



CLEVELAND HEIGHTS

MINUTES OF THE CITY COUNCIL MEETING OF TUESDAY, OCTOBER 3, 2006

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:33 p.m.

Edward Kelley, presiding

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

Council Members absent: Evans

Mayor Kelley excused the absence of Council Member Evans.

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Ruane, Wagner

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

Council Member Caplan moved to adjourn into Executive Session at 7:06 p.m. Second by Council Member Tumeo.

Edward Kelley, presiding

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

Council Members absent: Evans

Mayor Kelley excused the absence of Council Member Evans.

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Ruane, Wagner

Topic of discussion included litigation and right-of-way legislation.

Executive Session concluded at 7:10 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:38 p.m.

Edward Kelley, presiding

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

Council Members absent: Evans

Mayor Kelley excused the absence of Council Member Evans.

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Ruane, Wagner

The minutes of the Regular Council Meeting held Monday, September 18, 2006 were signed by Vice Mayor Montlack along with the ordinance and resolutions passed at that meeting.

“Good evening, Mayor, Members of Council, I am Jerry Blake at 1554 Compton Road, Cleveland Heights. I want to thank you for the opportunity to spend a few moments addressing Council this evening on the importance of Issue 19. Issue 19 is Cuyahoga County’s Health and Human Services’ levy which will be on the ballot November 7. This levy is an absolutely critical safety net for the most vulnerable folks in our county community. Funds from Issue 19 provide for the protection of abused and neglected children, provide for family-preservation work, foster care, adoption, other mental health services. It provides for the protection and support of our senior citizens, provides funding for the mental health and drug and alcohol boards in Cuyahoga County. It provides for funding critical emergency services including Metro Health’s Life Flight, Trauma One Center and the burn unit at Metro. It also provides funding for our early childhood initiatives, programs for new parents and for their infants and toddlers, support for families who have suffered job loss, loss of health, loss of pensions. One of the things that many citizens are not aware, is that the county community of about a million four hundred thousand (1,400,000) people, over 400,000 individuals receive services through the county health and human services programs in the past year. In the words of the Plain Dealer editorial, for voters in the county there will be no more important issue on the November 7 ballot than Issue 19. I ask all members of council, all members of our city community, county community to join in supporting Issue 19. Thank you all very much. Are there any questions or comments?”

Mayor Kelley added, “Thank you for coming, Jerry. Feel free to place a sign on my front lawn. I speak for the rest of my colleagues.”

Mr. Blake replied, “I have several in the car right now. Would it be helpful to bring them up?”

Mayor Kelley replied, “I think you could bring them up.”

Mr. Blake said, “I was hoping all members of council would place them on their lawns.”

Mayor Kelley continued, “Yes, you can bring them up. What ever is easiest for you, Jerry.”

“Murphy Blanchard, 1406 Vandemar Road. The Euclid Avenue Christian Church has been designated as a polling place for November’s election. An orthodox rabbi, S. Wolfe, said this will disenfranchise hundreds of Jewish voters who will not enter a fellowship hall. Both the Rabbi and our Mayor suggested it could be a conspiracy to disenfranchise Jewish voters and say, at worst it is anti-Semitism or close to anti-Semitism. This may allow them to avoid being sued for actually calling somebody an anti-Semite. They either are or are advocating support for intolerant religious bigots. Moving the polls for this reason is both unconstitutional and illegal. In the 50’s and 60’s also before and possibly beyond southern clergymen were claiming integration was against God’s law and citing passages from the bible to support this. I know it was the southern Baptists for one. This was rejected by our courts and Presidents Eisenhower and Kennedy. Rabbi Wolfe should step up to his responsibilities as a religious leader and tell his synagogue to discard their prejudices. Mayor Kelley should apologize for his intemperate remarks - his anger at Vu is probably justified, but it does not justify shamming our city as a home for bigotry. Tolerance must prevail. Vu should have been fired after the debacle last spring, and I’m certain that he’ll mess up enough this fall that they will be forced to get rid of him. If the issue of the

hall - the not being central - is it? I don't know - is an afterthought, then it can't be used really to change it or to advocate changing it. If it were the only one that had been brought up - that the hall was in an inconvenient or not central place, then I would support it, you know, people, as best I could - but never to placate those with hate and contempt for others in their hearts and souls. Are there any questions?"

Mayor Kelley responded, "Thank you, Mr. Blanchard. We had a long conversation about this issue yesterday, and you and I agreed to disagree, but we will continue on to make sure that all people have the opportunity to vote. You and I agree on one thing, that Mr. Vu should no longer have that job at the Board of Elections. Thank you for coming tonight. Is there anyone else who'd like to address any of his concerns or anyone else in the audience who would like to speak to us?"

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have several items this evening. The first of which would be to request authority to advertise for bids for solid waste disposal."

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

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

Second by Council Member Tumeo.

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

Nays: None

Motion passed

Mr. Downey continued, "Thank you very much, your Honor. As you know, we recently opened Bid Document No. 2006-15, also known as the site remediation at Meadowbrook and Lee Road in Cleveland Heights. I would like to report to Council that the lowest and best bidder is Environmental Management Specialists, Inc., in the amount of \$276,715.00. Your Honor, I would request that the bid tabulation and 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 three 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. 3112 Calvin Knight, 3436 Beechwood Road, accessory use regulations; BZA Calendar No. 3113 City Vision Development II, LLC, 3201 Euclid Heights Boulevard, off-street parking regulations; and, BZA Calendar No. 3114 Denison D. and Jennifer Young, 2558 Fairmount Boulevard, accessory use regulations. Your Honor, I need to make these a matter of record."

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

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Dietrich stated, "Thank you. I have no legislation from my committee tonight.

There are about five or six things coming up that I would like to let everybody know about, if they don't already. Tomorrow night is the next speaker in the Civility series. It is Jeffrey Marks, who is the author of the book called Season of Life. He is a person who writes and talks about sports and athletics as ways to show character and ties civility into that. So Jeffrey Marks will be speaking tomorrow, which is Wednesday, the 4th at 7:00 p.m. at Wiley Middle School. He will also make two other presentations to students during the day.

Also, on the civility theme, the homecoming parade, Heights Homecoming Parade this year will have a civility theme. That will take place this Friday, October 6 and it will head off from the Coventry School parking lot going up Washington Boulevard to Heights High at 6:00 p.m. One more civility theme that's happening.

Middle School Night at the community center, the first middle school night of this season will be Friday, October the 13th from 7:00 to 9:00 at the community center. In case people forget, that summer is long and in case nobody remembers what they did last year, there is Karoke, ice skating, table tennis, pool, foosball. It cost one dollar for kids to come in and this is open to any middle school children, public or private or parochial in the Cleveland Heights-University Heights district.

Also, at the community center, two days after that on Sunday, October 15th, it is Open House at the community center. This is to celebrate Cleveland Heights' 85th Anniversary. Everything that you can do at the community center will be free Sunday afternoon from 1:00 to 5:00. There will be free ice skating, open gym, refreshments, tours of the building. So if you have thought that you'd like to see the community center, you've never had an opportunity to go in, this just might get you to join. That is the 15th and also as of yesterday or the day before, our winter hours at the community center have taken affect. What that means that Monday through Friday we are open longer. We are open from 6:00 in the morning until 10:00 at night, Monday through Friday. Saturday is 7:00 to 7:00 and Sunday is 9:00 a.m. to 7:00 p.m.

The final thing that I invite you to do and hope people will put on their calendar is the Doan Brook Watershed Partnership Annual Dinner Meeting which takes place on October 26th at 6:00 p.m. at the Shaker Heights County Club on Courtland Boulevard. The Doan Brook Watershed Partnership, again, in case people aren't sure what I am talking about is a partnership between Cleveland, Cleveland Heights and Shaker Heights for the preservation and improvement of Doan Brook which you may know better as Shaker Lakes. That organization's annual meeting is open to the public and there will be a program and a dinner and anybody who wants to attend could just call me because I have invitations. My number is 371-9379. I think that about wraps it up."

REPORT OF THE FINANCE COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There are three pieces of legislation from this committee tonight. The first is Ordinance No. 113-2006(F), amending Chapter 941 of the Cleveland Heights Codified Ordinances to clarify certain provisions of the Chapter and to delete the option of a Service Provider depositing a Permanent Security Fund with the City in place of a Performance Bond or Letter of Credit; and declaring an emergency.

Although, the Ordinance itself is somewhat lengthily in terms of the changes made, those changes can be summarized, I think, more briefly. A few months ago, our city council passed an ordinance intended for the city's protection of the right-of-way. We have had in the past some experiences wherein aspects of the right-of-way during construction or other times have been abused. So, thanks to our law director a number of protections were passed in that legislation. As part of that there were several ways in which a utility company or a company providing the utility-type services could give assurance of

obedience - of compliance to the ordinance by posting a security bond or other methods. One of the other alternative ways was to post with the city actual funds. Well, one or more utilities has expressed that this is not a desired - that the latter I should say, is not a desired action on its part and they don't wish to go that route. This legislation has been prepared to eliminate from the legislation - from the act, that method of assuring compliance - that is the posting of an actual security fund. That's a brief summary of what the act accomplishes. It simply provides an amendment or a few amendments along those lines.

Ordinance No. 113-2006(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 113-2006(F).

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

Nays: None

Ordinance passed

Vice Mayor Montlack continued, "The next legislation is Resolution No. 114-2006(F), authorizing the City Manager to submit the Community Development Block Grant entitlement application for the year beginning January 1, 2007; and declaring an emergency.

At about this time of year, every year, Cleveland Heights, which is a block grant entitlement community, that is to say a community that receives direct block grant funds through that federal program, debates and passes this legislation and in which the expected amount of the block grant funds to be received are allocated among various entities and activities which meet the federally mandated objectives of the block grant program. The process is always the same, in that the Citizens Advisory Committee for CDBG Activities spends literally the entire year reviewing the activities of grantees and making recommendations to the City Council regarding the allocations for the coming year. So, we are at this point again. This year we are dealing with, I will put the next word in quotes, "Expected Grant for CDBG" of \$1,793,674 and that is the basis on which this legislation has been proposed. We really do not know at this time what the amount of the grant will be and in fact, given this political season, the debate in Congress between the President's proposal which is to cut block grant funding and various congressional initiatives to actually increase the funding - the debate is still ongoing. However, we have a time limit and within that limit we have to pass this legislation. Once again, most of the recommendations by the CAC (Citizens Advisory Committee) have been accepted and are incorporated into the legislation. There are a few deviations as there usually are. I will not go through each of the allocations, but would like to point out a few of the budgetary actions that are being taken. They indicate where the priorities of this city are.

In Housing activities - Housing Administration for example, more than \$700,000 are being allocated and these are for the most part funds that are devoted to upgrading and maintaining low and moderate income housing or housing that is occupied by low to moderate income folks. We have a number of programs that are directed to integration, maintaining integration of population groups within the community, such as grants to the Heights Community Congress, Cleveland Tenant Organization and Fair Housing Testing and Programming. Those add up to about \$88,000.00. Some other grants to other targeted population groups providing services that expand choices. Included there are grants to the Office on Aging and the Jewish Community Center Afternoon Out Program. There are programs to help in maintaining the infrastructure in neighborhoods where low and moderate income folks live. Street Rehabilitation will receive a grant of \$240,139. There will be a Debt Repayment Service on a previously existing loan and Streetscape Improvements to provide what used to be called amenities, but may often be necessities, accompanying improvements to the thoroughfares. There are also ser-

vices to youth and other identifiable low-mod income groups and those grants total \$170,750, including grants to the Center for Families & Children, Heights Parent Center, the Heights Emergency Food Center, Open Doors, Heights Arts Collaborative and the Heights Youth Club. There are a variety of other grants also. I haven't gone through each of them but picked up some of the highlights. I'd like to finally mention \$100,000 to the Storefront Renovation Rebate Program and \$75,000 to the Storefront Renovation Loan Program. If you'd like to see the results of those two programs in action, as you drive or walk hopefully on Lee Road, south of Cedar and along Taylor Road near Cedar Road, both north and south, you will see storefronts that have been dramatically improved and mixed developments, that is commercial on the ground floor and residential on the floors above that, which have also been dramatically improved. With that somewhat inarticulate summary, I will present Resolution No. 114-2006(F) on first reading for passage tonight with much thanks to the Citizens Advisory Committee, twenty-two members and its very well led staff, also, for their work."

Mayor Kelley accepted Resolution No. 114-2006(F).

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

Nays: None

Resolution passed

Vice Mayor Montlack continued, "Resolution No. 115-2006(F), authorizing the City Manager to enter into an agreement with the Heights Community Congress, a non-profit corporation, for the use of Community Development Block Grant funds for fair housing audit services; providing compensation therefor; and declaring an emergency. I will apologize to you that I did not identify this on my part of the agenda, but this Resolution authorizes the City Manager to enter into an agreement with the Heights Community Congress for a grant of Seventeen Thousand Dollars (\$17,000.00) from the 32nd year CDBG funds (budget) for fair housing audit services. This is what I assume may be the last legislation of this kind perhaps that relates to the budget we passed a year ago and the work for that grant is set forth in Exhibit "A" which is found to attached to the legislation in which Heights Community Congress (HCC) is to provide twenty (20) sales audits at a cost of \$850.00 per audit for a maximum reimbursement rate of \$17,000.00 and represents part of the city's commitment to make sure that fair housing practices occur. Resolution No. 115-2006(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 115-2006(F).

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

Nays: None

Resolution passed

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Caplan stated, "Thank you. I have one piece of legislation and this is Resolution No. 116-2006(MS). This has to do with the wonderful brick walls at Cain Park. If you go to the Cain Park Theater and see how beautiful they are, they've been renovated. This is Resolution No. 116-2006(MS), approving a Change Order with Masonry Restoration-Maintenance, Inc. for a contract for the Cain Park Retaining Wall Renovation Project; providing compensation therefor; and declaring an emergency. The City awarded a contract to Masonry Restoration-Maintenance, Inc. for the Cain Park Retaining Wall Renovation Project. Additional work was necessary because of site conditions resulting in an increase in price. This company has submitted to the City a proposed Change Order covering the additional labor and materials, and such proposal has been recommended by the City's Capital Projects Manager. The following changes from the original specifications for the work performed by Masonry Restora-

tion-Maintenance, Inc., (as an aside, they did a fabulous job and were wonderful to work with) in connection with the Cain Park Retaining Wall Renovation Project, are authorized and approved, and the price adjustment for alterations will be hereby authorized. So the description of the work is adjusting the original contract amount by \$19,990.00 due to the additional labor and materials. The original contract sum was \$173,710.00. The change is \$19,990.00 and so the net contract sum will be \$193,700.00. Notice of passage shall be given and this Resolution is declared an emergency for passage tonight. I offer Resolution No. 116-2006(MS) for passage."

Mayor Kelley accepted Resolution No. 116-2006(MS).

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

Nays: None

Resolution passed

Council Member Caplan continued, "Thank you. Now, I have something to talk to you about and you really have to listen because it makes a difference and it's not about recycling. If you received in the past couple of weeks two letters, one was from Cleveland Heights talking about our gas aggregation program and you also got a letter from WPS who is our supplier for natural gas. This is why it's important. By October 10, you have to make a decision about what you're going to do. We have for - I don't know - it's been 5 or 6 years at least, had an arrangement that we created a program for the citizens in our community and we call it an opt-out program - that we have negotiated a price with the supplier and the supplier has been in the past couple of years and for the coming year WPS [Energy, Inc.] and we have been able to negotiate a terrific price in the past. Well, we've negotiated a price, we signed a contract and now gas prices are coming down. So in the letter, the price that you have been offered is \$11.578 per mcf and as it turns out this is a higher price than one can currently get in the market. So you have to make a decision because the letter that you got (I'm going to read this to you so that you sort of understand it) the letter you received is an opt-out program, so that if you do not call and make a decision when you make a phone call, you will be in the fixed rate program for the coming year and that fixed rate program will be at \$11.578 per mcf. Because that is higher than the current market rate you have to make some choices. You can choose to stay in the program and pay that rate. You can choose to be in the WPS' variable rate option Program and that's where the rate of gas changes every three months based on the market price or you could decide to not be in either of those programs and find a different gas supplier for the coming year, but you have to make a decision, because if you do not make a decision you will be paying the fixed rate program that we have arranged with WPS. What you have to do is either do nothing, which then you'll be in this program for \$11.578 per mcf. It's eleven dollars and point 578 cents or you can call and the number to call is 1-888-566-1117. When you call have your last gas bill with you because you need the number of your account with you, just your name is not good enough, you need the number that's on your account. Actually, if you've saved your WPS letter it has that number above your name. In any case, you need to call and you need to do your homework, so that you can decide do you want to stay with that price, do you want to be in the variable rate. The variable rate every three months adjust with what the market rate is for gas and you know how gas has come down. Today I bought gas for \$2.03 for my car when more than a year ago it was over \$3.00. So the rates have come down and you can do a variable rate or you can go on line. There is a PUCO apples to apples chart. You can put in ohio-puco - there are all kinds of ways you can find the apples to apples chart and find out what everybody is offering and make an intelligent choice or some kind of guess anyway. It's complicated and I know your eyes are crossing because that's happened to some of my colleagues here, that they don't want to do anything about this, but you will want to do something when it's really cold and you pumped up the heat in your house and you're paying too much money for your gas. So consequently, you must do something. You need to do it by October 10. This phone number and I know that they will do that - you can call 24/7. So when you see this, you can call at 10:00

at night or midnight. You can call anytime. They will say Cleveland Heights WPS Program when you call and [you can] say, what shall I do and they will help you. They are very nice, actually. But you must do it before October 10th and it really matters. It really matters. It can be hundreds of dollars to you. So you need to do something about that.

I'm going to lay off the recycling for a while, 'cause we all know that's my favorite subject, because for the next couple of times we'll be before an election. I also want to encourage you to vote for Issue 19. I encourage you to vote for Issue 18 and then there are some of those other issues that I myself have to find out more about because some of them are really quite confusing.

The last thing I'd like to comment on is that someone came before us at the beginning of the meeting and voiced an opinion about a couple of precincts being moved - their voting site being moved, and I would like to say that comment that - his comments are rather like blaming the victim for becoming a victim. In our community and in our county and in our state and in the United States everyone should be helped to vote, not hindered to vote. So I am proud of us for taking a stand and doing what we can to change the polling place so that we can help all of the citizens in our community be able to vote and make it easy, convenient and just work. It's our right to vote. It is our responsibility to vote. So I encourage everybody to vote because this is a really important election and Ohio is a really important state to be making whatever statement it is you choose to make. That's all I have. Thank you."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There is no legislation, but there are three Board of Zoning Appeals Resolutions from the September 20, 2006 meeting. Councilwoman Dietrich attended that meeting and will read those into the record."

Council Member Dietrich stated, "Thank you. First is Board of Zoning Appeals Calendar No. 3112. This has to do with Calvin Knight, 3436 Beechwood Avenue, in a "B" two-family district, requesting a variance from the accessory use regulations of the Zoning Code, to allow a garage with a 26'-tall turret on the rear corner of the roof. The Code requires that accessory structures should be no more than 15' tall. A hearing was held and the BZA granted this variance since the heights required - this turret is also a water catcher - so that he can catch rain water and use it for watering his lawn and washing cars and things like that. It requires this height to create the pressure that's needed for what they call a water catchment system. They felt that it had no effect or hardship on the neighborhood so the BZA authorized him to have a garage with an 8'-diameter turret in its rear corner that is 26'-tall. Just note that it's interesting, Mr. Knight is building sort of a wonderful garage in a way. It's made to look almost like a medieval castle and the turret is part of that. He is in fact a woodworker and a set designer. So this is very exciting to him and the BZA granted this. I offer BZA Calendar No. 3112 for confirmation."

Second by Council Member Tumeo.

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

Nays: None

Resolution confirmed

Council Member Dietrich continued, "Next, is BZA Calendar No. 3113. This is City Vision Development II, LLC at 3210 Euclid Heights Boulevard in an MF-2 multifamily district. This is the townhouse development at the corner of Lee and Euclid Heights Boulevard, right by Boulevard School. They are getting ready to do the third phase of townhouses. You may recall that there are two sections down and then there is a blank space in between and they are going to be building townhouses in that blank space.

They have requested a variance from the off-street parking regulations to allow four of the newly proposed townhouses to have one enclosed and one unenclosed parking space each where the Zoning Code requires townhouses to have two enclosed parking spaces. The Board of Zoning Appeals resolved to grant that variance and the reason was that the experience of the developer in selling Phase One and Phase Two shows that the market for the smaller townhomes that had only (I should explain it fully) - the market for the townhomes with two enclosed spaces is not as great at the market for the smaller townhomes that they've already sold that had only one and since people seem more willing to buy the smaller townhouses they seem to be selling to single people who basically have only one car. Granting this variance would have no adverse effect on the neighborhood and the developer is providing additional off-street parking on the site for residents and guests. I offer BZA Calendar No. 3113."

Second by Vice Mayor Montlack.

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

Nays: None

Resolution confirmed

Council Member Dietrich continued, "Finally, BZA Calendar No. 3114. This is Denison D. And Jennifer Young, 2558 Fairmount Boulevard, in an 'AA' single-family district. They have requested a variance from the accessory use regulations of the Zoning Code, to allow a 37-foot-long, 5-foot-tall black aluminum fence in a rear yard of a corner lot that abuts a front yard of a neighboring lot (if you can picture that) to be set back less than 5 feet from the property line. It is kind of an unusual configuration where basically their yard and the neighbor's front of the side yard come together. The Zoning Code requires that a 5-foot-tall fence in a rear yard of a corner lot that abuts a front yard of a neighboring lot be set back a minimum of 5 feet from the property line, which kind of creates that 5-foot zone of no mans' land if the two people have fences and don't have a space in between. They were granted their variance, based on the fact that the fencing proposed is in keeping with existing fences in the neighborhood and it will extend off of an existing fence that's already in the neighbor's yard. The Board felt that this was the minimum fencing necessary to accommodate the needs of the applicant's family and pet. A permit was authorized to allow the 37-foot-long, 5-foot-tall black aluminum fence to be set back less than 5 feet from the neighboring property line. Just a little aside on this, this is part of what maybe I hope is a growing trend, people to use the kinds of fences that are transparent. This is an aluminum fence. It looks like a wrought iron fence so that there is a lot of space in between - they're not really pickets, they're narrower than pickets. It doesn't give that closed in look that Councilwoman Caplan and I have been opposing with people putting stockade-type fences in corner side yards. This is an open variety of fence that will not make the neighborhood look fortified. I offer BZA Calendar No. 3114 for passage."

Second by Council Member Wilcox.

Council Member Tumeo stated, "I have a question. I just want to make sure on the record that the neighbor's whose property line is affected came to the meeting and supported this request. Is that correct?"

Council Member Dietrich answered, "They did not come to the meeting, they wrote a letter."

Council Member Tumeo asked, "In support of this?"

Council Member Dietrich replied, "Yes, yes."

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

Nays: None

Resolution confirmed

Council Member Wilcox added, "I did want to make a few comments about voting and elections. November 7 is the general election and there are obviously many candidates statewide, federal, local and this year in particular there are a number of issues, both statewide and local and I add my support to Issue 19 tonight, but there are many other issues and some of them do require some studying and additional thought before making a determination. We always say - we encourage everyone to vote and certainly do that here. You can actually vote absentee now and I think the rules have changed on absentee voting to make that available to anyone. You can actually vote at the election board now. But as we encourage people to vote, I did want to make a few comments about this reassignment about the two precincts in Cleveland Heights that formerly voted at Millikin because I think there are a couple points that are getting lost in this discussion. The first one is that there are closer and more voter-friendly alternatives in the neighborhood that do not require crossing Mayfield Road and those options are also less expensive because they involve current voting locations where additional precincts could be added. So that's the first point. The second point is the City was not consulted about this and the election board's job is to, I think, to make it as easy as possible and convenient for the voters of our community to vote and if we were consulted we certainly could have pointed out closer locations, less expensive locations and locations that would have been easier for our residents to use to vote. I think those points are being lost in this discussion and I would encourage the Board of Elections to reconsider [end of tape]. We've made several options available and I think those are better options than what they've put on the table here and that concludes my report."

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Caplan added, "Thank you. I just have one announcement really, and this is that Fire Station No. 1 is getting a new emergency generator replacement. The reason I think this is really interesting is first of all it is a \$41,600 generator and comes from an assistance to firefighters grant which comes from FEMA, the Federal Emergency Management Agency. We do a joint dispatch so that our fire department dispatches fire equipment and EMS to Shaker Heights, University Heights and Cleveland Heights. It's a wonderful beginning for regionalism and this will add an additional 20,000 watts of power over the old generator which is over twenty years old and therefore during a power outage situation it would allow the fire station, of course, to remain functional and provide safety for those three communities. So this is a very nice thing that we're getting and we're going to use the old one in another place that is not of such high critical need. That's really great.

If I may digress, when I did that whole thing about the opt-out program and your gas. You will be getting a postcard in the mail in the next day or two which will say just what I told you, so you can read it, but listening to it, reading it - do something before October 10. Thank you."

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Tumeo stated, "I have no legislation tonight, but I do want to weigh in on the voting and point out the political season is upon us in full swing. As with this voting thing, I think the location, if we can make it easier for people to vote [by] not crossing Mayfield, as a lot of people walk to vote in Cleveland Heights, and the move is, moving that voting place pretty far away from where the voters are and I think we have an obligation to maximize the opportunity to vote. We think in this debate and discussion and in other ones I want to harken on what Councilwoman Dietrich has taught us, that civility is a very, very important thing. It is the Year of Civility and I think we all need to listen.

We're going to be in heated debates about issues, about candidates, and we all have opinions, many times they're different. I think the thing we all have to remember is that everybody is really in this to advance our community and our nation. Our hearts are all in the right place. Our methods, our opinions or sides may be different, but let's listen to each other and not jump to the negative conclusion and always look for the positive common ground. I think that will make this a much more enjoyable and beneficial political season for us all. Thank you."

REPORT OF THE MAYOR

Mayor Kelley stated, "After your comments, I have to cut my comments about the Board of Elections probably in half, since I've been dealing whole issue of where to vote and what to vote, is a very simple one and why I got involved with it. with this issue, but I did want to say that the We are not a third world country, we are the United States of America and every vote should count. It is a precious right that we have in this country. Most other countries, not most, but some other countries do not have this opportunity where their votes do not count. This has been a three-year career of Mr. Vu. He has been insensitive to the needs of people that do vote and this time in particular he's been insensitive to the needs of the citizens of Cleveland Heights and he continues his pattern of the indifference to the voting public of Cuyahoga County. We as a body cannot stand for this in Cleveland Heights and that is why we're going to be involved. It is not over. It's just beginning. There will be an excellent article in the Sun Press on Thursday, the Jewish News on Friday and we've just begun to take this issue apart. This was a very simple issue. I gave him a lot of alternatives on Thursday and Friday to work this issue out. He chose not to work with us. And when he told me on both days that there was some sixty (60) day rule that wouldn't allow it to happen, that was an out and out lie and I just found that out just recently talking with our law director. So when I say to him that he should go back to Salt Lake City and I would buy his plane ride ticket back there, I will indeed buy his plane ride ticket back there and I will volunteer to drive him to the airport and pay for the \$289 one-way ticket, because I don't appreciate him taking the citizens of Cleveland Heights lightly. I don't care who makes up the citizens. We are the most diverse community in the United States and to say that these people should vote or any people, and this precinct is not just made up of Jewish people, it is made up of African-Americans and white folks and all kinds of people. I do not take it lightly to tell 1,500 people or more that they should vote absentee is outrageous in this day and age and we will not stand for that in Cleveland Heights.

Our next Council meeting will be Monday, October 16, 2006 at 7:30 p.m. This meeting is adjourned at 8:31. Thank you for coming."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc