



CLEVELAND HEIGHTS

MINUTES OF THE PUBLIC HEARING OF OCTOBER 16, 2006

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:25 p.m.

Edward Kelley, presiding

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

Council Members absent: None

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

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

Committee of the Whole adjourned at 7:10 p.m.

Following the public hearing, Committee of the Whole resumed at 7:47 and adjourned at 9:25 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:15 p.m.

Dennis Wilcox, presiding

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

Council Members absent: None

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

Council Member Wilcox stated, "This is a Public Hearing on Ordinance No. 111-2006(PD) amending Sections 1103.03, "Definition of General Terms", 1121.05, "Accessory Uses", and 1165.02, "Supplemental Accessory Use Regulations", of Part Eleven, Zoning Code, of the City of Cleveland Heights to enact regulations regarding the usage of portable on-demand storage structures. I think Mr. Hull is going to make a presentation."

Mr. Hull stated, "Yes. It looks like a private showing tonight. We'll recap a few of the things we discussed going back probably a couple months ago. The reasons for examining these are multiple.

The recent emergence of these as a storage structure, the popularity along with the escalating number of complaints, and along with that, we currently have nothing in our accessory use regulations that specifically addresses PODS, but as you look through the language you'll probably notice that we are trying to strike a balance between the convenience of these and their potential for abuse.

So what are these structures? They are do-it-yourself moving arrangements, probably falling into the same category as a U-Haul type experience. They do offer some comparative conveniences and as I go through some of these they'll probably sound a bit like a pitch, that's because I've lifted a lot of this language from the manufacturers own sites and in part to give you an idea of how they market themselves. So, they stress that they are an economical method of moving both personal or business possessions. It does eliminate some of the hassles involved with the U-Haul type move. They offer very convenient ground level loading capabilities; stress-free packing, along with no time constraints, which is something we'll probably want to discuss here in a minute, because that's one of the problems that we see arising; convenient pickup and delivery, with conveniently located dry and secure warehouses that come with the package and it's a pack-once formula with no re-packing and no unpacking until you actually arrive at the destination. As far as I can tell, most all of these are rented on a monthly basis. These look like a truck arriving with a POD, which is usually 8x8x12 or 8x8x16 box. It's unloaded onto a hydraulic- jack system that lowers it then down to ground level where you can just roll your items right in. When you're ready to have the thing picked up, the whole process reverses itself and the POD can either be taken off to, again the warehouse facility or can be delivered to wherever you're moving.

Common problems include, that these are sometimes used as permanent on-site storage for household goods. They're occasionally used in conjunction with home-based businesses and we've seen this particularly with home-based businesses involving bulk sales. When they are used for moving, they're often left in conspicuous locations for long periods of time. The definition that we're including in the language is an attempt to define what we want to regulate and what we don't want to regulate. We really are not trying to address small personal possessions that end up in people's yards: tool boxes, hose storage boxes, that sort of thing. We're focusing on a particular type of storage system.

The multiple standards we've discussed and these are: - we're stating that they should be allowed for [a] period of not more than ten (10) days in durations, that there should be no more than two (2) portable-on-demand storage structures located on the property at any one time. That they should be located on the property for no more than ten (10) days in a given calendar month. They should be located only on driveways or other paved private parking areas and that they should not be located in front yards unless there are no other alternatives on the site, which again, would be the case on certain properties and in certain neighborhoods in the city. It occurs to me that we may want to also include a prohibition on corner-side yards which function like front yards as well. And finally, that these structures should be secured and locked at all times, other than when they are actually being loaded or unloaded.

This is another photo taken right from one of the manufacturer's sites showing the aesthetic condition that we're trying to avoid to the greatest degree possible. This could be reviewed by Planning Commission in December and Council could also take action in that same month. It's all in there. Do you want to discuss aspects of this any further?"

Council Member Caplan asked, "Could I just ask you a question? One of your requirements or prohibitions was only one ten-day period in every thirty days, but that means somebody could have one twelve times a year, actually. So that if you were doing a mail order business or something you could really use that each month, have a ten-day period."

Mr. Hull replied, "Yes, that is a possibility, right. Would you like it to be less?"

Council Member Caplan answered, "Yes, I would."

Mr. Hull continued, "I don't know how often people move? They don't move from place 'A' to place 'B' very often, but they may be moving personal items more often, but I don't know how often that would be."

Council Member Caplan answered, "I was only thinking of a mail-order business or whatever it is, not the moving part."

Council Member Wilcox added, "I was just going to suggest, I mean, if it's not more than six times in a year, if someone is doing it every month, that's what your concern is."

Council Member Caplan replied, "Yes, exactly."

Vice Mayor Montlack interjected, "In the same vein, this means that since it's ten days in any calendar month, you could have it for twenty days?"

Council Member Caplan answered, "Right."

Vice Mayor Montlack continued, "Two months?"

Council Member Caplan answered, "No. It's every thirty day period."

Council Member Wilcox reiterated, "No. You can't have it for more than ten days consecutively."

Council Member Dietrich interjected, "In a row."

There was some added discussion among the Council.

Mr. Hull added, "There are two regulations that work together."

Council Member Tumeo added, "I have just two or three things. One is I think we probably should think about amending this to add a corner-side yard in Item 4 as you suggested. I think that would just make it cleaner. I also had a question. I've had the unique opportunity to hear one of the commercials on these things now that Home Depot has partnered with IPOD and if you've not seen one of these you can see one over in the Home Depot parking lot that clearly states on the side, "Perfect for an alternative home storage unit", and they are now marketing it that way. This is a way for homes to have additional storage for your home stuff, so it's not just for moving anymore."

Council Member Dietrich said, "For an additional room."

Council Member Tumeo continued, "They're still sticking to storage, they haven't called them modular rooms yet - could be next, they're always looking for more markets. I guess one of the questions that I would ask, is should we either just as procedurally - or require that anyone renting these in our jurisdiction include these ordinances in their rentals, so that they know and the people they rent to know in Cleveland Heights that they may not be able to use them the way they're being marketed? Just a thought, because they are being marketed that way now, nationally."

Mr. Hull said, "I don't know what the logistics would be of requiring that, tracking down everyone that sells – we could certainly do our best to research who is making it available and try and get them the information to pass out."

Council Member Tumeo added, "Well, within Cleveland Heights. There isn't going to be many businesses."

Mr. Hull added, "Hopefully, hopefully not."

Council Member Tumeo continued, "It's going to be Home Depot and maybe the rentals."

Mr. Hull added, "It seems that a lot of people can just order these directly from the website, and you're right, the website makes it very clear that you have a range of options including not having these picked back up again, perhaps ever."

Council Member Tumeo continued, "From a marketing standpoint, Home Depot is going to have the biggest impact in Cleveland Heights."

Mr. Hull replied, "Probably."

Council Member Tumeo continued, "Because, everyone goes there and drives by there. And my second question then, the following one would be, is it okay for Home Depot to have one sitting out in their parking lot forever?"

Council Member Caplan emphatically stated, "No."

Council Member Tumeo continued, "Does this ordinance address that?"

Mr. Hull answered, "I believe, we have other ordinances that probably address this."

There was conversation among council and staff that was unclear on the tape.

Council Member Dietrich asked, "Is there somewhere else, but not in this little section of the ordinance, that states that nobody can live - -?"

Council Member Evans asked, "No one can live in what?"

Council Member Dietrich answered, "In these. In a POD."

Council Member Tumeo jokingly added, "Someone could live there for ten days, maybe."

Council Member Dietrich added, "I mean, you don't want somebody to live there for ten days do you?"

Mr. Hull said, "Could this be enforced the way that we have with people living in their garages, Rick?"

Mr. Wagner replied, "This would not meet any criteria because there is no plumbing, etc."

Council Member Tumeo added, "That is why we put in the part about having the locks, so people can't use it as their office during the day."

Council Member Wilcox asked for any other comments or questions.

Council Member Evans stated, "You know, in one way I believe ten days is long enough. The way that I heard of this little mechanism being used, from people preparing their homes to go on the market."

Mr. Hull added, "For staging and moving everything out."

Council Member Evans continued, "That they're suggesting that people get these things and de-cluttering their homes. Now, if they are serious about this whole process, I can see it being longer than ten days because some of these homes are nice sized homes or people have been in them for a really long time and I hate to punish people in that situation and it's just a concern. I just think it's a huge concern because I can see if you've been in your house for a long time and it's a nice sized home, and that's the mechanism to de-clutter it and start staging the property so that it can be shown as well as it can be shown on the market --"

Council Member Caplan added, "That if you don't sell your house for six months, guess what's sitting there?"

Council Member Evans continued, "But, no. I mean it can be taken away, but still if you have enough stuff in this house then you have that POD taken away and then you have another one delivered, and you start all over, you could do that two or three times."

Mr. Hull said, "It's a good point. We're talking about whether the language addresses the issue of any POD or a particular POD for a ten-day period."

Council Member Tumeo added, "You are allowed up to two, correct?"

Council Member Wilcox answered, "Right."

Mr. Hull continued, "At any one time."

Council Member Tumeo continued, "At one time, but I can see what you're saying. Let's say, I'm moving a very large house. I may need four PODS over the course of two months."

Council Member Caplan added, "No, you couldn't do that."

Council Member Tumeo continued, "No, you couldn't do that, because you can't have more than ten days in any thirty day period. So, I would have to have two at once and get them both filled within ten days. So, it is doable, it's just not necessarily convenient."

Council Member Caplan asked, "Could they get a variance? Call up and say, I have this little issue here."

Mr. Hull replied, "They could. If by clutter you mean things that the people don't immediately need, it would be pretty easy, just as soon as these were filled, have them stored as well in the POD facility so that they're not around, at least."

Council Member Tumeo, "I'm not sure that there would be -. That's why we want the ten days. It gives them two weekends they can fill a POD or two, take it away, then -"

Council Member Evans added, "You could easily take a month, really."

Council Member Tumeo questioned, "Do we want to leave something for thirty days?"

Council Member Evans answered, "I don't really want it left there a month. I just think there should be a mechanism for those that legitimately need enough time to prepare their house for the market and I can see that happening. I can see needing."

Council Member Dietrich stated, "Except, you do it more the way you always did. So you'd probably put some stuff in your garage for a while and then the POD would come and you'd load it up and then you'd put some more stuff in your garage until another POD [would come]. It's sort of a new thing that we're not even really used to, so we're not relying on it like that yet."

Council Member Tumeo said, "How would we write in the variance, 'option'? Because, I think the way to do that would be to have that for a while and then in a couple years if it's never used, okay, we didn't need it, but then in a couple years if it is used a hundred times successfully then we have to take a look at it. So, how would we do that?"

Mr. Hull answered, "Once it's enacted in our Code, anyone could seek a variance from it, through the standard process. If we're seeing lots of people requesting variances then we could re-address this."

Council Member Tumeo added, "If there is an option for variance then it's addressed."

Council Member Caplan added, "I think if someone is organized I think they can start cleaning up their house and make a pile in the dining room, move it to the garage, then get the POD instead of leaving the POD there and saying, 'oh, which room should we address today'? I mean you've got to be a little bit more organized. I would hate to have it next door and have to look at it for a month."

Mr. Hull said, "I think our intent was not to have any restrictions for the overall number of PODS which you could fill. It's more about time-frame for filling. It's more about not leaving them there any longer than is necessary, finding other things to do with your PODS once they're filled."

Council Member Caplan asked, "Are they air-tight?"

Mr. Hull replied, "I don't believe so."

Council Member Caplan continued, "So, if someone got locked in there it wouldn't be a problem?"

Mr. Hull answered, "I don't know for sure."

Council Member Tumeo answered, "Only for the person trying to get out. No, they are not air-tight."

Council Member Caplan asked, "So, should we add that there will be no living in them? I mean, no kidding."

Mr. Hull answered, "In our Code, I think we already address that."

Council Member Tumeo added, " You can't just live in any structure, it has to be habitable."

Mr. Wagner interjected, "We have enough in our existing codes to address that."

Mayor Kelley asked, "I don't want to ask a dumb question, but what happens if the property is vacant and a POD is there and the people left the property? I think that's what we're going towards. How do we get the POD off the property?"

Council Member Wilcox added, "It's a nuisance."

Mr. Hull stated, "I have a feeling the manufacturer, just as soon as they knew, would probably come and get it. They're not expensive, but they're not cheap either."

Mayor Kelley continued, "I mean if they paid for a thirty day rental [back and forth conversation unclear]. Even though it's a ten day thing here. I'm just wondering between the ten and thirty days - we're asking all kinds of questions and we're getting a little silly, but - -. What do we do, physically remove the POD?"

Council Member Tumeo asked, "Can you compel the company to take it back?"

Mayor Kelley asked, "Didn't we have a U-Haul problem like this a few years ago? Didn't someone approach us with a letter about a U-Haul off of Taylor Road?"

Mr. Gibbon interjected, "It seems to me it's like any other problem that we have of that nature. Number one, of course, you cite the person. But if it's a public nuisance, use the nuisance abatement, the cost of it and the storage of it, that it would cost the city, put a tax on the property. Notify the manufacturer if you know who it is, that they've got to come and get it, but I don't think you could cite them for it. It's a criminal statute."

Council Member Tumeo stated, "The other thing about this as it runs true is correct, these aren't expensive but they're not cheap. If it is a situation where someone is going to vacate [added conversation]."

Council Member Wilcox added, "They'll have to have a deposit."

Mayor Kelley said, "We had that with a U-Haul a few years ago."

Council Member Tumeo said, "But a U-Haul is cheap."

Mayor Kelley continued, "It was a truck though."

Mr. Hull said, "There is a fair cost that you pay up front for the delivery and pickup as well."

Mayor Kelley said, "I'm just thinking, if they say, well we can't do anything until thirty days are up. We're going to get out of there between the ten and thirty and we're going to send the Chief tow it out of there and put it in our impound lot?"

Mr. Gibbon said, "You could remove it and impound it. You could do that if you wanted to."

Council Member Tumeo said, "I don't think that's going to happen."

Council Member Caplan said, "We had that problem with those things where people clean their houses out, those big - like dumpsters that you get if you're manufacturing - they were there - - and I know Rick has called up companies and they are eager to get them back, to come and get them. There must be a name on these things."

Council Member Tumeo said, "Yes, it says PODS."

Mr. Hull added, "In large letters."

Council Member Tumeo added, "In very large letters. You should go over to Home Depot and look."

Mr. Wagner said, "I would think that the enforcement would go along as if it were a junk car or any other housing violation or zoning process. Use the court process and then as the last step use the nuisance abatement."

Mayor Kelley said, "'That's what I'm asking. Is there something we should be doing either in this part here [referring to the ordinance] or in our code to make sure it happens."

Mr. Gibbon replied, "I really don't think so. I don't see them as being totaling different than other problems we have and we have the tools available. There really isn't anything - -"

Mayor Kelley continued, "We could go after [a] nuisance abatement - go through all those steps, if there's something we could just write in now or amend now."

Vice Mayor Montlack asked, "What if we required them to be bio-degradable?"

Council Member Caplan replied, "If we sprinkle them they just fall down."

Council Member Wilcox stated, "I want to ask a question. Are we aware of any other cities that have passed these types of ordinances on these pods?"

Mr. Hull replied, "All over the country. Yes. Cities everywhere are encountering the same problems we are."

Council Member Caplan asked, "What do their ordinances look like, similar to this?"

Mr. Hull answered, "Much of this language was borrowed from other codes. Yes."

Council Member Tumeo replied, "In fact, the original one was seven days, because that was straight out of, I forgot where you told us."

Mr. Hull answered, "Colorado."

Council Member Caplan stated, "Could I suggest we let this - whatever we have to do, and that, should we find there are issues with it, it's not real hard to amend it."

Council Member Wilcox added, "Well, we haven't adopted it yet, so yes. We'll see what the Planning Commission says."

Council Member Tumeo asked, "How do we get this corner side yard added?"

Council Member Wilcox said, "You had mentioned that, the corner side yard."

Mr. Hull replied, "We can add that to Number 4."

Council Member Tumeo continued, "[Sub-section] 1165.02(f)(4) Portable-on-Demand storage structures shall be located only on a driveway or other paved private parking area and shall not be located in a front yard or corner side-yard unless there is no access to other yards."

Council Member Wilcox said, "I was going to suggest another comment on that and not to get too micro into this, but where we say, 'paved parking area', I think we just amend the code to allow driveways to be of other types of materials or other approved driveway material. However, you want to say that."

Council Member Tumeo asked, "You just want to say, 'approved parking area'."

Mr. Hull said, "We could scratch, 'paved' even, and [just have] private parking area, by eliminating, 'paved'. Okay. Good point."

Council Member Wilcox asked, "Are there any other comments from council on this at this time? I know, there are a lot of people anxiously waiting to make public comment. This is a public hearing, so if there is anyone from the public that would like to make a comment on this legislation, now is the time to do so. Seeing none, are there any other comments from council at this time?"

Council Member Tumeo moved the public hearing be adjourned.

Second by Council Member Evans.

Council Member Wilcox adjourned the meeting at 7:40 p.m.

Respectfully submitted,

Dennis Wilcox, Council Member
Planning and Development Committee Chair

Thomas K. Malone
Clerk of Council

/mwc