



CLEVELAND HEIGHTS

MINUTES OF THE COUNCIL MEETING OF MONDAY, OCTOBER 18, 2004

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:23 p.m.

Kenneth Montlack, presiding

Council Members present: Caplan, Dietrich, Evans, Hicks, Montlack, Wilcox

Council Members absent: Kelley

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

Vice Mayor Montlack excused the absence of Mayor Kelley.

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

Council Member Evans moved to adjourn into Executive Session at 6:25 p.m. Second by Council Member Wilcox.

Kenneth Montlack, presiding

Council Members present: Caplan, Dietrich, Evans, Hicks, Montlack, Wilcox

Council Members absent: Kelley

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

Vice Mayor Montlack excused the absence of Mayor Kelley.

Topic of discussion included litigation.

Executive Session concluded at 6:58 p.m. and resumed to Committee of the Whole, adjourning at 7:30 p.m.

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

Kenneth Montlack, presiding

Council Members present: Caplan, Dietrich, Evans, Hicks, Montlack, Wilcox

Council Members absent: Kelley

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

Vice Mayor Montlack excused the absence of Mayor Kelley.

The minutes of the Regular Council Meeting held Monday, October 4, 2004 were approved, but held for Mayor Kelley's signature along with the ordinances and resolutions passed at that meeting.

Charles Luck, 3978 Orchard Road, stated, "Good evening. [I'm a] property owner. I first addressed this Council meeting Monday, October 4th with some questions concerning our fire department. One of the things we discussed was how our fire trucks and ambulances will assist neighboring suburbs if they're in need. While our equipment and personnel are in other cities doesn't that create a shortage in our city or if our equipment goes on another call, how do we get backup for that zone or whatever that equipment was supposed to be covering?"

Vice Mayor Montlack responded, "Mr Downey, who also serves as Safety Director, I'm sure can answer your question."

Mr. Downey proceeded, "Sure. That's a very good question. The answer, though, is in the beauty of the agreements that we have with our neighboring communities. We help our neighbors, including Shaker Heights, University Heights, South Euclid, East Cleveland through a mutual aid concept, where we share each others' resources as needed. If one particular area of town was uncovered because all the equipment has gone to a call, the other cities are put on notice that, that particular unit of ours is short and they may be responding to that area for us. It's a very, very well- thought out program put together by all the fire chiefs, but is really the cutting edge on where fire fighting is going today."

Mr. Luck continued, "Now, with the budget cuts that the fire department was asked to undertake, was the police department also asked to make similar cuts like the ones that were made by the fire department?"

Mr. Downey continued, "The fire department made no budget cuts. What we've done recently with the fire department is reorganized how their overtime is earned. The police department, by the way, has participated with all the other departments in making cuts."

Mr. Luck asked, "Another question. Can non-residents address Council the way I'm doing right now and if not why not?"

Vice Mayor Montlack replied, "We have entertained questions or comments from non- residents."

Mr. Luck reiterated, "So they are allowed to address Council?"

Many Council members responded, "Yes. Always have been."

Mr. Luck said, "One final question. At the last city council [meeting], you had a vote for an above-ground fuel storage tank at Fire Station #1, if that's correct, I believe?"

Mr. Downey said, "Yes, that's correct. They authorized the city to go out for bids for that. Yes."

Mr. Luck stated, "Now, just before I came here, in less than five minutes on line with the EPA in Ohio, the check list is right there. Can't that be done in-house by our service department? It's a rather quite simple procedure to put in an above-ground storage tank."

Mr. Downey replied, "I don't think so. You may want to look at those statistics again or those were check lists - -. This tank will have to be inspected by a number of folks and it's installation is beyond the capability of our public works department."

Mr. Luck said, "In the past, I was involved in the installation of two rather large above-ground storage tanks. It is quite simple. Has anybody looked - the EPA - it's right there on line. It's got a check list of what has to be done, so anybody in the service department can read it - can be done in-house."

Vice Mayor Montlack interjected, "I think it's fair to say that when it comes to a matter like that and a recommendation is made by the department involved and by the City Manager, for good reason most council people have a lot of confidence in that recommendation. But, if you have some ideas on any way that something can be done better or save money, I think we're all interested in hearing it."

Mr. Luck said, "Hire me as a consultant for ninety days, I'll get things built for cost. Have a good evening."

Marianna Stein, 2828 Lancashire, stated, "I would just like to say because of my allergic stuff I have had to several times take EMS and both the police department and I think EMS has like a two - two and a half minute response time. They were actually on my seventh floor by my door within that time, so I don't think that we can improve on that. Thank you."

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I have no formal report this evening."

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Your Honor, I have no report."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Caplan stated, "Thank you. There is no legislation this evening, but I do have several things to talk with you about. One is, recently I've been walking in my neighborhood and on my garbage day I have noticed that in my neighborhood they've begun collecting the garbage in a different order. If you've ever looked at how refuse is collected, one truck collects the recycling, one truck collects the stuff from the trees, and one truck does regular garbage. In any case, as I was walking, I saw that we redid it in my neighborhood in a different way so that what was left was recycling materials. I was astonished to see how few people are recycling paper and actually I find it distressing. I know that when I get my mail I put it into a paper bag (probably three-quarters of the mail) as I open it up I dump it into this bag and then the morning of garbage day I put it outside and it's recycled. I am stunned by how few people do that and how few people recycle their newspapers and how few people are recycling bottles and cans. It is very easy to do. It takes no time. If you rinse out your bottles and cans - there is no smell to them, opening up that mail into a paper bag, it's not a problem. You can either tie up your newspapers or put them in a paper bag and each ton that we do not put into the landfill - first of all saves the environment - and second of all saves the city - I don't know - we pay something over \$30.00 a ton for landfill. Sometimes we even get paid for the recycling materials. So please, I encourage you - I've been talking about recycling for the past several months - I encourage you to think about what you can do to protect our environment. If each one of us does a little something, it adds up to a whole lot and so I encourage you when you start opening that mail, instead of putting it in your garbage, instead of throwing your newspapers and your magazines and all of those catalogs, don't

throw them away. Tie them up, put them in a bag so they can be recycled. Don't put them in your regular garbage. That was the first thing.

This is the last time that Council will talk to you about election and I have a feeling that almost all of us will speak about election day and voting as we come down the line. Of course, the first message is please vote. I have a couple of things to talk to you about voting. Allow yourself enough time if you are not going to get an absentee ballot. When you go to the poles this time, you will be astonished by how long the list is of things that you will have to vote on. Besides lots of candidates, lots of judges, there are also many issues. So, the first issue I want to talk to you about is the issue from Cleveland Heights and I am urging you to vote yes on Issue 27. I've talked about it before. What Issue 27 covers, it is a charter amendment so that we can take care of our recreation and cultural facilities in the city. It is about recreation and green space. It will cost the average homeowner who owns a 100,000 dollar home, it will cost that owner more or less about \$21.00 a year and right now we're paying as homeowners on that same 100,000 dollar house (I don't know who owns a 100,000 dollar house, it's always a little euphemistic) but none the less, that same homeowner has been paying about \$47.00 a year. So this is about half. What it will do is take care of the facilities that we have. In 1987 we passed the issue that is now retiring. We'll stop paying that \$43.00 and in December we're done with that one and so this is about half of what you've been paying and that one - the last one - put the roof on Cain Park over the Evans Theatre. This will continue to take care of our facilities just like you have to continue to take care of your home. One always need to paint something, fix the gutters, put in a new sidewalk - having flower baskets - we've all liked those flower baskets. So that's what this is. I encourage you, please do vote yes on Issue 27. You won't see it until you get to the bottom of your ballot, so that all of the people come first and then all the issues come after that.

There is also an issue on the ballot which is Issue 120 and this is to preserve the Cleveland Metro Parks. They haven't had a raise - it's really what they're asking - they are asking for a renewal but also a small increase of what they need to keep our metro park system. We all use our metro park system and it's a wonderful system. The Emerald Necklace around the Cleveland area is really fabulous and it's free and we can all use these wonderful parks. I encourage you also to vote yes on Issue 120.

Councilman Wilcox will talk about another Cleveland Heights issue, Issue 28. But, I also want to talk to you about a state issue, Issue 1 and I encourage you to vote no. I rarely encourage people to vote no on issues, but this is a mean-spirited, unnecessary, divisive issue that our state legislatures in their wisdom instead of working on education or health care for our community, they're working on meanness and disenfranchising a large number of people in our community. What it does is two parts; one is it makes marriage between people other than a man and a woman illegal. It does happen already to be illegal in Ohio. We don't need another constitutional amendment to say that it is, but it also then says that unmarried couples may ultimately lose some of the protections that they have already. The reality is that there are a large number of Ohio families that do not fit into the nuclear family label. Nearly half of Ohio's population is unmarried, according to the 2000 United States census. Almost a quarter million of those of this - half of the population - a quarter million of people are living with unmarried partners. Issue 1 would deny them constitutional protection and countless legal rights to these families. So I encourage you to vote no. *We the people* means all the people, so I urge you, really vote no on Issue 1. When you look at your list of issues that starts after all the people, Issue 1 is the first one and then you will see ours which are Issues 27 and 28 and then as I said, Issue 120, is the last one that we will vote on in Cleveland Heights.

Most of all, no matter who you vote for, I do encourage you to please go vote. Allow yourself plenty of time, because it will be a long process and bring your little pieces of paper so you can remember who you want to vote for. That's all that I have. Thank you."

REPORT OF THE FINANCE COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There are two pieces of legislation from the Finance Committee tonight. The first one is relatively short but very important. That is Resolution No. 151-2004(F), requesting the County Auditor to advance taxes from the proceeds of the 2004 tax year collection pursuant to Section 321.34 of the Revised Code of Ohio; and declaring an emergency. This resolution then provides that the County Auditor is authorized and directed to pay to the Director of Finance of the City of Cleveland Heights, Ohio, all monies now in the hands, and that may come into the hands, of the County Treasurer which are payable to the City of Cleveland Heights from the proceeds of the 2004 tax year collection, including, without limitation, revenues from personal property taxes, real property taxes and special assessments. Section 2 authorizes the Finance Director to furnish a copy of this Resolution to the County Auditor. I offer Resolution No. 151-2004(F) for passage tonight."

Vice Mayor Montlack accepted Resolution No. 151-2004(F).

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

Nays: None

Resolution passed

Council Member Wilcox continued, "Thank you. Next, I have Resolution No. 152-2004(F). This is another important resolution, a resolution authorizing the City Manager to submit the Community Development Block Grant entitlement application for the year beginning January 1, 2005; and declaring an emergency. The City has participated, and does now participate, in the Community Development Block Grant program.

As a matter of fact this is the thirty-first year of the program. The receipt of such funds has been extremely helpful to this City in accomplishing its goals; and that certainly is an understatement. The City has conducted hearings and has participated in extensive discussions with the Citizens Advisory Committee, and citizens relative to the activities to be accomplished in the thirty-first year of this program.

Before I go into the rest of this resolution, I wanted to thank our staff, and in particular Karen Knittel and the CAC, the Citizens Advisory Committee, for considering the needs of the city and their hard work and their insights. This is a difficult job, because every year it seems like there are many more requests than we have dollars allocated by the federal government. These are our tax dollars that come back to the city that can be used for important projects in our city. I want to again thank them for their hard work because we've actually had funding in this program at about the same levels we had four years ago and that is with inflation obviously a difficult task to allocate these dollars.

Section 1 of this resolution authorizes the City Manager to file with the Department of Housing and Urban Development of the United States Government and any required review agencies, for the program year beginning on January 1, 2005 and continuing for a one (1) year period thereafter, the Community Development Block Grant entitlement submittal, which will be on file with the Clerk of Council, copies of which will have been reviewed by members of Council. A copy of the thirty-first year proposed budget, attached hereto as Exhibit "A", is presently on file with the Clerk of Council, describing the activities and the proposed amount of expenditures to be approved by this Council for each such activity during the year 2005.

I'm just going to summarize briefly some of those activities. They fall into a number of categories and the first is to preserve and maintain the housing stock and create housing opportunities, especially

for low and moderate income persons. We've allocated in this application \$788,192 for this year's allocation application. Those activities are spread among the Housing Preservation Office, the Home Repair Resource Center and CDBG Administration & Finance. Next, we have programs that encourage integration - population groups within the community and promote an increase in the diversity and vitality of neighborhoods. That category has allocated \$87,000 to programs such as Heights Community Congress Diversity Program, Cleveland Tenants Organization, Fair Housing Testing Activities, and our Real Estate Programs. Next, is to maximize the independence of targeted population groups by providing services which expand choices. Those amount to \$74,376 and that consists of our Office on Aging and The Open House. Next is to maintain safe, functional and healthy neighborhoods by providing services which improve the physical environment, especially in low and moderate income areas. Those programs total \$592,882. Those include such things as rehabilitation of water lines, street rehabilitation, and the Coventry PEACE playground. Next we have programs which support services to youth and other identifiable low and moderate income groups in the community. That includes \$147,200 for such activities as the Center for Families & Children, Heights Parent Center, Heights Emergency Food Center, Open Doors, and the Heights Youth Center. The last two categories is to alleviate physical and economic distress and create viable commercial areas through the prevention of the deterioration of commercial area. That amounts to \$327,650 to various programs including Noble Nela Merchants, Streetscape Improvements, Storefront Renovation Rebate and Loan program and our Mixed Use Commercial Redevelopment and finally our Economic Development Program Administration of \$45,700. If you've been keeping track, you know that totals to \$2,066,000 in our total allocation.

Section 2 of this resolution then authorizes the City Manager to sign any and all forms and submit the application. Should the City be fortunate enough to receive more than the amount requested in this proposal, efforts will be made to increase funding for low and moderate income benefit programs. Should the City receive less than requested, which could happen, the City will attempt to reconcile such shortfall by first reprogramming carryover funds, and second by reducing budgeted items for the lowest priority programs. The final decision on any such amendment, the City will consult with the Citizens Advisory Committee.

I again wanted to thank the Citizens Advisory Committee and our staff on a job well done and offer Resolution No. 152-2004(F) for passage tonight."

Vice Mayor accepted Resolution No. 152-2004(F) for passage on first reading tonight.

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

Nays: None

Resolution passed

Council Member Wilcox continued, "Thank you. I wanted to also comment on the election and will probably say something about the election after the election too. So this isn't probably the last time you've heard about it. I do want to urge you first of all to vote. It's an extremely important right we have in this country and it's a shame that people don't see it that way and forgo that right. There are a lot of important issues on the ballot. I think anybody paying attention can figure that out. In particular, I would want to hope that when you get that ballot and you get to the issues you vote yes on Issue 27 and Issue 28 for the city. I don't have anything on this information that's quite as nice as our recreational levy on Issue 27, but this one is fairly simple, I think. The State of Ohio has said that cities that have taxed S Corporations in the past must go to the voters to continue to do so. There are eighteen other communities in Cuyahoga County that are going to be asking the voters to do the same thing, so this is not a new tax. This is simply requesting the voters to allow us to continue to tax the way we have always done and to make sure that all taxpayers pay their fair share and I guess all folks are taxpayers,

that should be. This will cost the city valuable dollars if we fail to pass it so it's very important to vote yes on Issue 28. Make sure you take the time to do that. Again, it's just a matter of everyone paying their fair share of taxes.

I also wanted to just briefly comment on State Issue 1. I think it's interesting that a number of elected officials including our governor and our U.S. senators have come out against Issue 1, primarily because of economic reasons and certainly the economic reasons are enough reason to vote against Issue 1. I think Ohio has taken enough of an economic hit in the last 4 to 5 years, it doesn't need anymore. I also think that it's wrong to write discrimination into our constitution and that's really what this is all about. I would urge you to vote against Issue 1. With that, that completes the report of the Finance Committee."

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Hicks stated, "Thank you, your Honor. I have one - your Honorable Vice Mayor, thank you. I have Resolution No. 153-2004(MS), authorizing an extension of an agreement with various East Side Communities for the joint purchase of rock salt for the winter of 2004-2005; providing compensation therefor; and declaring an emergency. This Resolution would allow the City Manager to be authorized to enter into an extension of this agreement. The salt shall be purchased from Morton Salt, Inc., at a price of Thirty Dollars and Seventy-seven Cents (\$30.77) per ton for dump truck delivery and Thirty-three Dollars and Twenty-seven Cents (\$33.27) per ton for piler truck delivery. The agreement shall permit communities and other political subdivisions to join and withdraw from the Consortium with the permission of Consortium communities. The agreement shall further be approved as to form by the Director of Law. Your Honor, I offer Resolution No. 153- 2004(MS) for passage this evening."

Vice Mayor Montlack accepted Resolution No. 153-2004(MS).

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

Nays: None

Resolution passed

Council Member Hicks continued, "Thank you, your Honor. I also want to weigh in on election day. First I want to say, please vote yes on Issue 27. We do need your approval on this issue and the things that need to be taken care of will continue to be done out of our general fund budget which we really would like not to do. We would like to have special dollars set aside to maintain our parks and facilities at a competitive level with other communities because we want to maintain our competitive nature here in Cleveland Heights. On Issue 28, I am asking you to tax me. I am one of these S Corporations and I would benefit if this issue did not pass in Cleveland Heights but I feel that as a business man who has an S Corporation that I should pay my fair share of taxes in this community and I am willing to do so. I think all of us should so I'm asking you to vote yes on Issue 28.

Now on Issue 1, you've heard a number of descriptions about Issue 1 and I just would like to clear up a couple. One, I am not in the habit of trying to defend our state legislature, but I must say that the state legislature did not have anything to do with Issue 1. Issue 1 was put on the ballot by a petition initiative. Many residents throughout the State of Ohio took petitions around that had the ballot language for Issue 1 on it and had to get (I believe) either 350,000 signatures on the petition in order for the petition to be on the ballot in Ohio. It was nothing mean spirited about Issue 1. There are two parts of Issue 1 and I wish I had it here to say verbatim but I can't, but I just want to give you a synopsis of what the two parts are. The first part deals with whether or not the person voting will believe that the institution of marriage should be between one man and one woman and if you do agree with that portion

you would vote yes and if you don't agree with that you would vote no. The second part, which I believe Councilman Wilcox was talking about when our senators from Ohio and our governor from Ohio came out against Issue 1, was a portion that talked about that no municipality or governmental entity within the State of Ohio could recognize any other relationships that tried to imitate marriage. Now, that second part is more restrictive than any other state has put out, but that is still something that you would have to decide whether or not you want to vote for or against. Now, it's interesting that if Issue 1 passes the Domestic Partner Health Benefits that was passed by this Council and I stood opposed to it - there are legal opinions that would be wiped from the books of Cleveland Heights if Issue 1 were to pass. Also, the Domestic Partner Registry, which I was also against and worked hard to defeat, but it did pass, would also be eradicated if Issue 1 were to pass. So, I am going to be voting for Issue 1, because I believe with the passage of it, it would be able to do what citizens in this community along with myself we were not able to do which was to stop this city from putting in the Domestic Partner Health Benefits and stop the passage of the Domestic Partner Registry. So, I'm excited that we will have another opportunity to have our community or our city government do the things that it was designed to do and not relegate itself to social issues. And, so again, I will be voting for Issue 1.

As I close with my comments this evening, there's a commercial I guess as apropos that it is - a commercial that dealt with trash since I am the Municipal Services' Chair, but there was a piece of paper on the ground very close to a trash can and people were gathering around this piece of paper and they were discussing why is this on the ground? How could they do this? My husband would hate this and they were just talking about the trash on the ground and then one person came by and picked the trash up and put it in the garbage can and the idea behind that was that we can talk and talk and talk but you know what, somebody's got to pick the trash up and put it in the can. And so we have to be more than just talk, we have to be about action and so everyone you can talk about all the problems that we have in this community or in this country but if you don't go out and exercise your vote then it's nothing but talk. Thank you, your Honor. That's all that I have."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Dietrich stated, "Thank you. I have Ordinance No. 154-2004(PD), on first reading only tonight. This Ordinance would amend the Zoning Map of the City of Cleveland Heights, as made a part of Part Eleven (Zoning Code) of the Codified Ordinances of the City of Cleveland Heights, by changing the zoning of specified parcels in the Cedar-Lee business district to "S-2 Mixed Use" or "C-2X Multiple Use". It would be in the best interest of the City to change the zoning of the various parcels of property in the Cedar-Lee business district in order to promote innovative redevelopment and revitalization of the district.

There are a lot of different parcel numbers here and I won't read them all to you because it won't make much sense to you, but I'll first give you the jest of this ordinance and then I'll show you a map.

Section 1 would amend the Zoning Map of the City so that parcels along Lee Road from Derbyshire north to just before Cain Park would be re-zoned from "C-2 Local Retail" to "S-2 Mixed Use". There would be a little bit more flexibility of use along that portion of Lee Road. It would amend the Zoning Map from along Lee Road from Derbyshire south to just before the library and it would change those parcels from "C-2 Local Retail" to "C-2X Multiple Use". To show you on the map what it is [map displayed] here is Derbyshire and north of it, these parcels would become mixed use and Heights High would be included in that also, so that they could have retail, they could have office use. It's just a more flexible use and it's kind of transitioning from the center of the business district to the more residential on the other side of Cain Park and then from Derbyshire south to the library would become "C-2X Multiple Use" except for these apartment buildings here along [still pointing to map] Meadowbrook

which will remain multi-family 2. This "C-2X District" will allow for a little bit greater height if we have new building. It will allow a more vibrant feel in the business district.

This is first reading only, but that is basically what this ordinance would do. There was a meeting with the Cedar Lee Merchants and anybody else that wanted to come, which our Planning Department went over this in a really fabulous way and answered all the questions. There will be a public hearing on this, Monday, November 29, 2004 at 7:00 p.m., right here in Council Chambers, so if you have questions or comments on this proposal you can voice them at that time. Then the Planning Commission will get this proposal at their December meeting and then on December 20, 2004 Council will have a second reading and take action on this.

I am just offering Ordinance No. 154-2004(PD) on first reading only tonight. That's all for Planning and Development."

Vice Mayor Montlack asked for any questions or comments, being none, he continued, "I would only add or emphasize, the hearing that has been announced by Councilwoman Dietrich for the City Council public hearing on this Ordinance No. 154-2004(PD), is set for November 29, 2004 in Council Chambers at 7:00 p.m. and of course, most of you recall that the "C-2X Multiple Use" designation resulted from legislation that was recently adopted after going through a similar procedure. The Planning Commission will review it, and it's possible that review will take longer than through December, but at any rate you have the schedule that is the best to our knowledge at this point. Ordinance No. 154-2004(PD) has been accepted on first reading only tonight."

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans stated, "Thank you, Vice Mayor. First, I'd like to present Ordinance No. 155-2004(PSH), amending subsection (d) of Section 725.03, "Application for License", and Section 725.05, "License Fees", of Chapter 725, "Amusement Devices", and subsection (a) of Section 709.05, "License Fees; Proration", of Chapter 709, "Billiard Rooms and Bowling Alleys", of the Codified Ordinances of the City of Cleveland Heights to permit up to seven (7) amusement devices to be on a premises without obtaining a conditional use permit and to increase the fees for licenses for amusement devices, billiard rooms and bowling alleys; and declaring an emergency. It would be in the best interest of the City and its residents to amend this subsection to allow up to seven (7) amusement devices on a premises without Planning Commission approval. Currently, we only allow establishments to have three (3) amusement devices on commercial properties with the conditional use permit. The fees for licenses for amusement devices, which is presently One Hundred Dollars (\$100.00) per amusement device has not been increased since 1981. The fees for license for billiard rooms and bowling alleys, presently Twenty Dollars (\$20.00) per alley and Twenty Dollars (\$20.00) per billiard table, have not been raised since 1993. Neither of these fees adequately cover the City's administrative costs. Therefore, Section 1 states, subsection (d) of Section 725.03, "Application for License":

- (d) The City Manager shall not issue a license that shall permit more than seven (7) amusement devices upon any premises, unless and until the applicant has first obtained a conditional use permit pursuant to the applicable provisions of the Zoning Code. Any license issued thereafter shall include any and all conditions contained in the conditional use permit.

Section 2 has to do with Section 725.05, "License Fees", and it shall read as follows:

An annual fee of one hundred fifty dollars (\$150.00) shall be paid by the applicant, in advance, for each calendar year or part thereof on each amusement device to be licensed by the City. The license fee for each amusement device licensed by the City

after June 30 of any calendar year shall be seventy-five dollars (\$75.00) for the remainder of the year of original issuance. An amusement device license shall not be transferable from one (1) person to another, or from one (1) premises to another. The license shall be displayed in a conspicuous place upon the applicant's premises.

Section 3 deals with Subsection (a) of Section 709.05, "License Fees; Proration" and that reads:

- (a) Annual bowling alley and billiard room license fees shall be as follows and the total amount of fees for each license applied for shall accompany the application for such license:
 - (1) For bowling alleys: fifty dollars (\$50.00) for each alley proposed to be operated or used under such license.
 - (2) For billiard rooms: fifty dollars (\$50.00) for each billiard or pool table proposed to be used or maintained under such license.

I'd like to submit Ordinance No. 155-2004(PSH) for passage this evening."

Vice Mayor Montlack accepted Ordinance No. 155-2004(PSH).

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

Nays: None

Ordinance passed

Council Member Evans continued, "Next, is Ordinance No. 156-2004(PSH), amending Section 1311.99 and subsection (b) of Section 1365.99, the penalty provisions of the Building Code and the Business Maintenance Code, to increase potential fines for offenses to conform to the penalty provisions of the Housing Code; and declaring an emergency. Whereas, the maximum penalty for Housing Code violations has been One Thousand Dollars (\$1,000.00) fine or six (6) months imprisonment or both, we have realized that it would be in the best interest of the City and its residents to raise the maximum fine for Building and Business Maintenance Code violations from the present Five Hundred Dollars (\$500.00) to the same maximum fine provided for Housing Code violations. Therefore, in Section 1, Section 1311.99 shall read:

Whoever violates any provision of this Part Thirteen - Building Code, or the adopted Regional Dwelling House Code or Ohio Building Code, or any rule or regulation promulgated thereunder, or fails to comply therewith or with any written notice or written order issued thereunder, or whoever refuses to permit entry by the Building Commissioner or other City department heads or their representatives at a reasonable hour, or whoever interferes with, obstructs or hinders the Building Commissioner or his authorized representatives while attempting to make inspections, where not otherwise specifically provided for, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both. Each day such violation occurs or continues shall constitute a separate offense.

Section 2 reads Subsection (b) of Section 1365.99 should read:

(b) Whoever violates any provision of this Business Maintenance Code except as provided in subsection (a) hereof, or any rule or regulation promulgated thereunder, or fails to comply therewith or with any written notice or written order issued thereunder, or whoever refuses to permit entry by the Building Commissioner or other City department heads or their representatives at a rea-

sonable hour, and whoever interferes with, obstructs or hinders the Building Commissioner or his authorized agents while attempting to make such inspection, shall be fined not more than one thousand dollars (\$1,000.00) or imprisoned not more than six (6) months, or both. Each day such violations occurs or continues shall constitute a separate offense.

Section 3 is notice of passage and Section 4 declares this to be passed as an emergency measure. I'd like to submit Ordinance No. 156-2004(PSH) for passage."

Vice Mayor Montlack accepted Ordinance No. 156-2004(PSH).

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

Nays: None

Ordinance passed

Council Member Evans continued, "Ordinance No. 157-2004(PSH), amending subsection (a) of Section 1345.99, "Penalty", of the Housing Code of the Codified Ordinances of the City of Cleveland Heights to classify violations related to junk vehicles and other non-usables and debris in a yard as unclassified misdemeanors rather than minor misdemeanors; and declaring an emergency. Subsection (a) of Section 1345.99 will read as follows:

- (a) A violation of Sections 1351.14, 1347.01, or 1347.04(a) or (b) is hereby classified as a minor misdemeanor. Each day such violation occurs or continues shall constitute a separate offense.

I'd like to submit Ordinance No. 157-2004(PSH) for passage."

Vice Mayor Montlack accepted Ordinance No. 157-2004(PSH).

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

Nays: None

Ordinance passed

Council Member Evans continues, "Ordinance No. 158-2004(PSH), amending subsection (a) of Section 1351.09, "Required Ventilation Area and Screens", of Chapter 1351, "Basic Standards for Residential Occupancy", of the Codified Ordinances of the City of Cleveland Heights to require that windows contain locking mechanisms; and declaring an emergency. In that section there is an addition and that addition is at the end of the subsection: "All windows shall have the necessary hardware to lock securely." Nothing else has changed in that subsection. I would like to submit Ordinance No. 158-2004(PSH) for passage."

Vice Mayor Montlack accepted Ordinance No. 158-2004(PSH).

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

Nays: None

Ordinance passed

Council Member Evans continued, "Ordinance No. 159-2004(PSH), amending subsection (c) of Section 1351.26, "Maintenance of Exteriors of Dwellings and Secondary Appurtenant Structures", and subsection (a) of Section 1351.27, "Maintenance of Interior Walls, Floors and Ceilings", to clarify standards relating to maintenance of interior and exterior surfaces; and declaring an emergency.

The addition here in Section 2, Subsection (a) shall include: "All walls, excluding brick or stone walls, shall have a decorative coating of paint, wallpaper or other protective substance located therein, or thereon, and maintained in a clean and proper condition. Any wall or ceiling which has been plastered or otherwise repaired shall thereafter be painted or papered to match the remaining surface of the wall or ceiling. A wall may be covered with paneling in lieu of paint or wallpaper, but such paneling shall be maintained in good repair and replaced if it becomes severely scratched, faded or damaged."

I guess I should go back to Section 1 which is Subsection (c) of Section 1351.26 shall read as follows:

- (c) Any dwelling structure or secondary appurtenant structures or any awning attached thereto, whose exterior is deteriorated, decaying, disintegrating or whose exterior surface has weathered with dirt and/or grime or has been impaired through peeling, flaking or fading paint or other protective coating or faded or damaged siding, shall be repaired, repainted or resurfaced.

I'd like to submit Ordinance No. 159-2004(PSH) for passage."

Vice Mayor Montlack accepted Ordinance No. 159-2004(PSH).

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

Nays: None

Ordinance passed

Council Member Evans continued, "Ordinance No. 160-2004(PSH), amending subsection (a) of Section 1775.10, "Weed or Tall Grass Removal", to clarify property owners' responsibilities with respect to public treelawn property; and declaring an emergency. In that particular section we will be adding, "any abutting treelawn". Also for the purposes of this subsection, "oral" notice may be in person or by phone, and "written" notice may be by ordinary mail, e-mail, or by prominently posting the notice on the lot or parcel of land in question. For the purposes of this subsection, a "treelawn" shall be defined as the landscaped area between the sidewalk and the paved portion of a street.

I'd like to submit Ordinance No. 160-2004(PSH) for passage."

Vice Mayor Montlack accepted Ordinance No. 160-2004(PSH) and commented, " I would just comment briefly that all this legislation so well read and commented on by Councilwoman Evans started with, I believe, an excellent review of the Code by Rick Wagner and his staff and some fine work by the Law Department that worked on these things, therein, therewith, and thereof and thank you to staff for a great job."

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

Nays: None

Ordinance passed

Council Member Evans concluded, "That concludes the reading of the legislation this evening. I, too, would like to strongly encourage people to vote on November 2. I hope that we will all not be discouraged by anything that you might hear or even if you don't know exactly what polling place to go to, you should ask your neighbors where they vote and go to that precinct. And insist if they don't have your name on the rolls that you want to vote, that you intend to vote and you are not going to leave until you do so. I also - if you can - try to avoid the peak hours which are early in the morning 6:30 til 8:30 - 9:00 as well as in the evening from 4:00 to 7:30. So if there is anyway that you can arrive at the polls

earlier it would probably be in your best interest if you don't care to wait in line.

Since the ballot is lengthy, I urge you to prepare a little bit differently. There is nothing wrong with going to your polling place on election day, having your mind made up. I strongly encourage you to know what direction you're going to go and that will make things move a little bit more smoothly. With Issue 1, I'd like people to really seek out as much information as possible and the ACLU does have a website that you should be able to obtain information about Issue 1. It's one of those issues where the way it's stated and the way it's proposed, people are not really sure how it's really going to impact on our state. I would just like to read to you some of the possibilities if Issue 1 might pass and what our Ohio families are in jeopardy of losing. One is, it says here, "Whether out of sense of fairness or need to remain competitive, many employers extend benefits to both married couples and unmarried couples. Four of Ohio's public universities, several municipalities, and many businesses presently offer partner benefits that could be prohibited with the passage of Issue 1. Joint property ownership by unmarried couples may be voided if Issue 1 passes. Unmarried parents may lose some legal rights over their children's care under Issue 1 if it passes. How estates are handled in probate, including the passing of property to unmarried partners could be affected by the passage of Issue 1. Unmarried couples may lose hospital visitation rights under the passage of Issue 1. Medical and other powers of attorney for unmarried couples may not be honored under Issue 1 if it should pass. Maternity leave, medical leave could be restricted to only married heterosexual couples under Issue 1 if it should pass. Unmarried couples may lose the many protections of domestic violence laws under Issue 1 if it should pass and lastly Ohio economy and image may suffer under Issue 1, adding to Ohio's inability to recruit jobs and families to locate here." I, too, urge you to vote no on Issue 1. That concludes my report. Thank you."

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "Thank you. There is no legislation tonight and it will come as no surprise to you that I have a few words to say about the upcoming election. I do want to talk about the same three issues that my colleagues have been talking about but hopefully we'll all emphasize a little something different and give you different aspects to think about. First of all, with regard to local Issue 27, which in case you forgot is the one that authorizes money for the city to keep our parks and our recreation and cultural facilities up-to-date and in good repair. The thing that I'd like especially for you to keep in mind in regard to this is that even with passage of Issue 27, homeowners will stay pay approximately half of what they've been paying for the past 15 years and this is because the '87 bond issue is expiring. So the \$40.00 a year, a 100,000 dollar homeowner has been paying, instead of paying that \$40.00 - the homeowner would now pay \$21.44. You can feel good about voting for Issue 27 in helping us maintain our parks and recreation and cultural facilities and at the same time you will see a decrease, admittedly a small decrease, but a decrease non-the-less on your tax bill. Secondly, with regard to local Issue 28, which is the one that would authorize cities to continue taxing profits of S Corporations as we have done for years. If we don't pass this issue and the 18 other neighboring cities that have it, we'll essentially have a whole category of business profits that will not be taxed in the same way as other business profits. It would also mean that a source of revenue that the city has had for years would disappear. So a yes vote on Issue 28 will mean that all business profits will be taxed in an equitable way as they have been. Neither 27 nor 28 will result in a tax increase and I urge you to vote yes on both of these issues.

The third issue that I want to talk to you about will come as no surprise and that is State Issue 1 which we have or people have been referring to as the Defense of Marriage Amendment. Remember that this is a constitutional amendment which is a huge step to take. And I basically have four points that I want to make in opposition to Issue 1. First point is that we don't need Issue 1. Ohio already has a law that defines marriage as between one man and one woman. So, Issue 1 is really redundant and

unnecessary no matter what your basic philosophy is in regard to how you want to define marriage. Secondly, the second part of Issue 1 would make Ohio a stricter state than most of the other states because that second section includes the stipulation that municipalities and other entities in the state cannot grant any recognition to those couples that cannot marry. It means, for example, that Cleveland Heights would probably not be able to continue its Domestic Partner Registry. It means that we and other cities in Ohio would not be able to offer health benefits to the same sex partners of our own employees. It would mean that none of the places across Ohio, like University Hospitals that offers same-sex benefits, would be able to continue to offer them. So, you can see that this has some wide-ranging implications. The third point I want to make in opposition to Issue 1 is that the spirit of it to me flies in the face of the core of what is family values. To me, family values is caring for and being responsible for each other. Society benefits when we care for and are responsible for our family members and our loved ones and I think that the government should encourage and enable that. The fourth point that I have in opposition to Issue 1 is probably the most controversial and yes, I am afraid of offending some people when I make this point, but I am very sincere about it, I regard Issue 1 as a means of embedding discrimination in our constitution. Other constitutional amendments give rights. Issue 1 would restrict rights. I do think it's a matter of social justice and I do think it's a matter of civil rights. I have to say that I've been surprised and disappointed to hear some Cleveland Heights' citizens say that it isn't a civil rights issue because gays may not be subjected to the same sort of heinous and horrible forms of discrimination that African Americans have been subjected to. To me there are no degrees of discrimination. The extent of the suffering may certainly be different, but to me discrimination is still discrimination, it denies equal rights to a certain group of people and I think Issue 1 would enshrine this discrimination in our constitution and I urge all of our citizens to oppose discrimination - to oppose Issue 1. Thank you."

REPORT OF THE VICE MAYOR

Vice Mayor Montlack stated, "You've certainly heard comments, well thought-out comments on various issues. I'm not going to presume to speak to anyone regarding their choice for president and vice president. I'm sure you have plenty of information out there. With regard to Issue 1, I certainly agree with the comments by Council Members Caplan, Dietrich, Evans and Wilcox. Frankly, I think that's been covered enough.

I'd like to just make a few brief comments in regard to some other matters on the ballot and this is strictly from a municipal perspective. Here we are in this municipal corporation, Cleveland Heights, and we, those of us here in this room and other residents hearing this, we are shareholders in this municipal corporation and I'm sure you've heard enough over the months and months that we, in cities like ours are on a budgetary starvation diet and one important reason is that first of all, the state has determined to try and resolve its budget woes by cutting promised funding of our tax dollars back to the cities. Another reason, in my opinion, is that the Ohio Supreme Court, which is the court of last resort in our state court system, is the court that hears matters which are in dispute, essentially at the policy level. That this court did not step up to its responsibility, in my opinion, to apply a remedy after determining that the state method of public school funding was unconstitutional. I would hope that these matters which have received short shrift in the public discussions because there are justifiably perhaps or understandingly at least, because there are these other important issues on the presidential level that are being debated. But that these matters are absolutely essential to all of us. One way, I'm hoping that you'll consider this, is especially when you cast your vote in the judicial election in the three contested races for the Ohio Supreme Court, I would ask you to consider three candidates especially. One is Judge William O'Neill, also Judge C. Ellen Connally, and our own Cleveland Heights' resident, Judge Nancy Fuerst. They are all candidates for the Ohio Supreme Court. I urge you to consider them not out of partisan motivation, although in fact each of these three candidates are Democrats, but that's

not the jest of what I'm asking here. Because, in fact, there is now and there has been in the past one or more judges who are not Democrats on that court who have been moderate voices but each of these three candidates that I have mentioned understand the issues and challenges that our cities are facing and they understand that it doesn't just apply to central cities but to others. Understanding that the Ohio Supreme is the court that receives political and philosophical matters that have been undecided or having been disputed throughout various appellate courts in our state, I hope you'll consider that for the very same reasons, again, referring to this starvation budgetary diet that the state has put us on or contributed to, for the reasons that virtually all my colleagues have said, I hope that you will vote yes on our local Issues 27 and 28.

Of course, most of all, whatever your feelings, whatever your decisions, I certainly hope that you vote. One final comment, briefly, is that I've had a chance to watch our municipal access channel, Channel 23 and have seen the taping of the forum that was conducted at our community center on school funding and even though I was at that forum and heard the panelists' comments, by watching it on television I picked up additional ideas. These were excellent discussions. I don't think you'll be bored because there are discussions there that mean a lot to each of us. In that regard, it reminded me, watching that, of the excellent leadership by Mayor Ed Kelley, who spearheaded conducting that forum and it's now being replicated throughout other communities in Cuyahoga County and by the Mayors and Managers Association, which is looking at the same issue. Also, the excellent job done, once again by our entire Community Services Department staff in putting that together.

Well, once again, I've talked at you too long and with that we will stand adjourned at 8:50 p.m. Council Members and staff will stay here for a few minutes for those who wish to speak with us individually."

Respectfully submitted,

Kenneth Montlack, Vice Mayor
Vice President of Council

Thomas K. Malone
Clerk of Council

/mwc