



City of Cleveland Heights Charter Review Commission

Submissions to the Commission

Committee of the Whole
16 July 2018

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The following messages and other materials have been submitted to the Facilitator since the last sharing of Submissions. The materials are ordered by date received.

1. Garry Kanter – 6 July 2018

Dr. Keller and Mr. Newman,

[I ask that this e-mail be included in the Commission's submissions with the screen prints intact, and the attachments included. Please advise if this will not be possible.]

Further to the discussion of city council and school district employee conflicts of interest referenced in the Cleveland Heights Charter, I believe there is a greater imperative that Cuyahoga County Land Bank employees be prohibited by Charter from serving on city council.

The city's Law Director and the City Council are incapable of (and/or unwilling to) managing the inherent and demonstrated conflicts.

The following two screen prints are from an e-mail (attached) written by the Land Bank's legal counsel, Robert Rink regarding the Land Bank's sale of the Medic property on Noble to the city of Cleveland Heights. (At Thursday night's CRC meeting, I mistakenly said it was a Rite Aid property.)

Rink makes direct mention of CH City Councilperson and Land Bank Director of Acquisitions, Development and Dispositions Cheryl Stephens no less than three times, including:

"If there are any problems with the City's committing to purchase the property, see Cheryl immediately who will run interference on this with the City staff and council."

6. ~~If the Point of Sale Inspection has not been received from the City of Cleveland Heights by Thursday morning, see Cheryl and call the Building Commissioner who promised it to us this week. Surety won't close without it. Upon receipt of POS Inspection from City, copy it to pdf file and e-mail the file to Surety Title.~~ Point of Sale Inspection received and a pdf copy sent to Escrow Agent and Rocco D., with copies to Doug and Cheryl. **NOTE: POS Inspection report requires an escrow of \$50,000 for demolition of the structure, but City will waive this requirement for Land Bank (see e-mail from Allison Hull).** City needs signed Acknowledgment in order for the sale to move forward. The executed form was sent by e-mail to the City, with copies to all relevant parties. (Copy of e-mail from City confirming waiver of escrow deposit was used to transmit this form to the City and others. Absent more, the City should provide any other documents the escrow agent may need directly by e-mail to the escrow agent with copies to all relevant parties.

8. RELATED TRANSACTION: The City of Cleveland Heights has told us that it will buy the property from us for a purchase price equal to all amounts that CCLRC paid to acquire the property (i.e \$100,000 + other expenses of closing paid by CCLRC and shown on Settlement Statement). We were hoping to have a Sale/Purchase Agreement signed with the City by the time of closing our acquisition. The most recent version of the City's Sale/Purchase Agreement is at the back of the files with closing documents. It shows a couple of additions that are essential for the sale to the City and to which the Law Director has already agreed. The final execution copy should have those provisions in it. Get the City's Sale/Purchase Agreement signed as soon as possible, even if before our acquisition from the Seller. If there are any problems with the City's committing to purchase the property, see Cheryl immediately who will run interference on this with the City staff and council.

The following screen print is from the December 3, 2012 city council meeting minutes (attached) where Mayor Ed Kelley effusively thanks Land Bank Director and CH City Councilperson Cheryl Stephens for making the Medic property acquisition happen:

Mayor Kelley stated, "I just want to make a brief comment. When I was a kid this was a Pick-N-Pay way back when and maybe two people in this room know what a Pick-N-Pay was in this town or maybe three. This is a great thing for the City to get a hold of this property. We will be there as soon as humanly possible with or without the Land Bank depending on how we can work it out, to actually demolish that building and take the site back and make it whole. Mr. Wagner condemned the building back in June. I think we passed legislation also condemning it. It is time to go, it is crying out for help. We are very fortunate that our friends at the Land Bank got involved with us and helped us through this. I want to thank obviously, Councilwoman Stephens, Gus Frangos, Bob Rink who lives in the City. This is really a win-win. What will happen here? I have no idea but we have already been approached by many people that have interest in this site, not just for commercial. Something good can happen but if you have driven by it, it's time to come down, it's been time. We have been after it for years, it's got

to come down, it's a blight on the neighborhood, it's a \$100,000 investment north of Mayfield. It fits with what we are doing, it fits with what is going to happen and the next piece of legislation with The Orleans Group, it fits with some of the other development around town. The Diner is getting a new owner and stuff like that, so it's happening.

This is just our commitment to make something happen north of Noble Road and I think when this is over and done with something will happen here on this site that will help the businesses, help the neighborhood and we'll all be proud of it and we'll all say thank God it happened and I'm proud to building this and again I want to thank Councilwoman Stephens for her help with the Land Bank, it's been a long process. I want to thank in the end the people that owned the property for working this out with us, working this out with you and getting the charitable contribution and finally, finally after all these years getting it out of there. Like I said, we'll probably all be there, Council with sledge hammers and wrecking balls and pictures. Maybe we'll have a community thing north of Mayfield, just come and rip it down with us. We'll even invite the Sun Press, maybe Robert Nozar can come out of retirement to do it. So, if you are going to look at this site, take a picture if you want to see the old Medic on there, it's not going to be there for much longer. Anyone else? Tom, would you please call the roll?"

Of course, despite all of Kelley's overblown grand promises, the building was demolished and the site remains vacant six years later.

As I stated Thursday, the city council voted twice to increase the purchase price of the property, after the initial vote agreeing to purchase the land.

Who does that?

Other than the three public votes regarding the purchase, plus an earlier vote to declare the property a nuisance - with Councilperson Stephens abstaining from all the votes - council's deliberations presumable took place in Executive Session - closed to the public, but with the Land Bank's Director prominently participating.

Sincerely,

Garry Kanter

Appendix 1

First Kanter Document

**OPEN ITEMS FOR CCLRC PURCHASE OF
PPN NO. 683-06-043
2920 NOBLE RD., CLEVELAND HEIGHTS, OH**

1. Look for Sale/Purchase Agreement from R. Debitetto signed by Trustee and have Gus sign two signature pages. ✓
 - a. Copy fully signed document to pdf file and e-mail file to Suzan Tyna at Surety Title (see Distribution and Closing Checklist). ✓
 - b. Send one counterpart back to R. Debitetto and put second counterpart in closing file. ✓
2. As soon as Sale/Purchase Agreement is signed, see Joe Barr and authorize him to wire transfer the \$100,000 purchase price to Surety Title. [He has the wire instructions and is just waiting for the ok to wire funds.] ✓
3. If we don't receive a signed IRS Form 8283 with the Sale/Purchase Agreement, call or e-mail R. Debitetto and find out when we can expect to receive it for signing. When we receive it, have Gus sign it and send it to the Escrow Agent for delivery at the time of Closing.
4. Get a copy of settlement statement and review numbers to make sure they are correct. Utility and R.E. taxes hold backs are authorized in Sale/Purchase Agreement and should appear on Settlement Statement. Trust should pay the taxes to come due and payable in December, 2012 since Parcel becomes tax-exempt upon CCLRC taking title. ✓
5. CCLRC should be receiving upon Closing an owner's policy of title insurance. Sale/Purchase Agreement provides that Seller pays for Title Commitment but Buyer pays for owner's Policy of Title Insurance. Insured amount is \$100,000. I assume that Surety will bill CCLRC for premium upon closing – but CHECK ON THIS to be sure.
6. ~~If the Point of Sale Inspection has not been received from the City of Cleveland Heights by Thursday morning, see Cheryl and call the Building Commissioner who promised it to us this week. Surety won't close without it. Upon receipt of POS Inspection from City, copy it to pdf file and e-mail the file to Surety Title.~~ Point of Sale Inspection received and a pdf copy sent to Escrow Agent and Rocco D., with copies to Doug and Cheryl. **NOTE: POS Inspection report requires an escrow of \$50,000 for demolition of the structure, but City will waive this requirement for Land Bank (see e-mail from Allison Hull).** City needs signed Acknowledgment in order for the sale to move forward. The executed form was sent by e-mail to the City, with copies to all relevant parties. (Copy of e-mail from City confirming waiver of escrow deposit was used to transmit this form to the City and others. Absent more, the City should provide any other documents the escrow agent may need directly by e-mail to the escrow agent with copies to all relevant parties.) ✓
7. We have heretofore sent R. Debitetto as a pdf file the appraisal that we had done on the property. He is having the Appraiser sign the IRS Form 8283, supposedly, but he may still want

an original copy of the Appraisal. Assuming we have more than one in the files, we can send him one of the original counterparts if he asks for that.

8. RELATED TRANSACTION: The City of Cleveland Heights has told us that it will buy the property from us for a purchase price equal to all amounts that CCLRC paid to acquire the property (i.e. \$100,000 + other expenses of closing paid by CCLRC and shown on Settlement Statement). We were hoping to have a Sale/Purchase Agreement signed with the City by the time of closing our acquisition. The most recent version of the City's Sale/Purchase Agreement is at the back of the files with closing documents. It shows a couple of additions that are essential for the sale to the City and to which the Law Director has already agreed. The final execution copy should have those provisions in it. Get the City's Sale/Purchase Agreement signed as soon as possible, even if before our acquisition from the Seller. If there are any problems with the City's committing to purchase the property, see Cheryl immediately who will run interference on this with the City staff and council.
9. Assuming the transaction closes Friday (i.e. deed is filed for record), the copies of documents in the closing file that I have received should be giving to Kim S. for filing in the Parcel's permanent file.

ACCESS TO MY DOCUMENTS/E-MAIL FOR THIS DEAL:

Doug:

Instead of my transferring all my documents related to this deal to you in case you need to access any of them, I'm instead going to give you my password so you can access my directory of documents. The drive on which my "My Documents" folder is found is: C:\Users\brink\My Documents, and the password to access the folder is <clrc171944**> with the <> omitted of course. Once you're on my drive and open the "My Documents" folder, go to the "City of Cleveland Heights" subfolder, and within it the subfolder "Medic Drug Store Property". All the documents are in that last subfolder.

I have also granted you permission to read my e-mail if need be, although I have asked all parties to the deal to either send you e-mail directly or to Cc you on all e-mail. All e-mails related to this project can be found in the subfolder as follows: Inbox – ACTIVE "TO DO/FOLLOW UP" LIST – City of Cleve. Hts. – Noble Warrensville Ctr. Rds. Project.

Appendix 2

Second Kanter Document



CITY OF CLEVELAND HEIGHTS, OHIO MINUTES OF THE COUNCIL MEETING OF MONDAY, DECEMBER 3, 2012

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:13 p.m.

Edward Kelley, presiding

Council Members present: Caplan, Dunbar, Kelley, Stein, Stephens, Wilcox

Council Members absent: Boyd

Staff present: Carter, Gibbon, Mannarino, Niermann O'Neil, Raguz, Wong

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

Vice Mayor Wilcox moved to adjourn into Executive Session at 6:59 p.m. Second by Council Member Caplan.

Edward Kelley, presiding

Council Members present: Caplan, Dunbar, Kelley, Stein, Stephens, Wilcox

Council Members absent: Boyd

Staff present: Carter, Gibbon, Mannarino, Niermann O'Neil, Raguz, Wong

Topic of discussion: Property acquisition.

Executive Session concluded at 7:26 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:45 p.m.

Edward Kelley, presiding

Council Members present: Caplan, Dunbar, Kelley, Stein, Stephens, Wilcox

Council Members absent: Boyd

Staff present: Carter, Gibbon, Mannarino, Niermann O'Neil, Raguz, Wong

We will excuse Councilwoman Boyd who is out ill tonight.

The minutes of the Regular Council Meeting held Monday, November 19, 2012 were approved and signed by Mayor Kelley along with the ordinances and resolution passed at that meeting.

Josh Schaffer stated, "For my own privacy I'm not going to share my address today. Ladies and Gentlemen, Mr. Mayor, members of Council and residents of Cleveland Heights I've come to today to talk about a serious issue that bothers us all. Everyday here in Cleveland Heights the police who we hire to enforce our traffic laws are essentially breaking them. Every day officers park illegally, speed and run red lights when there is no emergency. Now even the officer who walks around Coventry handing out tickets, he parks in front of Marc's, in front of the No Parking sign while he continues to hand out tickets to other people who are parked illegally. We can make Cleveland Heights safer by encouraging our officers to abide by the same laws that they enforce. Now take a look at these pictures. These are pictures that I have taken, four different pictures on four different occasions of four different cars parked illegally. You'll notice in each picture, members of Council, the officers are parking illegally in front of No Parking signs, this is four different vehicles so it's not like this is just limited to one officer. It seems that in Cleveland Heights this is a little more widespread then we may have imagined. Now these officers will try and tell you that they do this for visibility.

The Deputy Chief of Police told me that I don't understand police work and therefore and I cannot criticize the way it's done and with all due respect I have studied the criminal justice system, criminal justice policy and have earned a degree in the field. The police want to continue to have these privileges citing that it makes us safer, however, we are actually less safe. Studies show that when people trust the police crime goes down. This is because we are more willing to share information with the police, we are more willing to share suspicious behavior and to call them in an emergency. Now don't take my word for it. Look at this graph that shows the violent crime in Cleveland Heights as reported by the FBI. This chart shows that violent crime in Cleveland Heights over the last few years has sky rocketed. When I say sky rocketed it's pretty obvious that it was going steady and then sky rocketed. In 2008 the City did not report crimes to the FBI as it is optional whether or not to report crime. The next year crime sky rocketed. I don't know what the City had to hide in 2008, but judging by the context it seems pretty obvious that year crime started to sky rocket and continued there forth. Look at these statistics, violent crimes increased to five fold since 2007, five fold. We are not talking about doubling, or tripling or quadrupling, we are talking about a 510% increase in violent crime in just five years. 510% increase in violent crime in just five years. What happened? What happened? It is time for us to restore Cleveland Heights.

The time has come for us to take this City back and put it into the control of the people. I assure you that the majority of the people do not want officers parking illegally. They do not want officers speeding. They do not want officers running red lights. Since I started calling officers out, I have been harassed, I have been followed, my license plate has been recorded by an officer who threatened to arrest me. He told me that you better find someplace to go before I find a place for you to go and I was just exercising my constitutional right as a citizen to petition the government for a redress of grievance. That's right, I have the right to tell the government when they are doing something wrong and that's what I did and I was threatened, all this stuff has happened to me. This is unacceptable. I am not scared, I'm going to continue fighting for what is right, for what's just and for what is going to keep our community safe. Ladies and gentlemen if you or I broke a law while we were at work we would be fired. We would be fired by our employer. We are employing the police and we cannot fire them. It is time for us to stand up and say not on my watch, not on my payroll. The people of Cleveland Heights are tired, they are tired of officers parking illegally, they are tired of officers speeding, they are tired of officers running red lights and they are sick and tired and ready to stand up for their City. The time has come speak out.

I will continue to speak out at every Council meeting until the Mayor and Chief of Police meet with me to discuss ways to restore the trust in the police. I will use the media, internet, and phone calls and door to door canvassing, whatever it takes to get the word out. Don't be scared to stand with me. Telling an officer that they are parked illegally is your constitutional right, speak loudly and proudly. The time has come, the time has come for the residents to take pictures of these illegally parked cars, the time has come. The time has come for us to record officers running red lights, the time has come. The time has come to elect leaders that will make Cleveland Heights safer by having a responsible and respectable police force. We need not compromise, we can have safety and security while protecting our values of justice for all. That's right, justice for all including the police. Let me finish by saying, good police behavior makes Cleveland Heights safer."

REPORT OF THE CITY MANAGER

Ms. Niermann O'Neil stated, "I have no report this evening, Your Honor."

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Raguz stated, "I need to notify Council that two 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. 3294, Donna and Larry Nowak, 2759 Edgehill Road, permit a front yard curved driveway with two curb cuts and also BZA Calendar No. 3297, The Orlean Company, 2223 Lee Road, permit construction of a mixed-use building between Meadowbrook Boulevard and Tullamore Road. Your Honor, I need to make this a matter of record."

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

Mr. Raguz concluded, "I have nothing else to report tonight."

REPORT OF THE FINANCE COMMITTEE

Councilwoman Stephens stated, "This evening I have the honor of presenting Ordinance No.165-2012(F). This is an ordinance to amend certain subparagraphs of Ordinance No. 154-2011(F), amended by Ordinance No. 125-2012 and Ordinance No. 126-2012 relating to the appropriations and other expenditures of the City of Cleveland Heights for the fiscal year ending December 31, 2012 and declaring this an emergency. Certain subparagraphs of Ordinance No. 154-2012(F) all relating to appropriations for current expenses and other expenditures of the City of Cleveland Heights for the fiscal year ending December 31, 2012. These are hereby increased, decreased and/or transferred into the following subparagraphs: I will not bore everyone who is present tonight with this, suffice it to say if you really want to see the details we have the actual Ordinances and we will either give you a copy or email them to you at whatever your choice is, however, we will tell you this evening that the annual expenditures that we will be increasing, decreasing and transferring to will add up to just over \$42,470,000.00. In addition, we have trust funds, agency funds and funds that are bond based that will add up to approximately \$86,979,000.00. These are things such as the trust funds for police and fire pensions and personnel services for other staff members as well as administration of everything from sewer to lights. These are all things that we have the responsibility under State law to report to the County by the end of the year and to document ways that we will balance our budget. This instrument provides us with the balancing of our funds and I would like to recommend that my colleagues approve this Mr. Mayor."

Mayor Kelley accepted Ordinance No. 165-2012(F) on first reading only.

Councilwoman Stephens continued, "The second Ordinance that the Finance Committee has this evening is Ordinance No. 166-2012(F). This is an Ordinance to make appropriations for current expenses and other expenditures of the City of Cleveland Heights for the period of January 1, 2013 through December 31, 2013 to provide the current expenses and other expenditures of the City of Cleveland Heights during the fiscal year ending December 31, 2013. As in the previous document we will go straight for the bottom line, that means looking at all the proprietary and fiduciary activities that we have. First of all with the General Fund we are spending a total amount or at least budgeting, sorry, budgeting \$41,670,000.00 and with all of our fiduciary accounts as I explained before for next year we are looking at \$79,933,000.00. If you would like to see the full detail or obtain a copy of it you can do that tonight or receive it via email or download it off of our website. I would recommend that we vote on this one too Mr. Mayor."

Mayor Kelley accepted Ordinance No. 166-2012(F) on first reading only.

Councilwoman Stephens continued, "This is Resolution No. 167-2012(F). This is also one that I want to do the cliff notes for. This Resolution expressing this Council's strong opposition to the passage of House Bill 601 as it is currently written by the Ohio General Assembly which proposes uniformity measures for municipal income tax in the form of unfunded mandates and a substantial loss of revenue to municipalities throughout the 88 counties in Ohio. Whereas, the Municipal Income Tax Uniformity Coalition headed by the Ohio Society of CPA's with business community memberships including the Ohio Chamber of Commerce with support from Representative Grossman, Representative Henne and Representative Barnes, met with members of the Ohio Municipal League and municipal income tax representatives. The purpose of those Interested Parties meeting was to achieve consensus on issues regarding municipal income tax uniformity for inclusion in legislation. At this point the City of Cleveland Heights is not in support of uniformity, we have a plan, we have a methodology and it has been passed through legislation and the vote of the populous which means we took into consideration the perspective of the residents of this community. We understand what the State's current laws are, we have benefited from them, we have also asked the residents of our community to give us their opinion. Without further ado, we do not need you in Columbus to tell us how we should get our money or how little of it should come back to us. Thank you very much. I recommend passage to all of my colleagues."

Mayor Kelley accepted Resolution No. 167-2012(F).

Roll call: Ayes: Caplan, Dunbar, Kelley, Stein, Stephens, Wilcox

Nays: None

Resolution passed

Councilwoman Stephens concluded, "Well, I am Finance Chair and I should get interested in taxes and how the money comes in to us. I don't have anything else for tonight. Thank you, Your Honor."

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Councilwoman Caplan stated, "I have no legislation tonight which is unusual. The only comments I have are the holidays are coming which means you are buying things and receiving packages and this is a great time to give a gift to the world. Try recycling really hard, try. Put those boxes together, all those cards, you want to save the cards, put those envelopes into a bag and recycle them. This is a time that you can really show how it works. So, I hope you do that and I wish our Jewish residents a Happy

Hanukkah, the Hanukkah starts Saturday night and we'll have time to wish everybody else a happy holiday later on. Thank you."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Vice Mayor Wilcox stated, "There are several pieces of legislation from this committee tonight. In addition, there are two Resolutions from the Board of Zoning Appeals. Councilman Stein attended the public hearing on November 20 and will report those."

Councilman Stein stated, "I have Calendar No. 3294. Whereas, Donna and Larry Nowak, 2759 Edgehill Road in an 'AA' single-family district, herein referred to as the applicants have made formal application requesting a variance from the maximum front and side yard coverage regulations of the Zoning Code to permit a front yard curved driveway with two curb cuts and the applicants provision of the Zoning Code is contained in Subsection 1121.12(c)(1)(C) which requires one drive and one curb cut and the public hearing to consider the application was held on Tuesday, November 20, 2012 at 7:00 p.m. Whereas, in the opinion of the Board of Zoning Appeals, the applicant clearly demonstrated that there were special considerations and 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 the issuance of a special permit is hereby authorized to permit a front yard curved driveway with two curb cuts as shown in the plans submitted to the Board. I offer Calendar No. 3294 for approval tonight."

Mayor Kelley accepted BZA Calendar No. 3294.

Second by Vice Mayor Wilcox.

Roll call: Ayes: Dunbar, Kelley, Stein, Stephens, Wilcox, Caplan

Nays: None

Resolution confirmed

Councilman Stein continued, "Next I have Calendar No. 3297. Whereas, The Orlean Company, 2223 Lee Road, in a 'C-2X' multiple use district, herein referred to as the applicant, has made formal application requesting the following variance to permit construction of a mixed-use building between Meadowbrook Boulevard and Tullamore Road: 1. From the height regulations to permit 0' to 7' setback for ½ of the building face on the building's top floor; 2. From the height regulations to permit a 48' tall building within 30' of a residential district; 3. From the required front and corner side yard landscaping for multi-family or non-residential uses regulations to permit no landscape yard along the Lee Road frontage; 4. From the commercial mixed use district design standards to permit 52% windows on the ground level lineal Tullamore Road frontage. Whereas, the applicable provision of the Zoning Code is contained in the following Subsections: 1131.14(g)(4) which requires an 8' minimum setback for ½ of the building face on the building's top floor; 1131.14(g)(2) which permits 45' maximum building height within 30' of a residential district and 1166.05(b) which requires a 10' minimum landscape yard and 1131.075(a) which requires 60% minimum windows on ground level lineal Tullamore Road frontage. A public hearing to consider this application was held on Tuesday, November 20, 2012 at 7:00 p.m. and in the opinion of the Board of Zoning Appeals the applicant clearly demonstrated there were special conditions and 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 that the applicant will suffer practical difficulty if the variance

is not granted. Therefore, I move that Calendar No. 3297 be approved tonight.”

Mayor Kelley accepted BZA Calendar No. 3297.

Second by Councilwoman Dunbar.

Roll call: Ayes: Kelley, Stein, Stephens, Wilcox, Caplan, Dunbar

Nays: None

Resolution confirmed

Vice Mayor Wilcox stated, “Thank you. Next I have Ordinance No. 168-2012(PD). This is an Ordinance authorizing the City Manager to enter into an agreement for the purchase of real property located at 2920 Noble Road, Cleveland Heights; providing compensation therefor; and declaring an emergency. The City is interested in acquisition of a vacant commercial property at 2920 Noble Road for future economic development purposes and that acquisition would be in the benefit of the City and its residents. Just to make clear where this is, it’s the Medic site on short Noble Road which I think most of our residents probably know where that is. It has been vacant for many years and the City in cooperation with the Land Bank is now going to acquire that property and most likely demolish it and use it for future economic development. This is approximately a two acre site in that area. Section 1 of this Ordinance authorizes the City Manager to enter into an agreement with Cuyahoga County Reutilization Corporation for the purchase of a vacant commercial property at 2920 Noble Road. The agreement provides for a purchase price of One Hundred Thousand Dollars (\$100,000.00), plus customary closing costs and as I indicated the City’s Building Inspector has previously indicated this building needs to come down so that would be our intention after we purchase this property and that money for the purchase is coming from our Economic Development Fund. I offer Ordinance No. 168-2012(PD) for passage tonight.”

Mayor Kelley accepted Ordinance No. 168-2012(PD).

Councilwoman Stephens stated, “I would like to abstain from voting on this at this time.”

Councilwoman Caplan moved to permit Councilwoman Stephens to abstain as noted.

Second by Councilman Stein.

Roll call: Ayes: Stein, Wilcox, Caplan, Dunbar, Kelley

Nays: None

Motion to abstain granted

Mayor Kelley stated, “I just want to make a brief comment. When I was a kid this was a Pick-N-Pay way back when and maybe two people in this room know what a Pick-N-Pay was in this town or maybe three. This is a great thing for the City to get a hold of this property. We will be there as soon as humanly possible with or without the Land Bank depending on how we can work it out, to actually demolish that building and take the site back and make it whole. Mr. Wagner condemned the building back in June. I think we passed legislation also condemning it. It is time to go, it is crying out for help. We are very fortunate that our friends at the Land Bank got involved with us and helped us through this. I want to thank obviously, Councilwoman Stephens, Gus Frangos, Bob Rink who lives in the City. This is really a win-win. What will happen here? I have no idea but we have already been approached by many people that have interest in this site, not just for commercial. Something good can happen but if you have driven by it, it’s time to come down, it’s been time. We have been after it for years, it’s got

to come down, it's a blight on the neighborhood, it's a \$100,000 investment north of Mayfield. It fits with what we are doing, it fits with what is going to happen and the next piece of legislation with The Orleans Group, it fits with some of the other development around town. The Diner is getting a new owner and stuff like that, so it's happening.

This is just our commitment to make something happen north of Noble Road and I think when this is over and done with something will happen here on this site that will help the businesses, help the neighborhood and we'll all be proud of it and we'll all say thank God it happened and I'm proud to building this and again I want to thank Councilwoman Stephens for her help with the Land Bank, it's been a long process. I want to thank in the end the people that owned the property for working this out with us, working this out with you and getting the charitable contribution and finally, finally after all these years getting it out of there. Like I said, we'll probably all be there, Council with sledge hammers and wrecking balls and pictures. Maybe we'll have a community thing north of Mayfield, just come and rip it down with us. We'll even invite the Sun Press, maybe Robert Nozar can come out of retirement to do it. So, if you are going to look at this site, take a picture if you want to see the old Medic on there, it's not going to be there for much longer. Anyone else? Tom, would you please call the roll?"

Roll call: Ayes: Wilcox, Caplan, Dunbar, Kelley, Stein

Nays: None

Ordinance passed

Vice Mayor Wilcox continued, "The next item on the agenda is in the addendum to the agenda. The next two items actually are Resolutions dealing with the Meadowbrook and Lee project. We have talked about this a number of times over the last year. This is an \$11 million plus dollar project. It's a mixed use project with 77 units of new residential rental on three floors and one floor of commercial development. It's supported by both merchants and owners in the Cedar-Lee commercial district and our staff has worked extensively with the developer to get this project to the point we are today. This Developer was chosen through an RFP process.

Before I go any further, just a little history of the site because a lot of things have been said about this site. This site was acquired in phases and as it was acquired it was essentially unusable because of its environmental condition. Environmental remediation was done with third party funds that were made available to the City and a lot of the money that went into preparing this site was from those funds. Otherwise the site was essentially useless. In 2007 we tried to go out and develop this property and unfortunately the 2008 financial crisis intervened and basically ended that project. Within the last couple of years, however, the City was able to obtain total site control of this particular site when they acquired the last parcel from Ohio Savings for \$60,000 out of their reorganization.

So, we are today with Resolution No. 173-2012(PD) which is a development agreement with the Developer. This is a Resolution authorizing the City Manager to enter into a development with New Meadowbrook-Lee Development Partners, LLC for the sale and development of real property owned by the City located at 2223 Lee Road and declaring an emergency. As I mentioned the City is the owner of this site which is approximately 1.0696 acres of vacant land. The City acquired the property and assisted with the environmental remediation. In November, 2011 we went out with request for development proposals. This phase of it has been going on almost one year. Council determined that the proposal by The Orlean Company whose owners and principals are the owners and principals of the recently formed "New Meadowbrook-Lee Development Partners" for mixed use development of the site, which includes a commercial component as well as residential apartments, best meets the needs of the City and the Cedar-Lee commercial area.

After extensive negotiations we have been able to reach basic terms of a development agreement for the property. This Resolution provides that it is determined that the property is owned by the City and known as 2223 Lee Road, is no longer needed for the City as a public purpose. Section 2 provides that the City Manager be authorized to enter into a development agreement with New Meadowbrook-Lee Development Partners for the development of this site. Substantially in the form of the development agreement on file with the Clerk and among the important terms are that the development will be for a mixed use development for residential apartments and commercial use in conformance with conceptual design plans presented to the City. The project will be completed within eighteen (18) months after conveyance of the property to the Developers. The Developer will pay the City the sum of \$125,000.00 at the time of transfer of the Property to the Developer. The City will make available 82 permit parking spaces in the adjacent Lee Road parking deck at the City's customary charges for such parking spaces, but the first year of parking will be at no charge for each initial resident. The Developer also granted 80% real property tax abatement for both the residential and commercial components for eleven (11) years and we'll have legislation following up to confirm that. The Developer will be allowed a credit for a portion of the City's normal charges for City permits relating to the site and completion. Finally, the completion of the project will be guaranteed by The Orlean Company of other party acceptable to the Director of Law. I offer Resolution No. 173-2012(PD) for passage."

Mayor Kelley accepted Resolution No. 173-2012(PD).

Councilwoman Caplan stated, "This is a wonderful example of public-private partnership. Neither the City or any other public entity could have done this project alone and at the same time neither could the Developer do this alone. So that working together the goal is to create a vital, exciting project that will benefit not only the Developer but will also benefit the City and will certainly benefit the residents in the commercial district at Cedar and Lee. So, it is my hope that wonderful attention to detail, wonderful use of the property, looking at the most sustainable ideas that can be put into this project will happen and that it is a rousing success because if it is everybody wins. Thank you."

Roll call: Ayes: Caplan, Dunbar, Kelley, Stein, Stephens, Wilcox

Nays: None

Resolution passed

Mayor Kelley stated, "I do notice that David Orlean is in the audience and I just want to say that I look forward to getting that shovel in the ground as soon as humanly possible and I know you would like to do the same. Thank you and welcome. It's been an interesting journey over the last year. Our journey is just beginning."

Vice Mayor Wilcox continued, "The next piece of legislation also deals with the Meadowbrook-Lee project. This one is Resolution No. 174-2012(PD). This is a Resolution approving an agreement for community reinvestment area incentives between the City of Cleveland Heights and New Meadowbrook-Lee Development Partners, LLC; approving a Compensation Agreement with the City with Cleveland Heights-University Heights School Board and declaring an emergency. Previously Council certified by Resolution to the School Board the proposed agreement for tax abatement on the commercial portion of the proposed development at 2223 Lee Road and that is attached to this Resolution. Subsequent to passing that Resolution the applicant David Orlean informed the City that the "Enterprise Name for that project was New Meadowbrook-Lee Development Partners. Then on November 5th the School Board approved the proposed agreement subject to the conditions contained in the Compensation Agreement which is attached to this legislation as Exhibit B. This Council has determined it would be in the best interest of the City to approve this tax incentive area and the agreement. I did want to point out a couple of things. This is an eleven (11) year, eighty percent (80%) tax abatement for this site. As

with many developments sometimes conditional incentives are needed to complete the development and that is true in this case as well. I want to thank the School Board for approving this compensation agreement and for their work with us on this. I should also point out that this property currently pays zero dollars in taxes, both property of any other tax and that over the next eleven years even with the abatement \$963,000.00 or almost one million dollars in new taxes will be generated by the project and about 2/3 of that will go to the schools for almost \$700,000.00.

After the project, abatement runs out then we are talking about \$500,000.00 annually in new taxes to this community. In addition, I should point out that we expect that the Developer will be putting in over \$2.5 million of equity into this project and has made a substantial commitment to this project. Finally, the additional benefits that we calculated, the direct benefits I should say both in income tax and property tax over the length of the abatement are over \$2.3 million. So, we believe that the property tax abatement is warranted in this particular case. This Resolution then provides that the City Manager be authorized, first of all, the agreement for the community reinvestment area tax incentive between the City and New Meadowbrook-Lee Development Partners, LLC attached as Exhibit A together with the terms and conditions contained in the compensation agreement pursuant to 3735.671 of the Ohio Revised Code by the School Board be and is hereby approved and the City Manager and Law Director are authorized to execute any documents necessary to effectuate the Agreement together with the conditions contained in the School Board approval. Again, I want to welcome this new project to Lee Road. We still have some work to do, it's not over yet but we finally reached the point of getting beyond the planning stage I think and more to the actual getting ready to start construction phase. We really look forward to a great project for Lee Road. I offer Resolution No. 174-2012(PD) for passage tonight."

Mayor Kelley accepted Resolution No. 174-2012(PD).

Roll call: Ayes: Dunbar, Kelley, Stein, Stephens, Wilcox, Caplan

Nays: None

Resolution passed

Mayor Kelley stated, "Just briefly, I too want to thank the School Board for working with us on it. More importantly or just as importantly I want to thank the Superintendent and the Treasurer Scott Gaynier who recommended this to the School Board after a good, solid business analysis, financial analysis and what they thought was good not just for the community but for the schools and for everybody involved. So, I too want to thank the School Board and the Superintendent of schools and school Treasurer."

Vice Mayor Wilcox concluded, "That concludes my report."

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Councilman Stein stated, "I have Ordinance No. 169-2012(PSH). An Ordinance amending Subsection (a) of Section 1351.33, "Registration of Vacant Dwelling Structures", and Subsection (a) of Section 1369.16, "Registration of Vacant Business Structures", of the Codified Ordinances of the City of Cleveland Heights to raise the fees for registration of vacant structures. Whereas, it is necessary to increase the fees for registration of vacant dwellings and business structures to more adequately cover the City's costs associated with inspection and monitoring of said services. Therefore, be it ordained that this Council hereby amends Subsection (a) of Section 1351.33 and 1369.19 of the Codified Ordinances of the City of Cleveland Heights. Without reading them in depth because they are kind of long, we are going to raising those vacant dwelling structure fees from \$50.00 a year to \$100.00. I offer Ordinance No. 169-2012(PSH) for passage tonight."

Mayor Kelley accepted Ordinance No. 169-2012(PSH).

Roll call: Ayes: Kelley, Stein, Stephens, Wilcox, Caplan, Dunbar

Nays: None

Ordinance passed

Councilman Stein continued, "I have Ordinance No. 170-2012(PSH) which is an Ordinance amending Subsection (c) of Section 1351.34, "Registration of Dwelling Structures by Out-of-County Owners", and Subsection (c) of Section 1369.17, "Registration of Business Structures by Out-of-County Owners", of the Codified Ordinances of the City of Cleveland Heights. Whereas, it is necessary to increase the fees for registration of dwelling and business structures owned by out-of-county persons or entities to more adequately cover the City's costs associated with inspection and monitoring of said services. Therefore, be it ordained this Council hereby amends Subsection (c) of Section 1351.34 of the Codified Ordinances of the City of Cleveland Heights and it is the same fee structure, we are going to raising that from \$50.00 annually to \$100.00 annually. Again, this is for out-of-county owners. I offer Ordinance No. 170-2012(PSH) for passage tonight."

Mayor Kelley accepted Ordinance No. 170-2012(PSH).

Roll call: Ayes: Stein, Stephens, Wilcox, Caplan, Dunbar, Kelley

Nays: None

Ordinance passed

Councilman Stein continued, "I have Resolution No. 171-2012(PSH). A Resolution authorizing the City Manager to apply for Federal Surface Transportation Program and /or Congestion Mitigation/ Air Quality funds programmed by the Northeast Ohio Areawide Coordinating Agency to upgrade the Mayfield Road Traffic Signal System. Whereas, the Mayfield Road Signal System has been identified as being in need of replacement and upgrades in order to reduce congestion and improve safety through the construction of a Traffic Signal Upgrade. Mayfield Road is in need of improvement to the physical facility in order to improve the safety of the traveling public as well as to address the capacity constraint of the roadway through signal coordination and timing improvements for the overall benefit of the City of Cleveland Heights and the Mayfield Road corridor is in need of traffic signal reconstruction in order to address the capacity deficiencies which currently exist. Such necessary improvement consisting of new traffic signalization and traffic control modifications where dictated by the signalization improvements, sidewalk and curb Ramp Replacement for ADA compliance, and miscellaneous grading necessary to complete the project. Therefore, be it resolved, the City Manager be and she is hereby authorized to apply for Federal Surface Transportation Program ("STP") and /or Congestion Mitigation/ Air Quality ("CMAQ") Funds programmed by the Northeast Ohio Areawide Coordinating Agency ("NOACA") for the following project: Mayfield Road Traffic Signal System Upgrade. Estimated cost: \$3,715,000.00. The City Manager is further authorized to take all actions necessary to comply with the terms of the said grants, if awarded, including without limitation the provision by the City of Twenty Percent (20%) matching funds. I offer Resolution No. 171-2012(PSH) for passage tonight."

Mayor Kelley accepted Resolution No. 171-2012(PSH).

Roll call: Ayes: Stephens, Wilcox, Caplan, Dunbar, Kelley, Stein

Nays: None

Resolution passed

Councilman Stein continued, "My last Resolution tonight is Resolution No. 172-2012(PSH). A Resolution authorizing the City Manager to enter into an agreement with Stryker for the purchase of three power cots with power loads for the Fire Department; providing compensation therefor. Whereas, in order to provide the best service to patients and reduce the possibility of employee injury the City's Fire Department intends to purchase three power cots with power loads. Whereas, the City Manager and Fire Chief have determined that the desired equipment can be purchased from Stryker at a price which is lower than the state purchasing program price. It would be in the City's best interest to purchase said equipment by this means. Therefore, be it resolved the City Manager be, and is hereby authorized to enter into an agreement with Stryker to purchase three model 6506 Power-PRO XT power cots and three power load systems. The purchase price for the equipment shall be the sum of One Hundred Eleven Thousand Two Hundred Eighty-Five and 63/100 Dollars (\$111,285.63). All contracts hereunder shall be in a form approved by the Director of Law. I offer Resolution No. 172-2012(PSH) for passage tonight."

Mayor Kelley accepted Resolution No. 172-2012(PSH).

Roll call: Ayes: Wilcox, Caplan, Dunbar, Kelley, Stein, Stephens

Nays: None

Resolution passed

Councilman Stein concluded, "I don't have any other Resolutions but on November 7 I wrote a letter to First Energy about their preparation response to Hurricane Sandy. I want to give you all an update. Mayor Kelley and I met today John Skory who is President of CEI/First Energy, to discuss our concerns related to First Energy's preparation and response to the hurricane. As well as, needed upgrades to the electrical grid to prevent a recurrent power outages throughout the City. I am pleased to report that this meeting was informative and productive. Mr. Skory made a number of commitments to our City and will return to discuss a comprehensive plan for the City's power grid in about thirty days time. I am hopeful that from the mismanagement of Hurricane Sandy will come improvement to our electrical grid that will benefit all Cleveland Heights residents. More to come."

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Councilman Stein stated, "I have no report tonight."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Councilwoman Dunbar stated, "Given the full agenda tonight, you will probably be happy to hear that I have nothing to add to it."

REPORT OF THE MAYOR

Mayor Kelley stated, "Just two things real quick. I want to take a moment of silence to remember Officer Jason Stein and Officer Thomas Patton. [Councilwoman Stephens interjected, Jason West.] Oh my God, let me start again. I wrote it down as West. I want to ask for a moment of silence to recognize three fallen Officers, two from our community and one who lived in our community and served the City of Cleveland. One would be Officer Jason West, one would be Officer Thomas Patton and one would be from Cleveland, Officer Derek Owens. I think it would be appropriate at this time to remember the sacrifices they made for our communities and the loss for their family. So, let's take a little bit of time and think about them. All three officers and their families are certainly in our prayers."

I do want to speak just a brief minute or two, we had an incident, an unfortunate incident where a dog was shot twice and chained and left in Forest Hill Park. We are very fortunate that a number of our residents heard some activity there. They rescued the dog and the dog has been treated by a local vet I believe in Garfield Heights, Dr. Taylor, the County is involved and PAWS, which is a non-profit, is also involved in trying to raise some money to cover some of the medical expenses. The dog is a mastiff, it should have weighed about 120 or 130 lbs., it presently weighs 72 lbs. It is in a foster home, it has been nicknamed Forest, obviously after Forest Hill Park where it was found. Tonight I ask for our community to come together and we'll have something on our website tomorrow to raise some money to help cover the medical expenses. Again, it's PAWS, a local non-profit. I know most of us, if not all of us on Council will be donating a little bit of money, some of the business people like Brendan Ring at Nighttown and Tommy Fello have already agreed to come up with some money. Let's band together, let's make this a positive and keep this dog in our prayers.

The person or persons that did this, please turn yourself in. Our police are not going to rest until we figure this one out. Anyone who would shoot a dog through the chest and the shoulder and into the jaw and the teeth area and chain link it to a tree in Forest Hill Park and leave it to die overnight in this almost cold weather, another two weeks when the snow is there and we would be talking about a little different story.

So, let's as a community rally behind this, treat your animals – dogs, as Alex Mannarino would tell you, he just lost his dog, his best friend, they never talk back to you like your children, yelp at you sometimes or ask for a treat or two. Let's rally around this dog and there will be something on our website if you want to reach in your pocket. No donation is too small. Let's make something good come out of it. There are going to be medical expenses, feeding expenses, grooming expenses, you can just imagine how bad it was. Again, the person that did this we will catch you, we the City of Cleveland Heights, our police department will catch you and you will be prosecuted to the fullest extent of the law. Nobody should harm a defenseless animal in this nature. That concludes my report. Our last meeting of the year will be in two weeks from tonight, Monday, December 17, 2012 at 7:30 p.m. Thank you for coming. This meeting is adjourned at 8:32 p.m.”

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Tom Raguz
Clerk of Council

/sjb

2. Ralph Solonitz – Message 21 June 2018

Thanks for being a watchdog. Lots of not Kosher meals at the publics expense.

[This message was in reference to the Kanter message above.]

3. Message – David Porter 6 July 2018

Jack and Larry,

In the discussion about Council qualifications last night the exclusion for school employees was discussed but no one knew why such a limitation exists. I don't know for sure either, and it may well be that there is a local political, rather than legal, rationale. But I proffer two potential legal rationales:

First, if the provision was adopted before 1965, the linked Ohio Attorney General opinion from that year may explain why such a provision was adopted: the letter reversed an earlier OAG opinion that said it was illegal for a teacher to be a member of a city council. Whether the old General Code provision cited in the 1929 letter would have applied to a charter city is questionable, but maybe our people thought it was a good idea anyway.

<https://www.ohioattorneygeneral.gov/getattachment/ce551a08-bdb2-45d6-95a9-1da06933820e/1965-060.aspx>

Second, the current Ohio Ethics laws need to be considered. Here is a starting point from the Ohio Ethics Commission:

<http://ethics.ohio.gov/education/factsheets/InfoSheet12-MultiPositions.pdf>

Conflicts of interest are a very tough field and often, I think, the answer to conflicts remains "it depends, and we don't know, but it could be." But why recusal alone is not sufficient for a school teacher/councilperson, I also don't know.

Have fun while you make sausage!

4. Message – David Porter 6 July 2018

Jack, I know the Jones Day style manual would eschew "they" and "their" as a singular, and we would follow advice similar to that used by the Colorado legislative gurus, see excerpt below.

<http://www.ncsl.org/Portals/1/Documents/lss/ExcerptGender-NeutralDraftingCO.pdf>

But apparently "the times they are a changin' " and more and more editorial sources are now formally accepting the singular "they" and "their." And it is not just new sources: the OED dates the first use of the singular plural gender neutral to 1375. Even James I/VI was ok with this

<https://www.economist.com/books-and-arts/2017/03/31/english-has-a-traditional-solution-to-gender-neutral-pronouns>

So have fun as ye draft, me boys! I could not help thinking yesterday that my last all hands drafting session was around this time 10 years ago. I do not miss those days, at all.