CLEVELAND HEIGHTS

MINUTES OF THE COUNCIL MEETING OF MONDAY, NOVEMBER 3, 2003

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, Hicks, Kelley, Montlack, Wilcox

Council Members absent: None

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

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

Council Member Wilcox moved to adjourn into Executive Session at 7:20 p.m. Second by Council Member Caplan.

Edward Kelley, presiding

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

Council Members absent: None

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

Topic of discussion was litigation.

Executive Session concluded at 7:25 p.m. and adjourned into Committee of the Whole, adjourning at 7:28 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:40 p.m.

Edward Kelley, presiding

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

Council Members absent: None

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

The minutes of the Regular Council Meeting held Monday, October 20, 2003 were signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

Phil Hart, 3080 Essex Road, Cleveland Heights, stated, "I wanted to wish everybody running, good luck tomorrow, and everybody vote, please. I'm representing a group of Cleveland Heights' architects and designers who are really upset with the planning and the architecture of the library. So, we formed a committee, very unofficial, people came in and out, called PDQ, called Promoting Design Quality. We're not opposed to the library and we're not opposed to the project and we essentially believe in the library. We think it is a good organization and we want to keep it, but we simply want the architecture and planning to live up to be more representative of the library and more respectful of the communities. Over a period of time our concern grew from architecture and planning, to a great concern for our form of democracy in Cleveland Heights. I served on the Board of Zoning Appeals for three years, I think, and I was elected to Council for twelve years, also served as Vice Mayor. And in the past, I know that what we've been trying to do with the boards and commissions was to allow the boards and commissions to reach their own free decisions without control or in the manipulation by Council. As an architect, I get around town and I go to meetings and you can tell when a mayor has told the boards and commissions what to do. Cleveland Heights, we're proud that we don't do that here. I also know that the Board of Zoning Appeals under the guidance of the law department have always been consistent in their rulings and considered the standards listed in the Zoning Code in every case. The Board, incidentally, represents something like 30 or 40 years of experience on being on that board total. I believe they reached a well-considered decision in the case of the libraries' request for a variance. That decision is now being challenged in court. I'm going to read you a statement and then give you our petition. *The Cleveland Heights Board of Zoning Appeals (BZA) denied the Cleveland Heights-University Heights Library Board's application for a front yard setback variance that would have permitted the construction of a million dollar bridge and its two accompanying decorative trusses across Lee Road. The vote of the BZA was decisive, it was four to one to deny and it was based on the failure of the library board to comply with five of the ten criteria by which such a request are judged. The library board has decided to appeal to the Court of Common Pleas, which is their right. It's patently clear that City of Cleveland Heights must vigorously and zealously defend (and I picked that up from the canon number 7- that says not only vigorously, but zealously defend the decision of its Board of Zoning Appeals or any other board and commission appointed by City Council). The BZA rendered its decision in good faith. They're responsible citizens who have sworn to safeguard and uphold the best interests of our community as prescribed by the laws and ordinances enacted by our City Council of Cleveland Heights.*

We have a petition tonight that we're going to pass out and I'd like to read that petition: *We, the undersigned urge our Cleveland Heights' City Council to vigorously and zealously defend the decisions of our Board of Zoning Appeals in the case of the Cleveland Heights-University Heights Library Board zoning variance appeal to the Cuyahoga County Court of Common Pleas. To not defend the BZA's decision would be a precedent-setting subversion of the entire system of boards and commissions of Cleveland Heights rendering all their decisions subject to City Council control.*

I thank you, and I hope that you judge this case in accordance with our good record in Cleveland Heights - of the freedom of art boards and commissions to act on their own and make their own decisions. I thank you very much and Tom Rask has the petitions. Just for the record, we have 146 names on the petitions and it was maybe half a week [that] we've been working on this. So thank you very much."

Mayor Kelley responded, "Thank you, Tom. Thank you, Phil."

Mr. Hart added, "And good luck tomorrow."

Marianna Stein, 2727 Lancashire, stated, "I just want to wish everybody good luck and I'm hoping that the school issue is going to pass because I think we should not punish the children for whatever other people may or may not have done. That's very important, and also the domestic partnership - it also helps people who are elderly because they would lose their social security if they got married, but if they have domestic partnership they are able to speak for their significant other whether they're in the hospital or whatever the problem is and still keep their income that they may have had from before. I think that's very important and very human and I certainly would like to have the children have what they need. If someone has or is wasting money we can address that, but we should not punish the kids. Thanks."

REPORT OF THE CITY MANAGER

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

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that one (1) notice has been received from the Ohio Department of Liquor Control advising that application has been made by the following: Clemshaw Enterprises Inc., d.b.a. Loft Pub and Grub, 2nd Floor Lobby & Lounge, transfer D2 permit from J K Establishments Inc., d.b.a. BW-3 Coventry Store, 2nd floor Lobby Area & Lounge, premises 2781 Euclid Heights Boulevard, 44106. I wish to make this a matter of record."

Mayor Kelley made it a matter of record and referred it to the Public Safety and Health Committee of Council, the City Manager, and the Director of Law

Mr. Malone continued, "Thank you. I also need to notify Council that three (3) resolutions of the Board of Zoning Appeals have been received pertaining to variances in the Zoning Code and are requested by the following: BZA Calendar No. 3020(b) Cleveland Heights-University Heights Library, 2345 Lee Road, supplemental standards for conditional uses; BZA Calendar No. 3023 Dorothy Stewart, 1143 Clifford Road, minimum yard requirements for principal uses; and BZA Calendar No. 3024(a) Valletta O. Clayton, 3895 Kirkwood Road, accessory use regulations. Your Honor, I need to make this a matter of record."

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

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Hicks stated, "Thank you, your Honor. I have one piece of legislation this evening. Resolution No. 160-2003(MS), authorizing the City Manager to enter into an agreement with Mackay Engineering & Survey Company for engineering services for culvert and ravine inspections of Nine Mile Creek; and declaring an emergency. The scope of the work shall be as set forth in the Engineer's proposal dated October 24, 2003, a copy of which is on file with the Clerk of Council. Compensation for such services shall be at the Engineer's usual hourly rates, with total fees and expenses not to exceed the sum of Ten Thousand Dollars ($10,000.00). The agreement and any related documents shall be approved as to form by the Director of Law. Your Honor, I offer Resolution No. 160-2003(MS) for passage tonight."

Mayor Kelley accepted Resolution No. 160-2003(MS) for passage.

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

Nays: None **Resolution passed**

Council Member Hicks continued, "Thank you, your Honor. Since it's telecast, it will be seen after the election. I want to thank all the residents of Cleveland Heights who came out and voted on Tuesday, which is tomorrow, while we're taping and we know that after the election Cleveland Heights' residents will have had their voice and have had their say and that will be that. Thank you."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There are three pieces of legislation from this committee. The first is Resolution No. 128-2003(PD), appointing an Assessment Equalization Board to hear objections, if any, relative to the estimated assessments for public services plans for the Cedar Fairmount Special Improvement District and the Cedar Lee Special Improvement District; and declaring an emergency. Pursuant to Ohio law, when special improvement districts are created and as a necessary part of that, the petitioners who ask the City Council to approve those creations also set about assessing their own members under our property tax system. When that happens, according to Ohio Law, the council is required to appoint an assessment equalization board to hear objections to the proposed assessments in the event any property owner files timely, written objection to those assessments and affix the time and place for the hearings on those objections. In this case, under this resolution, Joanne O'Brien, Katherine Heylman, and Marlene Tighe, who are disinterested freeholders (that is to say property owners) in the City of Cleveland Heights, are hereby appointed to act as an Assessment Equalization Board to hear and determine any timely written objections to the estimated assessments for the Special Improvement District parcels that are on file
with the Clerk of Council and to report back. The time and place of that hearing, for those who file a timely objection, will be November 20, 2003 at 10:00 a.m. in the City Manager's Conference Room
of this Cleveland Heights City Hall, 40 Severance Circle. Resolution No. 128-2003(PD) is presented on first reading for passage."

Mayor Kelley accepted Resolution No. 128-2003(PD) for passage.

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

Nays: None **Resolution passed**

Vice Mayor Montlack continued, "Most of the major redevelopment projects that happen in this city require public involvement and that usually comes in the form of some effort to meet the gap financing challenges that are almost always present in substantial redevelopment of our older built-out communities. Such is the case with the ongoing project that is taking shape on the east side of Lee Road roughly between Silsby and Tullamore. Most of you who are following this work in progress understand that the project components will in all likelihood involve a parking facility as well as some form of mixed-use redevelopment that includes housing over retail on the ground floor. As part of this, as I said, work in progress, the staff of our city, working diligently, has been negotiating actually with probably various parties in addition to the developer to affix the kind of - in this case tax abatement.

Ordinance No. 161-2003(PD), amending Ordinance No. 153-2003 establishing and describing the boundaries of a Community Reinvestment Area to specify the maximum period of exemption for new commercial and industrial construction to be eleven years; and declaring an emergency. Recently, the Council passed Ordinance No. 153-2003(PD) and now is extending, really, the authorization of the City

Manager to seek a development agreement that provides eleven (11) years instead of ten (10) years of tax abatement as the outlines and the financial challenges of the development come more into focus. And so that is exactly the amendment that is proposed here, to eleven (11) years of tax abatement. Ordinance No. 161-2003(PD) is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 161-2003(PD) for passage.

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

Nays: None **Ordinance passed**

Vice Mayor Montlack continued, "Ordinance No. 162-2003(PD) is related in that it applies to the same work in progress project. This is an ordinance, authorizing the City Manager to enter into a development agreement with Coral Cedar/Lee I, LLC for redevelopment of property on Lee Road in the vicinity of Tullamore Road; and declaring an emergency.

I won't go through all the whereas', again most of you are familiar with the site and I've already given a brief description of what we want the final product to look like. But under this ordinance the City Manager would be authorized to enter into such a Development Agreement to be in conformance a draft agreement that is on file with the Clerk of Council and containing the following basic provisions, and here I summarize: The City will contribute 2.17 acres of property, including a portion of what is now Tullamore Road (editorially I'll add that over the past more than a year, the city has acquired a few residential properties and in fact owns now all the parcels there except the one on which the now vacant Ohio Savings facility sits); Coral, the developer, will contribute .45 acres of property (that's the Ohio Savings' property); Coral will develop at least 30,000 square feet of residential use and 15,000 square feet of retail use; the City will construct a parking deck of 300-400 spaces with 15 spaces to be reserved for Coral or its tenant or successor at no charge (that's 15 only of all the spaces at no charge); the parking deck will be owned and maintained by the City and constructed by the City at the City's costs; the City will enter into a tax abatement agreement with Coral for 11 years at 80% abatement; and the City will complete environmental remediation of the former Clancy property (that's the southern most property that fronts on Silsby as well as Lee) under the State Insurance Program known as PUSTR. The agreement and all related documents shall be approved as to form by the Director of Law. The project is never a done deal until it's completed. There are still some hoops and conditions to be met but step by step the City Manager, the Planning Department, the entire staff has been working so diligently and more good news to come as we follow this through. Ordinance No. 162-2003(PD) is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 162-2003(PD) for passage.

Council Member Hicks added, "Thank you, your Honor. I, too, want to thank the City Manager. I had some concerns about this project when we talked about it. I talked to him and I can honestly say now that my concerns have been addressed and I feel comfortable with this project."

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

Nays: None **Ordinance passed**

Vice Mayor Montlack continued, "There are three calendar items referred to us from the Board of Zoning Appeals and the Vice Chair of the Planning and Development Committee, Councilwoman Phyllis Evans, who was in attendance at that BZA meeting will handle these items."

Council Member Evans stated, "Thank you, Vice Mayor. I'd like to present BZA Calendar No. 3020(b) Cleveland Heights-University Heights Library, 2345 Lee Road, in an 'A' single-family district, hereinafter referred to as the "applicant," has made formal application requesting a variance from the supplemental standards for conditional uses of the Zoning Code, to permit a 3'-10" side-yard setback for an enclosed exit stairwell. The applicable provision of the Zoning Code is contained in Section 1153.03, which requires a 50' side-yard setback. Whereas, the public hearing to consider this application was held on Wednesday, October 22, 2003, pursuant to the requirements outlined in Sections 1109.06 and 1115.07 of the Zoning Code. It was in the opinion of the Board of Zoning Appeals, that the applicant clearly demonstrated there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and, further, that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done. Therefore, be it resolved by the BZA of the City of Cleveland Heights, Ohio, that: (1) The applicant will suffer practical difficulty if the variance is not granted because the stairwell is a requirement of the Ohio Building Code, because of the increased difficulty of altering the interior of the existing Library structure if the stairwell is not permitted as an addition to its exterior, because the character of the neighborhood is not changed since it abuts a commercial district, and because there is no impact on public safety. (2) The issuance of a special permit is hereby authorized to permit an approximately 25' x 10' exit stairwell addition that has a 3'-10" side-yard setback from the Dellwood Road right-of-way, as shown in plans submitted to the Board. (3) The applicant is required to obtain a building permit prior to the start of construction. All construction must be completed within 18 months of the date of approval of this resolution by City Council. I'd like to present BZA Calendar No. 3020(b) for confirmation."

Second by Council Member Dietrich.

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

Nays: None **Resolution confirmed**

Council Member Evans continued, "BZA Calendar No. 3023 Dorothy Stewart, 1143 Clifford Road, in an 'A' single-family district, hereinafter referred to as the "applicant," has made formal application requesting a variance from the minimum yard requirements for principal uses of the Zoning Code, to permit a two-story addition with a rear-yard setback of 6'. The applicable provision of the Zoning Code is contained in Section 1121.08, which requires a 30' rear-yard setback. The public hearing was also last Wednesday, October 22, 2003. In the opinion of the Board of Zoning Appeals, the applicant clearly demonstrated there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and, further, that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done. Therefore, be it resolved by the BZA of the City of Cleveland Heights, that: (1) The applicant will suffer practical difficulty if the variance is not granted because the lot is small and irregularly shaped, because the principal building is already nonconforming and the change in nonconformity is minimal, and because the addition will have no impact on the nearest adjacent properties to the rear. (2) The issuance of a special permit is hereby authorized to permit a two-story addition with a rear-yard setback of 6' at its nearest point, as shown in plans submitted to the Board. (3) The applicant is required to obtain a building permit and approval of the Architectural Board of Review prior to the start of construction. All construction must be completed within 12 months of the date of approval by City Council. I move that BZA Calendar No. 3023 by confirmed."

Second by Council Member Caplan.

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

Nays: None **Resolution confirmed**

Council Member Evans stated, "BZA Calendar No. 3024(a) Valletta O. Clayton, 3895 Kirkwood Road, in an MF-2 multi-family district, hereinafter referred to as the "applicant" has made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit a 5'-tall fence in the front yard and set back 5' from the lot line. The applicable provision of the Zoning Code is contained in Section 1123.12, which permits only a fence height up to 3' in the front yard. The public hearing was last Wednesday, October 22, 2003. In the opinion of the Board of Zoning Appeals, the applicant clearly demonstrated there were exceptional and unusual circumstances resulting in practical difficulty in complying with the requirements of the Zoning Code, and, further, that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done. Therefore, be it resolved by the BZA of the City of Cleveland Heights, that: (1) The applicant will suffer practical difficulty if the variance is not granted because the applicant's property is a triple-wide corner lot that is very prone to trespassing and heavily traveled, and because the proposed fence will not dramatically alter the character of the neighborhood or negatively impact public safety. (2) The issuance of a special permit is hereby authorized to permit a 5'-tall fence in the front yard, set back 5' from the lot line, as shown in plans submitted to the Board. (3) The applicant is required to obtain a fence permit and approval of the Architectural Board of Review prior to the start of construction. All construction which is the subject of this application must be completed within 90 days of approval by City Council. I'd like to move that BZA Calendar No. 3024(a) is confirmed this evening."

Second by Council Member Dietrich.

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

Nays: None **Resolution confirmed**

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Evans stated, "Thank you. I have Ordinance No. 163-2003(PSH). This will be on first reading and it's an ordinance, amending Section 505.99 and Subsections 505.091(c), 505.091(d), 505.091(f) and 505.091(i) of the Codified Ordinances of the City of Cleveland Heights to prohibit the keeping of more than one vicious dog on any premises in the City, to clarify the definition of an "unconfined" vicious dog, to classify Rottweilers as vicious dogs, to require a tenant keeping a vicious dog to have the written permission of the owner of the property, to allow the City to seize and impound an unregistered vicious dog or a vicious dog which has attacked a person or animal, and to permit a court to order the banishment of certain animals which have attacked persons or other animals or been kept in violation of the provisions of Chapter 505 of the Codified Ordinances; and declaring an emergency. This Council has previously determined that the keeping
of certain dogs defined as vicious may constitute a nuisance and a danger to the residents of this community unless safeguards are in place to attempt to prevent the dogs from injuring persons or other domestic animals. Based on a review of studies, Council has determined that dogs of the Rottweiler and Pit Bull breeds account for an inordinate number of serious and fatal dog bite injuries, with the number of injuries and deaths caused by Rottweilers steadily increasing over the past decade. This Council has determined that keeping more than one vicious dog on any one premises in the City dramatically increases the danger to the neighborhood caused by such dogs. Many Pit Bulls and other vicious dogs kept in the City are not registered as required by City Ordinance, with the owners failing to

meet restraint and insurance requirements. Many vicious dogs in the City are kept by tenants, rather than owners of property, exposing property owners to legal liability to persons injured by such dogs even though the owners may be unaware of the dogs' presence. It would be in the best interest of the City and its residents to amend the City's dog ordinances as specified hereinbelow, included an amendment allowing the Municipal Court more options with regard to the disposition of dogs involved in biting incidents or kept in violation of City ordinances.

This is a fairly lengthily ordinance and I'll just keep reading. Section 1. Subsection 505.091(c)(1) of the Codified Ordinances is being amended to read:

I. A vicious dog is "unconfined" as the term is used in this section if such dog is not confined on the premises of the person described in subsection (a) hereof as follows:

A. If the dog is outside, it must be in a securely enclosed pen or dog run area which has secure sides and a secure top attached to all sides, and which has a secure floor or bottom attached to all sides of the pen or which is embedded in the ground no less than two (2) feet. Such pen or dog run area shall be locked with a key or combination lock at all times when the animal is within the structure.

B. If the dog is inside, it may not be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacle preventing the animal from exiting the structure. A vicious dog may not be kept on a patio, porch or in any part of a house or structure which would allow the animal to exit the building on its own volition, whether or not such dog is on a chain or leash.

Section 2 has to deal with Section 505.091, (2)(D):

1. A "vicious" dog as the term is used in this section means:
   a) Any dog with a propensity, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or other domestic animals; or
   b) Any dog which, without provocation, attacks a human being or another domestic animal; or
   c) Any pit bull terrier, which shall be herein defined as any Staffordshire Bull Terrier breed of dog or any mixed breed of dog which contains as an element of its breeding the breed of Staffordshire Bull Terrier or American Staffordshire Terrier as to be identifiable as partially of the breed of Staffordshire Bull Terrier or American Staffordshire Terrier.
   a) Any Rottweiler, which shall be herein defined as any purebred Rottweiler or any mixed-breed of dog which contains as an element of its breeding the Rottweiler breed so as to be identifiable as partially of the Rottweiler breed.

Section 3 amends Subsection (d) of Section 505.091, "Vicious Dogs", to read:

(d) No person shall own, harbor, care for, or control a vicious dog within the City of Cleveland Heights until such dog has been registered with the Animal Warden of the City and a permit is obtained. Persons presently owning, harboring or caring for a vicious dog shall register such dog with the City and obtain a permit therefor within sixty (60) days of the effective date of this section. The cost of obtaining the permit shall be fifteen dollars ($15.00). No person shall keep, own, harbor, care for or control more than one vicious dog in any dwelling unit in the City of Cleveland Heights at any one time. No person shall keep, own, harbor, care for or control any vicious dog on any premises in the City of Cleveland Heights at any time unless such person is the owner of said premises or unless such person has the written permission of the owner of said premises to keep, own, harbor, care for or control such vicious dog on said premises.

Section 4. Subsection (f) of Section 505.091 will be amended to read:

A. Impoundment of dogs is fairly lengthily.

I think I'm going to recommend for those people who are interested to contact the Clerk of Council and get a copy. It is a full page long. I don't know if I want to go through all of that.

In Section 5, Subsection (i) of Section 505.091, will be amended to read:

(i) Any vicious dog which attacks a human being or another domestic animal may be ordered to be destroyed or to be permanently banished from the City of Cleveland Heights when, in the court's judgment, such vicious dog represents a continuing threat of serious harm to human beings or other domestic animals.

In Section 6, Section 505.18, will be amended and that title is "Court Order to Remove or Destroy Animal", and the only addition in that part is at the end of the paragraph, "or permanently banished from the City of Cleveland Heights".

Section 7 is notice of passage and this is presented on first reading this evening."

Mayor Kelley accepted Ordinance No. 163-2003(PSH) on first reading.

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "This committee has no business this evening."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Council Member Caplan stated, "Thank you. There is no legislation from this committee. I do want to remind you that's it's time to sign up for all the wonderful winter activities that are at the Community Center and do go over and see what's there. There are lots of new things going on and we encourage people to come, see what's there and participate in some of the things that are offered by the city. They are very exciting and if you haven't seen the ice skating rink, come and look at it and try it - it's great. That's all I have."

REPORT OF THE FINANCE COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There is one piece of legislation from the Finance Committee tonight. This is one of a series of our yearly resolutions dealing with the City's budget process. This one is Resolution No. 164-2003(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. Council, in accordance with law, has previously adopted a Tax Budget for fiscal year commencing January 1, 2004. The Budget Commission has certified its action to Council, together with an estimate by the County Auditor of the rate of each tax necessary to be levied by this Council, and what part thereof is without and what part within the ten mill tax limitation. Principally, that means what part has been voted by the taxpayers and what part if permissible is to be levied without a vote. Section 1 of this resolution declares the amounts and rates, as determined by the Budget Commission on its certification, be, and are accepted. Section 2 provides that it is hereby levied on the tax duplicate of the

City the rate of each tax necessary to be levied within and without the ten mill limitation as follows and I'll summarize these. The Budget Commission estimate of the amount to be derived from levies Inside the 10 mill limitation (this is the unvoted amount) is approximately 3.2 million dollars to go to the General Fund and the Bond Retirement Fund. The Outside millage, which is the voted part, goes to the General Fund, the Bond Retirement Fund, the Police Pension Fund, and the Fire Pension Fund and that is approximately 9 million dollars. The millage for those amounts are 3.72 for Inside millage and 10.28 for Outside millage. Section 3 of this resolution provides that it resolves that the Clerk of Council is directed to certify a copy of this Resolution to the Auditor of Cuyahoga County. Section 4 is notice of passage and Section 5 declares this to be an emergency measure. I offer Resolution 164-2003(F) for passage tonight."

Mayor Kelley accepted Resolution No. 164-2003(F) for passage.

Council Member Dietrich commented, "I'm compelled to make a comment about this because every year when we do this legislation I'm struck by how easy and routine it is for a city to obtain the funds that we need to deal from year to year with inflation compared to what a school district has to go through. This legislation that we do right now is what we have to do and they have to undertake a 3-month levy campaign. They have to make such an allowed effort to convince voters to get the additional funds that they need to cope with inflation and we don't have to do that. We have our inflationary growth kind of built into our system so that if a school district operated with the same revenue stream that a city does, they would have a budget commission that would determine that they too need a little bit more to provide the services that they provide. I know this isn't quite so timely tonight, because by the time anybody watches it on tv, the election will be over, but the burden on school districts in Ohio is so stunning to me that I just had to point it out one more time. Thank you."

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

Nays: None **Resolution passed**

REPORT OF THE MAYOR

Mayor Kelley stated, "It is with great sadness that I have to announce the passing of Al Connors who served on City Council. He was appointed July 6, 1971, which was effective July 7, 1971. He was then elected to Council on November 2, 1971. He served two terms which is basically 1971 through 1979. He served as Mayor in 1979. It is with deep sadness that I announce his passing. Our deepest sympathy to his family. He served us in the 70's, as I said, great times of growth for the City of Cleveland Heights. Al's contributions to the City, to this City Council will certainly be missed. Our deepest sympathies to his family, his wife and his son - we'll certainly miss Al's contributions to the community.

This meeting is adjourned at 8:25 p.m. Our next meeting will be Monday, November 17, 2003. Thank you for coming."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Counci

Thomas K. Malone
Clerk of Council

/mwc