those who own and manage property to show that property, to give notice to the public that there are available units and on the other hand to try and do so in a way that would be the least intrusive to the long standing concerns of Cleveland Heights' residents historically with regard to signage and other matters in residential neighborhoods.

Here is the proposal in summary as it will now go for consideration by the Planning Commission before coming back with any recommendations to City Council. One amendment would add that "for rent" signs would be permitted in the same way or just as "for sale" signs are permitted. A second change that is proposed, is that a property owner would be permitted to display no more than one sign of a given type. That is to say, one "for sale" sign, and/or one "for rent" sign or one "open house" sign or one "garage sale" or "yard sale" sign at any one time, although most of us don't anticipate that all those signs have a lot in common for any given property on a given day. Another change would include amongst the temporary signs that would be permitted, a rental sign and that could be posted or should be replaced within forty-five (45) days after being posted and not to be put in place on any property more than sixty (60) days prior to the expected vacancy date of a unit in the building. The legislation as is proposed would allow residential identification which may include either a separate temporary sign or a removable insert advising of a unit "for rent" in the building. This is a quick summary of the changes that are being proposed and now I believe will be open for a lot of public discussion. At this time, we'll announce a couple of hearing dates. I want to make sure I have it right, so I'll ask the Planning Director Richard Wong if he'll listen and grade me. The Council public hearing is set for Tuesday, October 7, 2003 at 7:00 p.m. and we anticipate that immediately after that it will be on the agenda of the Planning Commission which will meet on Wednesday, October 8, 2003 at 7:30 p.m. Did I get that right? [Mr. Wong affirmed the dates were correct.] Ordinance No. 141-2003(PD) has been read on first reading tonight."

Mayor Kelley accepted Ordinance No. 141-2003(PD) on first reading and reiterated that a public hearing is set for Tuesday, October 7, 2003 at 7:00 p.m. and the Planning Commission will consider

Ordinance No. 141-2003(PD) at its October meeting which is set for Wednesday, October 8, 2003 at 7:00 p.m.

Vice Mayor Montlack continued, "There are four calendar items referred to this Council from the Board of Zoning Appeals at its last meeting, which was attended by Councilwoman Phyllis Evans, the vice chair of the Planning and Development Committee, and she will handle these items after which that will conclude the report of this committee."

Council Member Evans stated, "Thank you, Vice Mayor Montlack. The first is BZA Calendar No. 3014, but before I get into the details of it, that public hearing was held Wednesday, August 20, 2003 for all four of these. In was in the opinion of the Board of Zoning Appeals that all four applicants clearly demonstrated that there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code and that the different variances were in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, morals and general welfare were safeguarded and substantial justice was done. I would like to start with the first one that was presented which is BZA Calendar No. 3014, Donald Bickle, owner of a 2-family dwelling at 3165 Kensington Road, in a 'B' 2-family district, made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit replacement of a demolished 1-car garage with an unenclosed parking-pad. The applicable provision of the Zoning Code is contained in Section 1121.12, which requires that 2-family dwellings provide 4 enclosed parking spaces. 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 extremely small size and shallow depth of the rear yard would accommodate nothing more than a 1-car garage, which would be inadequate to meet the parking needs of the dwelling in a safe and convenient manner, and the applicant's predicament cannot be resolved without a variance. The issuance of a special permit is hereby authorized to permit replacement of a 1-car garage with an unenclosed parking pad, as shown in plan submitted to the Board. The applicant is required to obtain a driveway permit and to submit a landscaping and fencing plan for the Planning Director's approval prior to the installation of the parking pad. All work which is the subject of this application shall be completed within 90 days of the date of approval of this resolution by City Council. The Secretary is directed to forward to the Clerk of Council a copy of this resolution as required under Subsection 1115.07(i) of the Zoning Code, for final disposition by City Council. I would like to move that BZA Calendar No. 3014 be confirmed this evening."

Second by Council Member Caplan.

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

Nays: None

Resolution confirmed

Council Member Evans continued, "BZA Calendar No. 3015, Dennis Kutash, 1804 Cadwell Avenue, in an 'A' single-family district, has made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit construction of a garage with a footprint of 736 s.f. and a building height of 19.97 ft. The applicable provision of the Zoning Code is contained in Section 1121.12, which limits the floor area and the height of the garage on this property to 683 s.f. and 15 ft., respectively. Therefore, be it resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted because his yard is relatively small in comparison to the large scale of his single-family home, thus reducing the maximum garage size that would be permitted; the upper storage area is necessary to store equipment used in the ongoing rehabilitation of the house; the variance is minimal in terms of both floor area and height; the back yard is deep and the garage will not be visible from the street; and the garage's design is in keeping with the area, in which large garages

are common. The issuance of a special permit is hereby authorized to permit the applicant to construct a garage with a floor area of 736 s.f. and a height of 19.97 ft. on his property at 1804 Cadwell Avenue, as shown in plans submitted to the Board. The applicant is required to obtain a building permit and approval of the Architectural Board of Review prior to the start of construction. All construction which is the subject of this application shall be completed within 18 months of the date of approval of this resolution by City Council. The Secretary is directed to forward to the Clerk of Council a copy of this resolution as required under Subsection 1115.07(i) of the Zoning Code, for final disposition by City Council. I would like to move that BZA Calendar No. 3015 be confirmed this evening.”

Second by Council Member Dietrich.

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

Nays: None

Resolution confirmed

Council Member Evans continued, “BZA Calendar No. 3017, Joseph Ayers, 2915 Fairfax Road, in an AA single-family district, has made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit an addition with a side-yard setback of 6 ft. The applicable provision of the Zoning Code is contained in Section 1121.12, which requires a 10-ft. side-yard setback for principal buildings. Therefore, be it resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted because it would be difficult to construct the addition, which will result in the house’s having a first-floor master suite, in a different location without making access to the suite from the garage difficult and without resulting in the loss of several mature trees; angling the garage away from the side property line would result in an incursion into the required rear yard; and the proposed addition will be difficult to see from the street and will not impose unduly on the neighboring property to the east. The issuance of a special permit is hereby authorized to permit construction of an addition with a 6-ft. side-yard setback to the applicant’s house at 2915 Fairfax Road, as shown in the plans submitted to the Board. The applicant is required to obtain a building permit and approval of the Architectural Board of Review prior to the start of construction. 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. The Secretary is directed to forward to the Clerk of Council a copy of this resolution as required under Subsection 1115.07(i) of the Zoning Code for final disposition by the City Council. I move that BZA Calendar No. 3017 be confirmed this evening.”

Second by Council Member Wilcox.

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

Nays: None

Resolution confirmed

Council Member Evans continued, “BZA Calendar No. 3018, Joel Lancry, owner of an 18-unit apartment at 12471 Cedar Road, in an MF-2 multiple-family district, has made formal application requesting a variance from the lot area and width regulations and the dwelling-unit requirements of the Zoning Code, to permit the use of a former storage area as an office and manager’s suite, which would reduce the land area per dwelling unit on the site from 633 to 600 s.f. without providing additional parking beyond the 7 spaces now existing on the property. The applicable provisions of the Zoning Code are contained in Section 1123.06, which requires that the dwellings in MF-2 districts provide 1,750 s.f. of land per dwelling unit, and 1123.10, which required 2 parking spaces, one of which must be enclosed, for each dwelling unit in a multiple-family dwelling. Therefore, be it resolved by the Board of Zoning Appeals that the applicant will suffer practical difficulty if the variance is not granted because it

is difficult to address tenants' concerns on a timely basis without an on-site building manager and office; the variance is insubstantial; and there is adequate parking in the area to accommodate the 1 additional dwelling unit. The issuance of a special permit is hereby authorized to permit use of a former storage area at 12471 Cedar Road, as an office and manager's suite, as shown in plans submitted to the Board. The applicant is required to obtain a building permit for any alterations needed to accommodate the office and manager's suite. The Secretary is directed to forward to the Clerk of Council a copy of this resolution as required under Subsection 1115.07(i) of the Zoning Code for final disposition by the City Council. I move that BZA Calendar No. 3018 be confirmed this evening."

Second by Council Member Hicks.

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

Nays: None

Resolution confirmed

REPORT OF THE MAYOR

Mayor Kelley stated, "Just a quick reminder, school is back in session; our fine public, private and parochial schools are full go. Our schools are full speed ahead, so if you're driving around our schools first thing in the morning or even at lunch time or after school - slow down and mind your speed limit. Just be careful and be safe and be respectful of our students and crossing guards and those who keep our children safe. This is no time to be driving over the speed limit or hustling from one intersection to the next. Be respectful of what's going on in our school areas and on our streets. Be safe instead of sorry and now is the time to do it, not after the fact.

Our next Council meeting will be Monday, September 15, 2003 and just a notice, our Council meeting on Monday, October 6, 2003 will be moved to Tuesday, October 7, 2003 in observance of the Jewish holiday. So it is noted. Thank you for coming tonight. We are adjourned at 9:23 p.m."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc