



CLEVELAND HEIGHTS

MINUTES OF THE CITY COUNCIL MEETING OF MONDAY, OCTOBER 16, 2006

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

Edward Kelley, presiding

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

Council Members absent: Wilcox

Mayor Kelley excused the absence of Council Member Wilcox.

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

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

Council Member Caplan moved to adjourn into Executive Session at 6:45 p.m. Second by Council Member Dietrich.

Edward Kelley, presiding

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

Council Members absent: Wilcox

Mayor Kelley excused the absence of Council Member Wilcox.

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

Topic of discussion included litigation.

Executive Session concluded at 7:00 p.m., resuming into Committee of the Whole and adjourning at 7:33 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:41 p.m.

Edward Kelley, presiding

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

Council Members absent: Wilcox

Mayor Kelley excused the absence of Council Member Wilcox.

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

The minutes of the Regular Council Meeting held Tuesday, October 3, 2006 were signed by Mayor Kelley along with the ordinance and resolutions passed at that meeting.

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. At our last meeting I requested authority to take bids for landfill disposal but I neglected to ask Council for authority for the disposal of yard waste, so, your Honor, I would be requesting authority to advertise for bids for the disposal of yard waste."

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, Evans, Kelley, Montlack, Tumeo

Nays: None

Motion passed

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I have no report tonight."

REPORT OF THE FINANCE COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There are three pieces of legislation. The first two are basically housekeeping, annual pieces of legislation. The first is Resolution No. 117-2006(F), accepting the amounts and rates as determined by the Budget Commission; authorizing the necessary tax levies and certifying them to the County Auditor; and declaring an emergency. Annually, the Budget Commission of Cuyahoga County, under law, determines the amounts and rates for property tax rates, as will be covered briefly. These rates are hereby levied on the tax duplicate of Cleveland Heights as follows: Inside 10 mill limitation, which means the property taxes that the city may levy without a direct vote of the electorate amounts to 3.72 mills which is exactly equivalent to \$3,768,080. Outside limitation is 9.28 mills equating to \$9,399,932. Resolution No. 117-2006(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 117-2006(F).

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

Nays: None

Resolution passed

Vice Mayor Montlack continued, "The second annual such resolution, Resolution No. 118-2006(F), requesting the County Auditor to advance taxes from the proceeds of the 2006 tax year collection pursuant to Section 321.34 of the Revised Code of Ohio; and declaring an emergency. Under this, the County Auditor would be authorized and directed to advance those funds to the Finance Director for Cleveland Heights, coming from all such monies due us or due the City that are now in the hands of the County. Resolution No. 118-2006(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 118-2006(F).

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

Nays: None

Resolution passed

Vice Mayor Montlack continued, "Finally, Resolution No. 119-2006(F), authorizing designated City employees to be signatories on certain City accounts; and declaring an emergency. Since we've had a change of one of the signatories, all of whom are executive employees of the City, this legislation is helpful. The banks involved are US Bank, Fifth Third Bank, JP Morgan Chase Bank, Charter One, Third Federal Savings & Loan, and the Bank of New York Trust Company, all holding various accounts pursuant to bidding procedures by the City. On these accounts the signatories in each case will be Robert B. Downey, City Manager, Thomas K. Malone, Finance Director, Nicholas Vitalone, Assistant Finance Director, and, Kathleen A. Ruane, Vice City Manager. Resolution No. 119-2006(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 119-2006(F).

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

Nays: None

Resolution passed

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Caplan stated, "Thank you. I have one piece of legislation and it is Resolution No. 120-2006(MS), authorizing a contract with Fabrizi Trucking and Paving for emergency repairs to a portion of a culvert located behind the Community Center in Forest Hill Park; providing compensation therefor; and declaring an emergency. A portion of a culvert behind the Community Center in Forest Hill Park collapsed recently, causing a big gaping hole which posed an immediate danger to the public; and it was thus necessary to repair the culvert on an emergency basis. The City Manager authorized the retention of Fabrizi Trucking and Paving to perform the repairs, based upon the City's experience with the company's work, the competitive fees, and the company's immediate availability. Therefore, be it resolved by this Council, that this Council approves the retention of Fabrizi Trucking and Paving to conduct those repairs and authorizes payment for such services in the sum of Forty-two Thousand Five Hundred Ninety-nine Dollars and Sixty-six Cents (\$42,599.66). This Council further determines that the retention of such company on an emergency basis was necessary in order to perform essential governmental services. Notice of passage shall be given and this Resolution shall be declared an emergency for passage tonight. I offer Resolution No. 120-2006(MS)."

Mayor Kelley accepted Resolution No. 120-2006(MS).

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

Nays: None **Resolution Passed**

Council Member Caplan continued, "Thank you. Now, of course, it's leaf season, the trees are beginning to turn color and the leaves are starting to come down and our city public works department is out collecting your leaves. Do be careful how you do that. The leaves should be put on a pile on your tree lawn. Don't blow them into the street so that it's slippery and dangerous. Try and keep them in a pile and the city is really doing a great job of picking up the leaves and we're going to hope that it doesn't snow on those leaves so we can get them all lifted up and taken away before the snow comes down. Pay attention to that.

The other thing that I wanted to talk about just for a moment is an election is coming November 7. Please be responsible. Please vote. I encourage you to vote. There are a couple of my favorites that I'd like you to consider in terms of issues. I wouldn't dare to think about talking about candidates. There is Issue 19, about public health and I of course am interested in mental health. You here me talk about it, that mental health matters, treatment works, that people recover and you're going to start seeing billboards all over town. One of which says, Grandma might not just be getting older, six million older adults are depressed and only 10% receive treatment. Vote yes on Issue 19. It covers things like care for foster children, the burn unit at Metro Hospital, the helicopter at Metro and of course all kinds of mental health services in our county.

Issue 18 is the arts and culture issue. It's one of those issues that is supported by smoking, by taxes on cigarettes. Issue 4 and 5 are very confusing. A lot of the issues are confusing. Four is a constitutional amendment and Issue 5 is not, they both deal with smoking in public places or really preventing smoking in public places. If you would like to help prevent smoking in public places, vote no on 4 and yes on 5. This should not be something that's a constitutional amendment and so look at voting yes on Issue 5. You really shouldn't vote yes on both of them, even though they're both about more or less the same issue because one is a constitutional amendment and 4 would trump 5. So vote no on 4 and yes on 5. There are a lot of issues. Some of them are very confusing. The League of Women Voters has been putting out all kinds of information. Try to get some of that information at your public library. Issue 1, I can't even begin to tell you exactly what it is about. Issue 2 is about minimum wage and you need to look at that because there are all kinds of opinions about it and of course, all of the candidates. There are candidates' nights all over the greater community. Please, try and become a voter that's informed, but most of all, exercise your right to vote and this is November 7. Thank you. That's all I have."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Evans stated, "Thank you, your Honor. I'd like to present Resolution No. 121-2006(PD), authorizing an agreement with Allegro Realty Advisors, Ltd. for a Market Analysis and Feasibility Study for the Top-of-the-Hill development site; providing compensation therefor; and declaring an emergency. The City issued a request for proposals to qualified firms for a Market Analysis and Feasibility Study for the Top-of-the Hill development site at the intersection of Euclid Heights Boulevard and Cedar Road. After review of responses, the City Manager and the Department of Planning and Development recommended the retention of Allegro Realty Advisors, Ltd. to conduct such study. The fees set forth in the proposal submitted by Allegro Realty Advisors, Ltd. are reasonable and com-

petitive. Such services are professional services for which no bidding is necessary. The fees actually for Phase I services are not to exceed Forty Thousand Dollars (\$40,000.00) as stated in Section 1. I'd like to present Resolution No. 121-2006(PD) for passage."

Mayor Kelley accepted Resolution No. 121-2006(PD).

Council Member Tumeo added, "It just dawned on me. If I remember correctly, Allegro is using Cleveland State University as one their advisors, and if that's correct, I will need to recuse myself from the vote."

Council Member Dietrich moved that Council Member Tumeo be allowed to abstain from voting.

Second by Council Member Caplan.

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

Nays: None

Motion passed

Mayor Kelley continued, "I do have a comment on this one part and then we'll vote on the whole thing and then you'll be able to vote to abstain.

I want to be clear that this begins a process. We simply have a lot of activity going on in Cleveland Heights, whether it's some of the housing projects we have or whether it's the fantastic project at Meadowbrook and Lee now named the Terrace Project that we're working on with our new group, the Neyer Group out of Cincinnati. So what we're doing here is we're really just putting our toe in the water. So let it simply be stated that you're not going to see cranes and earth movers, etc., on the top of Cedar Hill. But, this gives us an opportunity to work with this Allegro Realty Advisors, Ltd., who was one of three companies that answered our proposal, who we interviewed all three companies and we're going to look to see what are the possibilities here after they do their work that we have hired them to do. So, don't be fooled. Don't think that all of a sudden there are going to be great things happening at the top of Cedar Hill in the next three or six months. This will be a long process, possibly. My point of view, if the market analysis feasibility study says to put a Damon's and a Dairy Queen and what have you there, I'm not going to be voting for something like this. This is potentially a very creative piece of property, one of the most sought after properties on the east side of Cleveland. We will do our due diligence here and we are looking forward to seeing what happens here. But, everyone who is interested here will have an opportunity to get involved in the process and so the scope of work does talk about meetings with the Cleveland Heights City Council, the Cedar Fairmount Special Improvement District, the Friends of Cedar Fairmount and Future Heights and as a community we are never shy of giving our opinions of what needs to be done. This is a professional group that has experience in it. Let me be clear again, we are just putting our toe in the water. We certainly have a full plate of activities in the city with the various housing projects, the Meadowbrook and Lee project, which we worked on for a very, very long time to get where we're at today and we're just beginning to take out the contaminated soil and work on the parking garage design. Let me be very clear with people, and I know our Sun Press reporter is here and he will correctly and totally [report what I've said] and our friends from the League of Women Voters are here, this is just putting the toe in the water. You are not going to see a lot happening here. This is just some foot work and some prep work out there to see what possibly can happen here and maybe nothing will happen, but we're going to get a little bit ahead of the curve. We know there is going to be a lot of activity done in University Circle with the Cleveland Clinic, with University

Hospital, so we're going to see what happens. People have tried on this site before, looked at this site a couple of times way before most of us on this council were on this council with the exception of our veteran, the vice mayor, so we'll see what happens. This may be the beginning of something. It may be the beginning that tells us, hey, the timing is not right, but just putting our toe in the water and I want to be very clear about that."

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

Abstain: Tumeo

Resolution passed

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans stated, "Resolution No. 122-2006(PSH), authorizing the City Manager to accept a donation from Energizer on behalf of the City of Cleveland Heights; and declaring an emergency. The City applied for and received a donation of Three Hundred Eighty-four (384) 9-volt batteries from Energizer under their "Change Your Clock - Change Your Battery" program. The receipt of this donation will allow the City's Fire Department to continue its program of distribution of free batteries to residents for smoke detectors and carbon monoxide detectors. Section 1 states that the Three Hundred Eighty-four (384) 9-volt batteries, have a retail value of One Thousand One Hundred Fifty-two Dollars (\$1,152.00). I'd like to present Resolution No. 122-2006(PSH) for passage."

Mayor Kelley accepted Resolution No. 122-2006(PSH).

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

Nays: None

Resolution passed

Council Member Evans continued, "Just to remind our residents, it is recommended that each time we set our clocks ahead or behind, whichever way, that is the time to change the batteries in your alarms or smoke detectors or whatever kind of detectors you are using. The other thing is that those of you who need help with obtaining these batteries can call our fire department at the office of the fire chief and see if you qualify to get free smoke detectors and batteries. That concludes the report this evening. "

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Tumeo stated, "Thank you. I don't have any legislation but I do have two items that I'd like to announce. First of all, there is a housing forum coming up this Wednesday on October 18 from 6:00 to 8:00 p.m. It's being hosted by Stephanie Tubbs-Jones, our very able congresswoman and it's being chaired by Congresswoman Maxine Waters of California. She's the ranking member of the Housing and Community Opportunity sub-committee in Congress. This is about very important issues of concern to everyone around in housing: includes issues of predatory lending, mortgage fraud, and vacant and abandoned housing, what is going on at the federal level with those things. It will be held at the Eastern Cuyahoga Community College and that is at 4250 Richmond Road. It is going to be very interesting. Once again, it is from 6:00 to 8:00 p.m. this coming Wednesday. If you catch this [council meeting] early when it is on tonight for tomorrow, hopefully you can attend that.

Secondly, I wanted to echo my support of Councilwoman Caplan's call to vote, to do your civic duty. Last year it was a fun vote, this year it's going to be an even more fun vote. I want to thank the League of Women Voters for their work in making sure people have the knowledge to vote responsibly,

and I would also like to chime in and urge you to vote no on Issue 4. As a constitutional amendment goes, it overrules a lot of hard work that people have done in cities on various issues related to smoking. So I would urge you to vote no on Issue 4. Thank you."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Dietrich stated, "Thank you, your Honor. I have one piece of legislation, Resolution No. 123-2006(CRR), joining with the National Conference of Mayors and communities throughout the nation in proclaiming October, 2006 as National Breast Cancer Awareness Month and October 20, 2006 as National Mammography Day; and declaring an emergency. Whereas, an estimated 212,920 new cases of breast cancer will be diagnosed in 2006 and approximately 40,970 will die from the disease; and, whereas, early detection and prompt treatment can significantly reduce suffering and deaths caused by this disease; and, whereas, mammography, an "x-ray" of the breast, is recognized as the single most effective method of detecting breast changes that may be cancer long before physical symptoms can be seen or felt. Therefore, City Council hereby proclaims October, 2006 as National Breast Cancer Awareness Month and October 20, 2006 as National Mammography Day, and urges women in the community of all ages to obtain and utilize information about screening and mammography and to seek appropriate services. I offer Resolution No. 123-2006(CRR) for passage."

Mayor Kelley accepted Resolution No. 123-2006(CRR).

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

Nays: None

Resolution passed

Council Member Dietrich continued, "I will add that there were 25,000 people this weekend at Race for the Cure, which benefits the Susan B. Koman Fund for breast cancer research.

Now I have my usual recreational announcements about certain things that are coming up in the next week or so in Cleveland Heights. This coming Saturday, which is October 21, is the International Festival which is sponsored by Heights Community Congress. It will take place at the main library on Lee Road from noon to five and there will be performances by various ethnic groups, face painting, all sorts of fun things for kids and grownups, so I hope that you will attend that HCC event this Saturday.

I do want to announce the various things that are going on around the city for Halloween. On October 28, which is a Saturday, there will be two events at the community center. They will both be at the same time from 1:00 to 2:30. The first is a Halloween party for three to five-year-olds, that will include games and crafts and a hay ride, and the other is, Haunted Community Center for kids in grades kindergarten through five. Both of those are Saturday, October 28 from 1:00 to 2:30 at the community center. Because of that, public skate that day will be from 3:00 to 4:30.

Trick or Treat is on Tuesday, October 31, 6:00 to 8:00 and make sure that if you want children to come trick or treating to your house, leave your front porch light on and if you are a parent instruct your kids to go to houses that have their porch lights on.

While we are talking about the community center, I just want to say a word about an article that appeared in the Sun Press, talking about some crimes that had occurred at the community center. While I don't want to claim that we're perfect, obviously there are things taken there from time to time, the sort of main part of that story was actually something that had occurred a couple of years ago, it was lights being put out in a locker room which scared a person that was in the locker room. Within days of that

incidence, a couple of years ago, light locks were installed that make it so that only staff can turn the lights on and off. That will not happen to somebody at the community center. There are also a couple of changes pending that will increase security at the community center. One is that we will be installing turn stiles in the entry so that as you come in you'd go through a turn stile which will further monitor people coming into the community center. There will also be six new security cameras placed outside in the two parking lots. Lest anybody feel afraid to come to the community center we really do feel like it's a very safe place and we urge you to come to the community center.

The final thing that I want to talk about is voting. In a way I am going to echo and reinforce what Councilwoman Caplan and then Councilman Tumeo said in talking about some of the confusion around some of these issues. Just want to add my strong advice that Issues 4 and 5 both smoking amendments are very confusing. One might think that if you want to control, restrict smoking in public places would be to vote yes on both of them, that is not the case. If you vote yes on both of them and if Issue 4 gets more votes than Issue 5, Issue 4 will knock Issue 5 out. Issue 5 is the one that is actually sponsored by the groups that want to restrict smoking. The other one is a little bit more under the auspices of the tobacco industry. So, whether you understand all that we've been saying, it probably sounds like more confusing than ever. If you want to restrict smoking in public vote no on 4 and yes on 5.

I want to add one little word to what Councilwoman Caplan said about the Health and Human Services levy which is county Issue 19, which I also urge you to vote for. I just want to remind people, that this is not one of those levies where money gets added on and on and on each time you vote for it. This is a levy that runs out and gets replaced. The Health and Human Services levy will be running out and then what we will vote for this time will replace it. In fact, it will be a 2.9 mill levy replacing a 3 mill levy, so the millage is actually going down. I read what I thought was a good little quote in the Plain Dealer that called Issue 19 a well-placed pittance and that really is what it is. It's a very, very small amount of money to do a great many services for needy people in our county. So, I urge you to vote yes on Issue 19. That is all that I have."

REPORT OF THE MAYOR

Mayor Kelley stated, "If I don't mention Issue 18, I'm sure our arts people in our city wouldn't be happy with us, so I'll chime in with my vote yes for 18, which I'm sure we all would say as we're throwing numbers out there, but I do know vote no on 4 and yes on 5. I'll remember that. Really, Issue 18 also deserves our support and we did support the issue last time when it was tied in with a development issue when the county commissioners had it on [the ballot].

I do want to say goodbye and add a good thank you to Sharon McGuire who has left us. She did a great job as Tom's assistant for many years and we certainly will miss her. I do want to send get well wishes from behalf of this council to our superintendent, Deb Delisle, who is in the hospital as we speak and hopefully she will be getting stronger everyday and returning to her job when it's appropriate when she feels better. But I do know I speak for this council and this city staff to send get well wishes to her.

Want to wish our city a happy 85th birthday. We had a nice little party yesterday at the community center and this city is still rolling on and on for our 85th anniversary and I'm sure we'll hit many, many more anniversaries down the line.

I do want to spend a minute on the school situation. I really didn't know what I was going to say until I came out here, but I've had the opportunity in the last week to talk to four of the school board members and a number of people from Coventry. I think it is time that I assert myself in the situation a

little bit and how can I do that to best maybe benefit the situation. I think it's time that I offer to both the five school board members and some of the group, OPEN, to host or facilitate a meeting either at this city hall or at the community center sometime in the next two weeks so the people from OPEN and the people on the school board, hopefully the majority, if not all the school board members could sit down at a neutral site and just have a conversation or have a dialogue. I've been watching the meetings on tv and talking to people on both sides and unfortunately they have their meetings (which is nothing wrong) but the school board meetings are always at the same place- Coventry School. I think it's time to get some kind of a dialogue to begin at a neutral site and I'm going to facilitate that process by sending a letter to these folks tomorrow, to the school board members, to three or four of the people from OPEN to have a meeting, to try to facilitate either here at city hall or at our community center to be a dialogue. It's four months going, it's more than four months actually. This thing just keeps going down the track and going down the road. It's time to have an open dialogue. It will be a public meeting. It will be open to the public. This idea that they were going to have two people from each side sit down - and these two and those two in closed doors, I don't think that will accomplish anything. So, tomorrow I will be sending them a letter. Hopefully, something will work out. If it doesn't, we rolled the dice and nothing happened, but I think it's time to get all the people in the room, a public meeting on a neutral site and hopefully we can begin something that will end up positive. If it doesn't, we've only given up two or three hours on a Monday, Tuesday, Wednesday, Thursday or Saturday or Sunday. That's what I'm going to do tomorrow. We'll see what happens.

This meeting will be adjourned at 8:15 p.m. Our next meeting will be Monday, November 6, 2006. Thank you for coming."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc