
MEMORANDUM

TO: Members of Council
FROM: Tanisha R. Briley, City Manager
DATE: October 12, 2018
RE: October 15, 2018

MEETINGS & REMINDERS

Monday, October 15	-	6:15 p.m.	-	Committee of the Whole
	-	7:30 p.m.	-	City Council
Tuesday, October 16	-	7:00 p.m.	-	Architectural Board of Review
	-	7:30 p.m.	-	Citizens Advisory Committee – Public Hearing
Wednesday, October 17	-	7:00 p.m.	-	Board of Zoning Appeals
Thursday, October 18	-	5:00 p.m.	-	Civil Service Commission
	-	6:00 p.m.	-	Meet Your Police
	-	7:00 p.m.	-	Community Improvement Awards
Friday, October 19	-	9:30 a.m.	-	Commission on Aging
Monday, October 22	-	6:30p.m.	-	Special City Council Meeting

LEGISLATION

1. Tobacco 21, *Second Reading*
2. Update Traffic Code
3. OPBA Fact Finding Report

GENERAL INFORMATION

1. Enclosed are the Agendas and Council Update.
2. Enclosed is a Community Outreach update from the Vice City Manager.
3. Enclosed are updates from the Public Works Director.
4. Enclosed is an update from the Economic Development Director.
5. Enclosed is an update from the Parks and Recreation Director.
6. Enclosed is the weekly activity report from the Fire Chief.
7. Enclosed is the weekly activity report from the Police Chief.

TRB/jkw
Enclosures



COUNCIL UPDATE

OCTOBER 12, 2018

1. LEGISLATION

- Tobacco 21, Second Reading. This legislation enacts Chapter 729, *Tobacco Product Vendors; Sales to Persons Under 21*, of the Codified Ordinances of Cleveland Heights to prohibit sales to persons under 21 and to provide for permitting of businesses who sell tobacco products; and repealing Section 537.16, "Illegal Distribution of Cigarettes, Other Tobacco Products Or Alternate Tobacco Products," in Chapter 537, *Offenses Against Person*, of the Codified Ordinances of Cleveland Heights.
- Update Traffic Code. This legislation amends Subsection (b)(1)(A) of Section 303.99, "Penalties," Section 335.10, "Expired or Unlawful License Plates," Section 351.03, "Prohibited Standing or Parking Places," Section 351.03, "Prohibited Standing or Parking Places," and enacting Section 351.14, "Parking Expired Motor Vehicles" of Part Three, "Traffic Code," of the Codified Ordinances of the City of Cleveland Heights to clarify their effect.
- OPBA Fact Finding Report. This legislation directs the City Manager to accept the fact finding report related to the collective bargaining agreement for the Ohio Patrolmen's Benevolent Association (BPOs, Police Officers & Upper Ranks).

2. OPBA FACT FINDING

- The Ohio Patrolmen's Benevolent Association (OPBA) bargaining process for the contracts that expired on March 31st of this year continued into the summer after mediation of outstanding issues concluded. Those issues proceeded to a Fact Finding hearing in mid-August and a report the findings are attached. Both parties must take action on the report within seven days of receipt thus Council is being asked to approve the report on Monday. The OBPA also has to act and can choose to accept or reject the report. More details will be discussed in closed session on Monday.



CLEVELAND HEIGHTS

Committee of the Whole

October 15, 2018

Agenda

1. Report of City Council Members 6:15 p.m. – 6:30 p.m.
Goal: Mayor and City Council members will provide updates on items of interest
2. Legislation Overview 6:30 p.m. – 6:40 p.m.
Goal: Discuss proposed legislation
3. Discussion of Staff Reports 6:40 p.m. – 6:55 p.m.
Goal: Council members will ask staff questions about their reports and/or activities
4. Executive Session 6:55 p.m. – 7:20 p.m.
1) To consider the terms of a lease of City-owned real property; 2) To prepare for negotiations with public employees or their representatives concerning such employees compensation or other terms and conditions of their employment

TO: TANISHA R. BRILEY , CITY MANAGER

FROM : SUSANNA NIERMANN O'NEIL, ASSISTANT CITY MANAGER

RE: COMMUNITY OUTREACH UPDATE

DATE: OCTOBER 12 , 2018

COMMUNITY RELATIONS:

- **Community Improvement Awards ceremony – Thursday October 18, 2018 in the Atrium at 7:00pm. There are 27 houses , 3 businesses , 3 historic preservation and one special award.**
- **Staff is working with a Noble Neighbors Committee planning a parade to kick off the We Are Noble weekend next May. Date to be Saturday, May 18th beginning at 10:00am from Oxford School to Denison.**

Communication Initiatives (Trupo):

- **Finalized the Envisio update for the third quarter.**
- **Conducted 2nd Branding Steering Committee Meeting and assisted in the presentation of findings so far to the Committee.**
- **Finalized ad for the November placement in the Cleveland Magazine dining issue.**
- **Revised/edited TOH handout for the community meeting.**

SOCIAL MEDIA:

- **Broadcast staff filmed and televised the Charter Review meeting , the Top of the Hill meeting and the Immigration Task Force meeting.**
- **Facebook updates - Shredding Day, Top of the Hill, Road closures due to Homecoming parade.**



To: Tanisha Briley, City Manager
From: Alex Mannarino – Public Works Director
Collette Clinkscale – Assistant Public Works Director
Date: October 11, 2018
Subject: Public Works Weekly Update

Forestry:

- Tree Tracker work history from October 4, through October 10, 2018.
 - YTD: Trimmed 310 trees, removed 301, planted 186 trees, stumps ground 252, and dumped 164 loads of woodchips and 70 loads of logs
- Completed 1075 Elbon tree removal, 1610 Rydalmont and 3581 Grosvenor
- Prune various trees throughout the City
- Removed storm damage at 897 Keystone

Sewer:

- Continued MACP (manhole) inspections connected with SSES (Sewer System Evaluation Study)
- Cemented catch basins on Cambridge, Norfolk, Stratford, and Corydon
- Vacuumed catch basins and oil pits at Fire Stations on Cedar and Mayfield
- Jetted out storm lines at Fire Stations on Cedar and Mayfield
- Repaired catch basin at 2945 Corydon
- Attended Lucity workshop
- Investigated SSO manholes Route A, B, and C
- Began televising and jetting Lamberton
- Assisted Brown and Caldwell with MACP traffic control
- Jetted and televised Scarborough between Coventry and Demington connected with SSES
- Cleaned catch basin at 912 Roanoke
- Lifted invert plate on Scarborough in connection with SSES
- Replaced manhole casting at 1001 Roanoke

Sewer Service Calls:

- 3006 Scarborough, 3777 Glenwood, 909 Helmsdale, 2341 S Overlook, 3471, Severn, 3807 Northampton, 3424 Tullamore, 1005 Selwyn

Refuse:

- Transported 254.47 (16 loads) of refuse to Shiloh landfill and 62.36 tons (4 loads) to Harvard Transfer Station
- Transported 54.10 tons (6 loads) of mixed recycling to Kimble

Streets Maintenance:

- **Asphalt:** CWD cutouts – 3406 Spangler, 3847 Berkeley, 1000 Rushleigh, 990 Yellowstone, 3787 Berkeley, Kew at Rumson, 1610 Compton, 845 Quarry, 2658 Kingston
- **Street Repairs Investigations:** 3305 Silsby (sewer cutout), Meadowbrook (3284, 3274, 3248, 3244, Silsby 2919, S Taylor (1748, 1722), 2040 Hampstead (sewer cutout), 3653

Antisdale (sewer cutout), 2287 Lee (sewer cutout), 3369 Altamont (sewer cutout), Monmouth at Stratford (basin), 2125 Corydon (basin), 2575 Norfolk (basin), 842 Cambridge (basin), 1099 Hillstone (road repaired), Glenwood at Oakridge (sinkhole), Kenilworth Ln (road repair/potholes)

- **Sanitation Brush:** Severn, Berkeley, Shannon, Bendemeer, Monticello at Belvoir
- **Construction Crew:** 990 Yellowstone (CWD cutout, concrete 4x8), Kew at Rumson (CWD cutout, concrete 8x6), 1000 Rushleigh (CWD cutout, concrete 15x9), 3402 Spangler (CWD cutout, concrete 15x8), 2658 Kingston (CWD cutout, concrete 6x4), 3100 Mayfield (CWD cutout, concrete 5x6), 3407 Altamont (CWD cutout, concrete 18x12), 845 Quarry (CWD cutout, concrete 7x6), 1610 Compton (CWD cutout, concrete 6x6), Stratford at Monmouth (basin/curb), Corydon (basin/curb), Norfolk (basin/curb), Cambridge (basin/curb), 1468 Denton (basin/curb), Glenwood at Oakridge (sinkhole), 2541 S Taylor (replaced apron) 1047 Elbon (CWD cutout, concrete 9x10), Rushleigh at Monticello (CWD cutout, concrete 9x10), 1520 Parkhill (CWD cutout, concrete 9x10)
- **Miscellaneous:**
 - Block Party – 2527 Derbyshire
 - 5k Run – Assisted with traffic control supplies
- **Sweepers:** Lee Rd, Wilton, Cadwell, Hampshire, Radnor, Middlehurst, Somerton, North Park, Pomona, Elmwood
- **Hauling:** Grinding leaves, woodchips, hauling mulch, yard waste (Bremec/Kurtz Bro.)

MEMORANDUM

To: Tanisha Briley-City Manager
From: Alex Mannarino-Director of Public Works
Date: October 12, 2018
Re: Capital Projects Weekly Update

Legislation Requests

We respectfully request that you read in as a matter of record, the following statements:

- Notify council of Change Order 2 FINAL for project #17-02 – 2017-2018 Pavement Striping Program increasing the final two year contract price by \$16,726.47 for additional streets and work added.
- Notify council of Change Order 1 FINAL for project #18-01 – North Park Blvd.- Bike Path Buffer Striping increasing the final contract price by \$573.00 for additional work added.

The final change order for the 2017-2018 Pavement Striping program included additional work involving the re-painting any concrete areas within the streetscape on Lee Road (thermoplastic pavement markings do not adhere to concrete and thus any concrete areas like the ADA drop-offs require annual painting); adding shared lane markings (sharrows) on Mayfield Road, Euclid Heights Boulevard, and Cedar Road; painting the Center Line on North Park Boulevard; painting the diagonal lines on the Edgehill Road buffered bike lane; painting the long lines and stop bars on Mayfield Road; and some additional miscellaneous crosswalk work.

The final change order for the North Park Boulevard Bike Path Buffer Striping project included additional work involving the re-painting of the existing edge line that was not included in the original plans. ODOT has agreed to pay 80% of the additional cost.

Community Center – Dugway East Culvert Rehabilitation

Perk has re-mobilized and will commence work in the culvert. The first step will be to construct a block wall down the center of the culvert to adequately divert the flow of water from one side to another so the new tunnel liner walls can be formed and poured.

Cedar Road Resurfacing/Cedar-Fairmount Streetscape

We are currently working on the final paperwork.

Cuyahoga County Aggregated Solar Project

The County has released the RFP. Submissions are due today.

Contractor's submitting proposals will have the option to sign an additional form extending their proposal to other agencies/political subdivisions in Cuyahoga County under a cooperative purchasing program.

If the option is made available, each agency will be responsible to negotiate their own prices and contract with contractor.

Meadowbrook Boulevard Reconstruction

Design continues.

Mayfield Signalization

Work continues on jacking and drilling conduit.

Safe Routes to Schools – ODOT PID 101112

Final legislation and contract authorizing ODOT to sell the project was sent to ODOT this week.

#18-01 North Park – Buffered Bike Lane – ODOT PID 106001

See Legislation above.

Edgehill and Overlook Intersection Re-Design – ODOT PID 106749

Project has received federal authorization and is on schedule to be sold in November.

2018 Street Resurfacing Program

The contractor has eighteen more working days left to complete the work on their contract.

2018 Pavement Striping Program

See Legislation above.

Dominion East Ohio

Washington Boulevard PIR-3047

The contractor has started work on the south side of Washington.

Euclid Heights Boulevard PIR-3036-C

Work is scheduled on Euclid Heights Boulevard (both sides) from Rock Court to Cumberland Road. Construction is tentatively scheduled for late 2018.

Hillstone Road PIR-2590

Work is scheduled on all of the streets between Hillstone Road and Quarry Road between Bluestone Road and Monticello Boulevard. Construction is tentatively scheduled for 2019.

Lee & Superior PIR-2228

Work is scheduled on all streets between Yorkshire Road and Superior Road between Lee Road and Goodnor Road. Construction is tentatively scheduled for 2019.

**City of Cleveland Heights
Economic Development**



To: City Manager Tanisha Briley
From: Economic Development Director Tim Boland
Subject: Activities Report – October 12, 2018

Activities and Initiatives:

1. Top of the Hill Redevelopment Project:

On **October 10, 2018**, three important meetings were conducted which included **Community Meeting #3** (over 130 residents attended), the **Joint Architectural Board of Review (ABR) and Planning Commission meeting**, and the special meeting for the **Buckingham residents and CF-SID Trustees** (attended by over 30 residents). We received great input at these meetings.



I am pleased to report we have entered the Planned Development Overlay / Development Plan review process phase.

The project remains on schedule.



2. Business Attraction

There has been increased activity in terms of businesses looking for locations in Cleveland Heights in recent weeks. Of note, the former Chipotle in Coventry Village (2781 Euclid Heights Boulevard) has been leased. Staff is working with the business to navigate the approval processes and help expedite their opening. The business is expected to be a locally-owned fast casual food concept. Additional details will be shared as their plans are finalized.

3. Marketing & Outreach

- Staff attended the following meetings:
 - Cuyahoga County Quarterly Economic Development meeting;
 - Future Heights Planning & Development Committee

Thank you,

Timothy M. Boland

Timothy M. Boland

Economic Development Director

Memorandum

To: Tanisha Briley, City Manager
From: Joseph P. McRae, Parks and Recreation Director
Subject: Parks and Recreation Department Update
Date: October 12, 2018

Please find a brief summary of the Parks and Recreation Department announcements and activities attached for your review:

General Announcements

- The Happy 5k/10k Run took place on Sunday, October 7. The event raised over \$5,000 in sponsorship proceeds for the Cleveland Heights Youth Scholarship Fund this year. Approximately 600 runners participated. Local businesses donated over \$300 in Cleveland Hts. Cash (coupons for special offers) for race participants.
- The Heights High indoor pool is open for community access. Pool passes can be purchased at the Community Center.
- Registration has opened for the 2018-2019 Rec Youth Basketball Program.
- Staff is recruiting teams for the adult men's and women basketball league.

Ice Programs

- The plan is to re-open the South Rink in mid-October. The system is currently being flushed and the new infrastructure is being connected.



Cleveland Heights Fire Department

Weekly Activity Report

Total Emergency Calls Year To Date	5,533
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Total Emergency Calls for Period	139
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Report Date Period: 10/05/2018 - 10/12/2018

Fire Data

	<u>Current Period</u>	<u>Year to Date</u>	<u>Last Year to Date</u>	<u>Current Year % of Run Count</u>
Emergency Fire Run Count	33	1,173	946	22.18 %
Emergency Structure Fire Count		54	52	
Emergency Non Structure Fire Count	33	1,113	889	
Emergency Vehicle Fire Count		6	5	

Emergency Medical Data

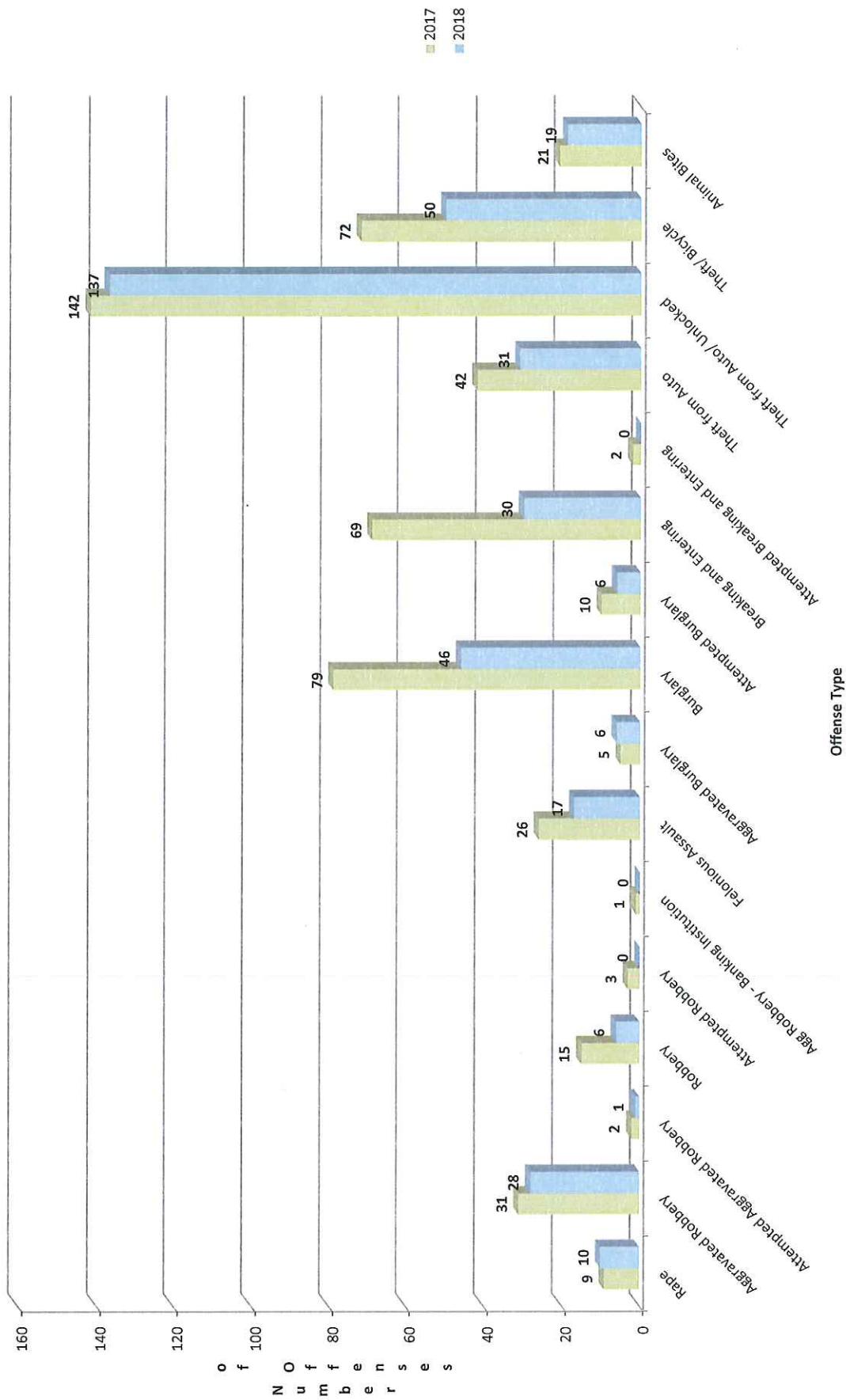
Total Emergency Run Count	106	4,360	4,137	77.82 %
Emergency Medical Run Count	95	4,207	4,021	
Automobile Accident Run Count	11	153	116	
Advanced Life Support Run Count	28	1,125	1,124	
Basic Life Support Run Count	78	3,201	2,999	
Total EMS Transports	58	2,860	2,726	
Total EMS Non Transports	47	1,331	1,219	

Mutual Aid Run Count to Date

Mutual aid received	SEFD A - 46 SHFD A - 42 ECFD A - 17 UHFD A - 42
Mutual aid given	SEFD A - 55 SHFD A - 32 ECFD A - 18 UHFD A - 13
Automatic aid received	SEFD A - 6 SHFD A - 19 ECFD A - 8 UHFD A - 15
Automatic aid given	SEFD A - 4 SHFD A - 13 ECFD A - 0 UHFD A - 6

<u>Fire Prevention</u> <u>Bureau</u>	<u>Current</u> <u>Period</u>	<u>Year to</u> <u>Date</u>
Total Completed Fire Inspections	16	1,276
Company Fire Inspections		557
Fire Prevention Fire Inspections	2	17
Fire Alarm Test Inspections		
Kitchen Supression Test Inspections		
Sprinkler Test Inspections		
Other Inspections	14	702
Smoke Detectors Distributed	4	137

Crime Comparison:
January 1 - October 12, 2017 Compared to January 1 - October 12, 2018





CLEVELAND HEIGHTS

AGENDA (tentative) – CLEVELAND HEIGHTS CITY COUNCIL MEETING **COUNCIL CHAMBERS**

Monday, October 15, 2018
Regular Meeting
7:30 p.m.

Cleveland Heights City Hall
40 Severance Circle
Cleveland Heights, Ohio

- 1) **Roll Call of Council Members**
- 2) **Excuse absent members**
- 3) **Approval of the minutes of the regular Council meeting held Wednesday, October 3, 2018.**
- 4) **Personal communications from citizens**
- 5) **Report of the City Manager**
- 6) **Report of the Director of Finance/Clerk of Council**

Notify Council of Change Order 2 FINAL for project #17-02 – 2017-2018 Pavement Striping Program increasing the final two year contract price by \$16,726.47 for additional streets and work added.

Matter of Record

Notify Council of Change Order 1 FINAL for project #18-01 – North Park Blvd.-Bike Path Buffer Striping increasing the final contract price by \$573.00 for additional work added.

Matter of Record

- 7) **Committee Reports**
 - a.) **HOUSING AND TRANSPORTATION COMMITTEE**
 - b.) **PLANNING AND DEVELOPMENT COMMITTEE**
 - c.) **RECREATION, COMMUNITY AND EXTERNAL RELATIONS COMMITTEE**

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
MONDAY, OCTOBER 15, 2018**

d.) SAFETY AND MUNICIPAL SERVICES COMMITTEE

ORDINANCE NO. 118-2018 (SMS), Second Reading. An Ordinance enacting Chapter 729, Tobacco Product Vendors; Sales to Persons Under 21, of the Codified Ordinances of Cleveland Heights to prohibit sales to persons under 21 and to provide for permitting of businesses who sell tobacco products; and repealing Section 537.16, "Illegal Distribution of Cigarettes, Other Tobacco Products Or Alternate Tobacco Products," in Chapter 537, Offenses Against Person, of the Codified Ordinances of Cleveland Heights.

Introduced by Council Member _____

Vote _____
For Against No. Reading

ORDINANCE NO. 119-2018 (SMS). An Ordinance amending Subsection (b)(1)(A) of Section 303.99, "Penalties," Section 335.10, "Expired or Unlawful License Plates," Section 351.03, "Prohibited Standing or Parking Places," Section 351.03, "Prohibited Standing or Parking Places," and enacting Section 351.14, "Parking Expired Motor Vehicles" of Part Three, "Traffic Code," of the Codified Ordinances of the City of Cleveland Heights to clarify their effect

Introduced by Council Member _____

Vote _____
For Against No. Reading

e.) ADMINISTRATIVE SERVICES COMMITTEE

ORDINANCE NO. 120-2018 (AS). AN ORDINANCE TO ACCEPT THE FACT FINDING RECOMMENDATIONS IN THE MATTER OF THE CITY OF CLEVELAND HEIGHTS AND THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION (OPBA), SERB CASE NOS.: 18-MED-01-0025/0026/0027 (CLASSIFIED PATROL OFFICERS and BASIC PATROL OFFICERS PO's and RANK OFFICERS [Sergeants, Lieutenants and Captains]).

Introduced by Council Member _____

Vote _____
For Against No. Reading

f.) FINANCE COMMITTEE

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
MONDAY, OCTOBER 15, 2018**

8) Mayor's Report

9) Adjournment

(Council members and staff will stay following adjournment to discuss questions informally with citizens.)

SPECIAL MEETING OF COUNCIL: MONDAY, OCTOBER 22, 2018

NEXT MEETING OF COUNCIL: MONDAY, NOVEMBER 5, 2018

Proposed: 10/3/2018

ORDINANCE NO. 118-2018 (SMS),
Second Reading

By Council Member Stein

An Ordinance enacting Chapter 729, *Tobacco Product Vendors; Sales to Persons Under 21*, of the Codified Ordinances of Cleveland Heights to prohibit sales to persons under 21 and to provide for permitting of businesses who sell tobacco products; and repealing Section 537.16, “Illegal Distribution of Cigarettes, Other Tobacco Products Or Alternate Tobacco Products,” in Chapter 537, *Offenses Against Person*, of the Codified Ordinances of Cleveland Heights.

WHEREAS, tobacco use is the foremost preventable cause of premature death in the United States, responsible for nearly half a million deaths per year in the United States and costing the nation approximately \$300 billion in healthcare and lost worker productivity costs each year; and

WHEREAS, if smoking continues at the current rate among youth in the United States, 5.6 million of today’s Americans under the age of 18 will die early from a smoking-related illness; and

WHEREAS, ninety-five percent (95%) of all adult smokers begin smoking before they turn twenty-one (21) years old, and adolescence is a critical period when many smokers move from experimental smoking to regular, daily use; and

WHEREAS, there is strong evidence that people who begin smoking at an early age are more likely to develop a severe addiction to nicotine than those who start at a later age; and

WHEREAS, electronic nicotine delivery system use among minors has recently tripled, and use of these systems is associated with and may encourage the use of conventional tobacco products; and

WHEREAS, data from the Cuyahoga County Youth Risk Behavior Survey in 2017 indicates that over thirty-five percent (35%) of students in Cuyahoga County reported having used an electronic vapor product and over fifteen percent (15%) of students in Cuyahoga County reported current use of an electronic vapor product; and

WHEREAS, raising the minimum legal sales age for all tobacco products to twenty-one (21) will reduce access to these products by youth, as youth often acquire such products from older friends: over eighty percent (80%) of people purchasing tobacco for minors are between eighteen (18) and twenty (20) years old; and

ORDINANCE NO. 118-2018 (SMS), *Second Reading*

WHEREAS, over three hundred thirty (330) communities and six (6) states have enacted Tobacco 21 policies, covering over twenty-five percent (25%) of the nation's population; and

WHEREAS, raising the age for tobacco sales to 21 and over in the City of Cleveland Heights would lessen the accessibility of tobacco to minors and would assist the City's interest in furthering the health, safety, and general welfare of the City's residents.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Chapter 729, *Tobacco Product Vendors; Sales to Persons Under the Age 21*, of the Codified Ordinances of Cleveland Heights shall be, and is hereby, enacted and adopted in its entirety to read as Exhibit A attached hereto and fully incorporated herein. A complete copy of Exhibit A is also on file with the Clerk of Council.

SECTION 2. Section 537.16, "Illegal Distribution of Cigarettes, Other Tobacco Products Or Alternate Tobacco Products," in Chapter 537, *Offenses Against Person*, of the Codified Ordinances of Cleveland Heights is hereby repealed in its entirety.

SECTION 3. The Clerk of Council is hereby directed to mail letters attaching a copy of this Ordinance and declaring this Council's support that the legal age to purchase tobacco should be changed to twenty-one (21) years old throughout the rest of Ohio and across the nation to Governor John Kasich, Ohio Senate President Larry Obhof, Ohio House Speaker Ryan Smith, Ohio Senator Sandra Williams, Ohio Representative Janine Boyd, U.S. Representative Marcia Fudge, U.S. Senator Robert Portman, U.S. Senator Sherrod Brown, and President Donald Trump.

SECTION 4. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of its contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 5. This Ordinance shall take effect and be in force at the earliest time possible permitted by law.

CAROL ANN ROE, Mayor
President of the Council

SUSANNA NIERMANN O'NEIL
Acting Clerk of Council

PASSED:

EXHIBIT A

**Chapter 729
CIGARETTE AND TOBACCO VENDORS;
SALES TO PERSONS UNDER 21**

729.01 DEFINITIONS.

For the purpose of this Chapter:

(a) “Distribute” means to furnish, give, or provide Tobacco Products to the ultimate consumer of the Tobacco Product.

(b) “Permit” means an annual permit issued by the City or the City’s Permitting Agent for retail sale of Tobacco Products pursuant to Section 729.03 herein.

(c) “Permittee” means the holder of a valid permit under this Chapter.

(d) “Permitting Agent” means an entity with which the City of Cleveland Heights has contracted to administer permit applications, enforcement, and/or provisions contained in this Chapter.

(e) “Person Under 21” means a natural person who has not yet reached the age of twenty-one (21) years of age.

(f) “Proof of Age” means a driver’s license, a commercial driver’s license, a military identification card, a passport, or an identification card issued under R.C. §§ 4507.50 to 4507.52 that shows that a person is twenty-one (21) years of age or older (i.e., not a Person Under 21).

(g) “Tobacco Product” means any product that is made from tobacco or derived from tobacco or that contains nicotine, whether natural or synthetic, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, snorted, sniffed, absorbed, dissolved, inhaled or ingested by any other means, including, but not limited to, cigarettes, e-liquids, cigars, little cigars, pipe tobacco, chewing tobacco, snuff, or snus. “Tobacco Product” also means electronic devices, including any device that can be used to deliver aerosolized or vaporized nicotine or any other substance to the person inhaling from the device including, but not limited to, e-cigarettes, e-cigars, e-pipes, vapor products, or e-hookahs. Tobacco Product includes any component, part, or accessory used in the consumption of tobacco products, whether or not it contains nicotine including, but not limited to, filters, cartridges, pods, pens, rolling papers, or pipes. “Tobacco Product” does not include any of the following:

- (1) Any product that is a “drug” as that term is defined in 21 U.S.C. 321(g)(1);
- (2) Any product that is a “device” as that term is defined in 21 U.S.C. 321(h); or
- (3) Any product that is a “combination product” as described in 21 U.S.C. 353(g).

SECTION 729.02 SALE TO PERSONS UNDER 21 PROHIBITED.

(a) No Permittee or agent of Permittee shall sell or otherwise distribute to any Person Under 21 any Tobacco Product within the City.

(b) Before selling or otherwise distributing any Tobacco Product to another person, the person selling or distributing the Tobacco Product shall verify the age of any person who appears to be under thirty (30) years of age by a Proof of Age.

(c) No person shall sell or otherwise distribute Tobacco Products by or from a vending machine except in an area within a business, office, or other place not open to the general public or in an area to which Persons Under 21 are not permitted.

(d) It shall not be a violation of this Section to sell or otherwise distribute any product that has been approved as a tobacco cessation aid by the United States Food and Drug Administration.

729.03 ANNUAL PERMIT REQUIRED.

(a) No person shall engage in retail sales or distribution of Tobacco Products within the City without a valid Permit issued by the City or its Permitting Agent.

(b) The following items shall be required in applying for a Permit, or renewing a Permit under this Section:

1. A valid vendor's license from the Ohio Department of Taxation;
2. If applicable, a license required by Revised Code Chapter 5743;
3. The location where the Permit applicant proposes to engage in retail sales of Tobacco Products;
4. A nonrefundable Permit administration fee of One Hundred Dollars (\$100.00); and
5. Such other information as determined by the City or its Permitting Agent to be necessary to administer the permitting system provided herein and to effectuate the purposes of this Chapter.

(c) A Permit granted under this Section shall be valid from the date of issuance until December 31 of the year of issuance.

(d) Permit administration fees, reinstatement fees, and civil penalties collected in administering this Chapter may be collected by the City or its Permitting Agent and shall be credited to the City's General Fund to defray the costs of administration and enforcement of this Chapter. Alternatively, the City and its Permitting Agent may agree that the Permitting Agent will retain all or a portion of the fees as compensation for its services as the Permitting Agent.

(e) For purposes of this Section, "valid Permit" means a Permit issued under this Section that has not expired, that is not within a period of suspension or failure-to-reinstate status, and that has not been revoked under this Chapter or any provision of applicable law.

(f) A separate Permit shall be required for each retail sales location regardless of whether or not a person owns or operates more than one retail sales location within the City.

(g) A penalty equal to twenty-five percent (25%) of the applicable permit fee shall be assessed and collected by the City or its Permitting Agent for permit fee renewal payments that are not received or postmarked by the first of January.

729.04 PERMIT REVOCATION, DENIAL, OR SUSPENSION

(a) Application for a Permit may be denied for any of the following reasons:

- (1) The Permit applicant had a Permit revoked within the previous three (3) years;
- (2) The Permit applicant is determined to have knowingly included false or misleading information in the Permit application or renewal Permit application;
- (3) The applicant's current Permit has been suspended and the period of suspension has not elapsed;
- (4) A business owned or operated by the Permit applicant engaging in the sale of Tobacco Products within the City is the subject of a court order or a city resolution or final order declaring such business to be a public nuisance, where said nuisance has not been abated, or where a court has ordered that sales of Tobacco Products shall cease pursuant to any temporary restraining order, preliminary injunction, or permanent injunction issued by said court;
- (5) The Permit applicant is in arrears with respect to any fine imposed for violation of this Chapter; and/or
- (6) The Permit applicant has failed to provide any of the items required under Subsection 729.03(b).

(b) For purposes of subdivision (a) of this Section, "applicant" shall include entities with common ownership or management to the entity or natural person listed on the application.

(c) A Permit may be suspended for a definite period, not to exceed six (6) months, as determined by the City or its Permitting Agent. Prior to reinstatement of the Permit following expiration of the suspension, the Permittee shall remit a One Hundred Dollars (\$100) Permit reinstatement administration fee. A Permit may be suspended for any of the following reasons:

- (1) A business owned or operated by the Permit applicant engaging in the sale of Tobacco Products within the City is the subject of a court order or city resolution or final order declaring such business to be a public nuisance where said nuisance has not been abated, or where the court has ordered that sales of Tobacco Products shall cease pursuant to any temporary restraining order, preliminary injunction, or permanent injunction issued by said court;
- (2) Substantiated evidence that Permittee or agent of Permittee has sold or otherwise distribute any Tobacco Product to any Person Under 21 within the City more than one time in the past twelve (12) months;
- (3) The finding by a federal or state agency or court that the Permit

- applicant has violated a federal or state rule or regulation governing the sale of Tobacco Products;
- (4) Entry of a City or its Permitting Agent is refused or inspection, or investigation is refused, hindered, or thwarted; and/or
 - (5) The Permit is in arrears with respect to any fine imposed for any civil penalty levied under this Chapter.
- (d) A Permit may be revoked for any of the following reasons:
- (1) The Permit applicant is determined to have knowingly included false or misleading information in the Permit application or renewal Permit application;
 - (2) Substantiated evidence that Permittee or agent of Permittee has sold or otherwise distribute any Tobacco Product to any Person Under 21 within the City more than one time in the past twelve (12) months;;
 - (3) Entry of a City or its Permitting Agent is refused, or inspection or investigation is refused, hindered, or thwarted;
 - (4) A period of suspension imposed under Subsection(c) herein has elapsed and the Permittee remains in arrears of payment of such fine or penalty; and/or
 - (5) The Permittee has been subject to three (3) or more suspensions in the previous twenty-four (24) month period.

729.05 NON-TRANSFERABILITY.

A Permit is non-transferable. A new Permit will be issued at no cost to the Permittee who changes location. Any sale or transfer of ownership of Permittee's business will require a new application and subsequent permit issuance.

729.06 NON-RETALIATION.

No person or employer shall discharge, refuse to hire or in any manner retaliate against any employee, applicant for employment, or customer because such employee, applicant, or customer reported violations of any provisions of this Chapter.

729.07 POSTING OF SIGNS; EDUCATION; OUTREACH

(a) Effective January 1, 2019, a sign stating "Under 21 Sales of Tobacco and Nicotine Products and Devices Prohibited by Law" and "Pursuant to Chapter 729 of the Cleveland Heights Codified Ordinances" shall be posted. The font for "Pursuant to Chapter 729 of the Cleveland Heights Codified Ordinances" shall be no smaller than 1/2 inch in height. The font for "Under 21 Sales of Nicotine Prohibited by Law" shall be no smaller than 1/6 of an inch in height. The sign shall be clearly and conspicuously posted at or near the point of sale of any location tobacco products and/or alternative nicotine products are sold.

(b) The City or its Permitting Agent shall collaborate with the community to prepare and distribute education materials, required signage to all vendors, hold education events, publicize and/or such other education events or efforts to foster awareness of the requirements of implementation and compliance with this Chapter. The City or its Permitting Agent shall make all reasonable efforts to conduct such education efforts within the first six (6) months of the program and at regular intervals as necessary thereafter.

729.08 ENFORCEMENT, APPEALS

(a) The City and its Permitting Agent shall have authority to implement and enforce the provisions of this Chapter.

(b) The City and/or its Permitting Agent may conduct an inspection of a business prior to issuing a Permit. The City and/or its Permitting Agent may annually inspect each business holding a Permit upon proper identification and upon stating the purpose and necessity of an inspection. The City and/or its Permitting Agent may enter at reasonable times to inspect or investigate and examine or copy records to determine compliance with this Chapter. The City and/or its Permitting Agent may apply for and any judge of a court of record may issue an appropriate search warrant necessary to achieve the purposes of this Chapter within the court's territorial jurisdiction. If entry is refused or inspection or investigation is refused, hindered, or thwarted, the City and/or its Permitting Agent may suspend or revoke the Permit as set forth herein.

(c) In addition to the denial, suspension, or revocation of a permit, the City and/or its Permitting Agent may impose the following civil penalties for violations of this Chapter:

- (1) For a first violation, written warnings shall be provided to violators.
- (2) For a second violation, within five (5) years of the first violation, \$250.00.
- (3) For third violation within five (5) years of the first violation, \$500.00.
- (4) For a fourth violation within five (5) years of the first violation, \$1,000.00.
- (5) For a fifth violation within five (5) years of the first violation, administrative permit review to determine if the permit should be suspended or revoked.

(d) When the City and/or its Permitting Agent determines to issue a civil penalty for a violation, to deny a Permit application, or to suspend or revoke a Permit, the City and/or Permitting Agent shall notify Permittee of said determination by sending written notice of said determination by U.S. first-class mail to the address provided on the Permit application.

(e) The City and/or or its Permitting Agent shall not be required to conduct an evidentiary hearing prior to issuing a determination provided for in Subsection (d) herein.

(f) The Permittee may file a written notice of appeal with the City Director of Law within fourteen calendar (14) days after the date the determination was mailed. The process to request said appeal shall be provided in the notice of the determination set forth in subsection (d) herein. The determination shall take effect following the expiration of time to file the notice of appeal.

(g) An appeal hearing shall be heard by the Nuisance Abatement Board of Review which shall follow the relevant hearings procedures set forth in Chapter 553. The burden of proof by preponderance of the evidence shall be upon the City and/or its Permitting Agent. The Nuisance Abatement Board of Review shall be the final, administrative decision maker.

729.09 INJUNCTIVE RELIEF

(a) The provisions of Sections 729.01 through 729.08, are health ordinances applicable to real property in the City and may be enforced by civil action pursuant to the Revised Code.

(b) Repeated violations of this Chapter may constitute a public nuisance. The Law Director may bring a cause of action to abate such nuisance and enjoin the recurrence of such violations and for such other relief may be available at law or in equity or the City may seek relief pursuant to Chapter 553.

729.10 EFFECTIVE DATE

Permits and other requirements set forth in this Chapter shall be effective as of January 1, 2019.

Proposed: 10/15/2018

ORDINANCE NO. 119-2018 (SMS)

By Council Member

An Ordinance amending Subsection (b)(1)(A) of Section 303.99, "Penalties," Section 335.10, "Expired or Unlawful License Plates," Section 351.03, "Prohibited Standing or Parking Places," Section 351.03, "Prohibited Standing or Parking Places," and enacting Section 351.14, "Parking Expired Motor Vehicles" of Part Three, "Traffic Code," of the Codified Ordinances of the City of Cleveland Heights to clarify their effect; and declaring an emergency.

WHEREAS, this Council has determined it is in the City's best interest to clarify certain sections of the Traffic Code.

BE IT ORDAINED by the Council of the City of Cleveland Heights, Ohio, that:

SECTION 1. Subsection (b)(1)(A) of Section 303.99, "Penalties," of Part Three, "Traffic Code," of the Codified Ordinances of the City of Cleveland Heights shall be and hereby is amended so that henceforth the waivable penalties shall be as follows:

A.

	If paid within 72 hours of the time notice was issued	After 72 hours but within 60 days from the time notice was issued	After 60 days but prior to the time complaint and summons is issued
In truck loading zones [351.03(n)(1)]	\$20.00	\$25.00	\$35.00
In bus zones [351.03(n)(2)]	\$25.00	\$30.00	\$40.00
During posted rush hours [351.03(n)(3)]	\$30.00	\$40.00	\$50.00
<u>In fire lane</u> <u>[351.03(n)(4)]</u>	<u>\$15.00</u>	<u>\$20.00</u>	<u>\$30.00</u>
Double parking [351.03(1)]	\$25.00	\$35.00	\$45.00
Blocking a drive [351.03(b)]	\$20.00	\$25.00	\$35.00
Abandoned vehicles [351.03(r)] [303.08(a)(2)]	\$15.00	\$20.00	\$30.00
Other prohibited standing or			

ORDINANCE NO. 119-2018 (SMS)

parking places [351.03]	\$15.00	\$20.00	\$30.00
Manner of parallel parking [351.04]	\$10.00	\$15.00	\$25.00
Manner of angle parking [351.05]	\$10.00	\$15.00	\$25.00
All night parking [351.09]	\$15.00	\$20.00	\$30.00
Parking on private or public property [351.10]	\$20.00	\$25.00	\$35.00
Parking in landscaped area [351.101]	\$25.00	\$35.00	\$45.00
Obstructing lane access [351.11]	\$15.00	\$20.00	\$30.00
Single use of meter [353.07]	\$15.00	\$20.00	\$30.00
Handicapped-Disability parking [351.12]	\$100.00	\$125.00	\$150.00
Unlawful parking in meter zone [353.03]	\$20.00	\$25.00	\$35.00
Parking in violation of rules and regulations [355.05]	\$15.00	\$20.00	\$30.00
Parking inoperative-expired or unlicensed vehicle [355.11 351.14]	\$20.00	\$25.00	\$35.00

SECTION 2. Section 335.10, “Expired or Unlawful License Plates,” of Part Three, “Traffic Code,” of the Codified Ordinances of the City of Cleveland Heights shall be, and hereby is, amended so that henceforth said Section shall read as follows:

335.10 EXPIRED OR UNLAWFUL LICENSE PLATES.

(a) No person who is the owner of a motor vehicle which is parked or operated upon the public streets or highways shall fail to annually file the application for registration or to pay the tax therefor, as required by Ohio R.C. Chapter 4503.

(b) No person shall operate, drive or park upon the public streets or highways a motor vehicle acquired from a former owner who has registered the motor vehicle, while the motor vehicle displays the distinctive number or identification mark assigned to it upon its original registration.

(c) No person who is the owner of a motor vehicle and a resident of Ohio shall operate, drive or park the motor vehicle upon the public streets or highways, while it displays a distinctive number or identification mark issued by or under the authority of another state, without complying with the laws of Ohio relating to the registration and identification of motor vehicles.

(d) No person shall ~~park or~~ operate any vehicle upon any public street or highway upon which is displayed an expired license plate or an expired validation sticker.

(e) No person shall park or operate any vehicle upon any public street or highway upon which are displayed any license plates not legally registered and issued for such vehicle, or upon which are displayed any license plates that were issued on an application for registration that contains any false statement by the applicant.

- (f) (1) Whoever violates subsection (a) hereof is guilty of a minor misdemeanor.
- (2) Whoever violates subsection (b) hereof is guilty of a minor misdemeanor on a first offense and a misdemeanor of the fourth degree on each subsequent offense.
- (3) Whoever violates any provision of this section for which no other penalty is provided is guilty of a minor misdemeanor.

SECTION 3. Section 351.03, "Prohibited Standing or Parking Places," of Part Three, "Traffic Code," of the Codified Ordinances of the City of Cleveland Heights shall be, and hereby is, amended so that henceforth said Section shall read as follows:

351.03 PROHIBITED STANDING OR PARKING PLACES.

No person shall stand or park a vehicle, except when necessary to avoid conflict with other traffic or to comply with the provisions of this Traffic Code, or while obeying the directions of a police officer or a traffic control device, in any of the following places:

- (a) On a sidewalk, curb or street lawn area, except a bicycle;
- (b) In front of a public or private driveway;
- (c) Within an intersection;
- (d) Within ten feet of a fire hydrant;
- (e) On a crosswalk;
- (f) Within twenty feet of a crosswalk at an intersection;
- (g) Within thirty feet of, and upon the approach to, any flashing beacon, stop sign or traffic control device;
- (h) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the end of a safety zone, unless a different length is indicated by a traffic control device;
- (i) Within fifty feet of the nearest rail of a railroad crossing;
- (j) Within twenty feet of a driveway entrance to any fire station and, on the side of the street opposite the entrance to any fire station, within seventy-five feet of the entrance when it is properly posted with signs;
- (k) Alongside or opposite any street excavation or obstruction when such standing or parking would obstruct traffic;
- (l) Alongside any vehicle stopped or parked at the edge or curb of a street;
- (m) Upon any tree lawn, or the park portion, median or center strip of a divided roadway, or within any safety zone;
- (n) At any place where signs prohibit stopping, standing or parking, or where the curbing or street is painted yellow, or at any place in excess of the maximum time limited by signs; - including, but not limited to:

- (1) in a truck loading zone;
- (2) in a bus zone;
- (3) during posted rush hours;
- (4) in a fire lane.

- (o) Within one foot of another parked vehicle;
- (p) On the roadway portion of a freeway, expressway or thruway.
- (q) On that portion of a driveway between the sidewalk and the street curb line abutting such driveway, or where there is no sidewalk, on the driveway within twenty feet of the street curb line abutting the driveway.
- (r) In any manner as set forth in Section 303.08(a)(1) to (9) inclusive.

SECTION 4. Enacting a new Section 351.14, "Parking Expired Motor Vehicles," "Traffic Code," of the Codified Ordinances of the City of Cleveland Heights shall be, and hereby is, enacted so that henceforth said Section shall read as follows:

"No person shall park any vehicle upon any public street, highway, or municipal lot upon which is displayed an expired license plate or an expired validation sticker."

SECTION 5. The effective date of the amendments set forth in this Ordinance shall be January 1, 2019.

SECTION 6. Notice of the passage of this Ordinance shall be given by publishing the title and abstract of contents, prepared by the Director of Law, once in one newspaper of general circulation in the City of Cleveland Heights.

SECTION 7. This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health and safety of the inhabitants of the City of Cleveland Heights, such emergency being the need to clarify certain sections of the Traffic Code and timely order parking tickets for 2019. Wherefore, provided it receives the affirmative vote of five or more of the members elected or appointed to this Council, this Ordinance shall take effect and be in force immediately upon its passage; otherwise, it shall take effect and be in force from and after the earliest time allowed by law.

CAROL ANN ROE, Mayor
President of Council

SUSANNA NIERMANN O'NEIL
Acting Clerk of Council

PASSED:

Proposed: 10/15/2018

ORDINANCE NO. 120-2018 (AS)

By Council Member

AN ORDINANCE TO ACCEPT THE FACT FINDING RECOMMENDATIONS IN THE MATTER OF THE CITY OF CLEVELAND HEIGHTS AND THE OHIO PATROLMEN'S BENEVOLENT ASSOCIATION (OPBA), SERB CASE NOS.: 18-MED-01-0025/0026/0027 (CLASSIFIED PATROL OFFICERS and BASIC PATROL OFFICERS PO's and RANK OFFICERS [Sergeants, Lieutenants and Captains]).

WHEREAS, the City and the OPBA (Union) representing classified patrol officers, basic patrol officers, sergeants, lieutenants, and captains proceeded to a fact finding hearing on August 15, 2018, on various issues unresolved by mediation; and

WHEREAS, the Fact Finder issued his report and recommendations on October 10, 2018; and

WHEREAS, pursuant to 4117.14 (C) (6) ORC, and not later than seven (7) calendar days after the fact finding recommendations are served, the Council of the City of Cleveland Heights, as the legislative body, may by a vote of three-fifths of the total membership, reject the recommendations; and

WHEREAS, pursuant to 4117.14 (C) (6) ORC, if neither the legislative body nor the public employee organization (Union) rejects the recommendations, the recommendations shall be deemed agreed upon as the final resolution of the issues. Additionally, the Council of the City of Cleveland Heights, as the legislative body, may by a vote of three-fifths of the total membership, accept the recommendations; and

WHEREAS, upon review, the administration and the legislative body have determined the fact finding recommendations to be acceptable as a whole in consideration of the interests of the City of Cleveland Heights and the interest and welfare of the public.

NOW, THEREFORE, BE IT ORDAINED, by the Council of Cleveland Heights, Cuyahoga County, Ohio, as follows, to wit:

Section 1: The Council of the City of Cleveland Heights hereby accepts the recommendations of the fact finder dated October 10, 2018 and hereby authorizes the City Manager to enter into an extension of the collective bargaining agreement upon terms and conditions consistent with those recommendations and upon additional terms and conditions negotiated in the best interest of the City and subject to approval of the Director of Law.

ORDINANCE NO. 120-2018 (AS)

Section 2: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of peace, health, and safety in the City of Cleveland Heights and for the further reason that action is necessary within seven (7) days of the issuance of the fact finding recommendations consistent with the provisions of section 4117.14 (C) (6) of the Ohio Revised Code.

Carol Ann Roe, Mayor
President of the Council

Susanna Niermann O'Neil
Acting Clerk of Council

PASSED: _____
Date

Total Members _____ Voting yes _____ Voting No _____

FACT FINDING REPORT
STATE OF OHIO
STATE EMPLOYMENT RELATIONS BOARD
October 8, 2018

In the Matter of:)	
)	
The City of Cleveland Heights)	
)	
)	SERB Case No.
)	18-MED-01-0025/0026/0027
vs.)	
)	
)	
Ohio Patrolmen's Benevolent)	
Association)	
)	

APPEARANCES

For the City of Cleveland Heights:

Sandy Conley, Employer Advocate, Clemans, Nelson & Associates
Michael Zhelesnik, Employer Advocate, Clemans, Nelson & Associates
Annette Mckkenburg, Chief of Police for the City of Cleveland Heights
Susanna Mierman O'Neil, Vice City Manager City of Cleveland Heights
Laurie Sabin, Finance Director City of Cleveland Heights
Anna Smity, Human Resources Director City of Cleveland Heights

For the OPBA:

Dan Leffler, Staff Representative and Attorney for the OPBA
Susan M. Bungard, Attorney for the OPBA
Michael D'Amico, Member of the Cleveland Heights Police Department
Greg Jackomin, Member of the Cleveland Heights Police Department

Fact Finder: Dennis M. Byrne

Background

This fact-finding involves the City of Cleveland Heights Police Department (Employer/Department) and the Cleveland Heights Police Officers, the Basic Patrol Officers, and the classified Patrol Officers employed by the Cleveland Heights Police Department. The Department has 115 members represented by the Ohio Patrolmen's Benevolent Association (OPBA/Union). Negotiations for successor agreements for the contracts that expired on March 31, 2018 started in February 2018. The parties held three negotiating sessions in an attempt to find mutually acceptable language for successor agreements for their expired contracts; but in spite of their efforts, they were unable to reach a final agreement on new contracts. The parties also engaged in a mediation session with a SERB mediator, but that effort was also unsuccessful.

The parties certified nine issues for factfinding. These issues are 1) Article 7, Hours of Work; 2) Article 10, Health Care; 3) Article 12, Appeal of Disciplinary Action; 4) Article 28, Equitability; 5) Article 29, Duration; 6) Appendix A, Choice of uniform and Field Training Officer; 7) Appendix B, Wages; 8) Article (new), Duty Hours and, 9) Article (new), Personal Leave. It should be noted at this point that some open Articles have more than one Section that one or both of the parties wish to change. Therefore, there are more than nine open issues.

The Fact Finder and the parties engaged in a mediation effort prior to the start of the formal hearing, and the parties agreed to sign off on a number of tentative agreements including Article 7, Hours of Work Sections (1) and (3); Article 10, Health Insurance; Article 29, Duration; Appendix A, Police Training Officer; and Appendix A, Clothing Maintenance Allowance.

Since the parties were unable to reach a final agreement, there was a formal hearing on the outstanding issues. The Hearing commenced at 2:00 P.M. on Wednesday August 15, 2018, at the Cleveland Heights Police Department. The hearing ended at approximately 3:30 P.M. During the hearing the parties presented testimony and exhibits in support of their positions on the open issues.

The Ohio Public Employee Bargaining Statute sets forth the criteria the Fact Finder is to consider in making recommendations in Rule 4117-9-05. The criteria are:

- (1) Past collectively bargained agreements, if any.
- (2) Comparison of the unresolved issues relative to the employees in the bargaining unit with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved.
- (3) The interest and welfare of the public, and the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standards of public service.
- (4) The lawful authority of the public employer.
- (5) Any stipulations of the parties.
- (6) Such other factors, not confined to those listed above, which are normally or traditionally taken into consideration in the determination of issues submitted to mutually agreed-upon dispute settlement procedures in the public service or private employment.

Introduction:

This negotiation proved challenging for both the parties and the Fact Finder. The main reason is that there is an unusual Article in both the police and fire contracts. The language is contained in Article XXVIII and is titled Equitability Clause. The language reads as follows:

EQUITABILITY CLAUSE

If any other classified Civil Service bargaining unit in the City of Cleveland Heights which is negotiating under the jurisdiction of the State of Ohio Collective Bargaining Act (Chapter 4117) is given by the City or awarded in binding arbitration, a base pay percentage or other applicable fringe benefit (including but

not limited to health/hospitalization, insurance pension, etc.) during the term of this contract which exceeds that included in this agreement, the members of this bargaining unit shall receive such additional benefit coincident with its being given to such other classified Civil Service bargaining unit. In-as-much as there are not all like benefit and pay item with the bargaining units, when applying the foregoing, the value of the package as a whole will be considered, not individual components of the package.

The only other “classified Civil Service Bargaining Units” within the City are the firefighters and the ranking officers in the Fire Department. Therefore, this language requires complete parity between the Fire and Police Departments. “Historically, one or the other of the two groups (OPBA or IAFF) would take the lead in negotiations, and the other group would follow with the same overall economic package.” (City Prehearing Statement)

The Fact Finder is going to recommend that this language be deleted from the contract. The Fact Finder believes that the framers of ORC 4117 intended that each bargaining unit should have the right to bargain for themselves. The act does not envision a situation where one bargaining unit sets the terms of the agreement between any Employer and all or most of his/her employees. Because the law allows each bargaining unit to negotiate for itself, each unit has the chance to bargain for higher wages than the average, or a change in the uniform allowance, etc. In some senses, one size does not fit all, especially in contracts negotiated over a twenty year span.¹

The second factor that needs some discussion is the financial state of the City. Both parties submitted financial information in their prehearing submissions. Not surprisingly, both came to different conclusions. The City presented testimony from the

¹ The way to operationalize the Equitability Clause is to have a formal coalition of public safety workers. However, the Fact Finder believes that neither the police officers nor the firefighters want that outcome. The jobs are different, that fact means that each unit wishes to negotiate an agreement that meets its specific needs.

Finance Director, Laurie Sabin. She testified that a tax increase passed in 2015 made the City's financial condition look better than it actually is. She went on to state that the City would begin to run a deficit in the General Fund in 2020, and that the General Fund carryover balance would approach \$0.00 in 2023. She testified that the only way to handle the looming financial problems was to proactively begin to take measures to control expenditures in 2018 and into the future. She finished her testimony with the statement that the City could not afford to pay its employees more than the 2.0% that it offered the firefighters and other members of the City's labor force. (Information behind TAB marked Financial Data in the City's Prehearing Statement/Exhibit book)

The Union disagrees with the analysis. The Union presented data compiled by Sargent and Associates on the City's finances. This analysis shows that the City's General Fund will maintain a balance of 13% to 15% through 2020. That is, the City can afford to pay more than a 2.0% wage increase. (Report behind TAB 6 in the Union's Prehearing statement book)

The Fact Finder has examined all of the data submitted by the parties on the City's finances and finds that the City is currently able to fund the Union's wage demand. However, the projections for the future are less clear. The City's intermediate to long term forecasts assume that revenues will be flat over the coming years. This forecast seems to be based on two factors. First, the State is systematically reducing its support for local government and that trend is forecast to continue. Second, the City forecasts no growth in its tax revenues or property tax receipts. Moreover, the City does not count other sources of revenue. For example, the City does not count monies transferred into the Budget Stabilization Fund as funds that could be used to fund current operations.

The City's Finance Director has taken a conservative view of the City's financial outlook. That is understandable and in line with the practice of almost all municipal finance directors. However, the City's own figures show that the current carryover is approximately 15% of expenditures. This is important because the Government Finance Officers Association recommends that the carryover balance should fund City operations for two months. Cleveland Heights has a fund balance that approaches the recommended level. However, the recommendation is only that. The Finance Officers Association recognizes that most cities will never have a carryover approaching 15% of General Fund expenditures.

While the future is murky, the present economic picture is known. The American economy is extremely strong at the present time. Unemployment is approaching record low levels. It is true that Ohio is lagging most of the nation in economic growth, but even Ohio is moving in the right direction. This means that absent some horrible economic news, the economy should remain strong in 2019. Attempts to forecast the future of the economy are notoriously imprecise. This is especially true in today's unusual economic environment. That being said, the short to intermediate term outlook for the economy seems positive. Nevertheless, the Fact Finder's conclusion that the City can afford to fund the Union's wage demand does not imply that the City does not have to be careful to control its expenditures at the present time and into the future.

However, based on all of the above, the Fact Finder believes that the City's financial outlook is brighter than the City forecasts. Again, that means that the Fact Finder believes that the City can afford to fund the Union's wage demand. However, that finding is only one side of the issue. That second question is, "Should the City meet the

Union's wage demand?" The Fact Finder will attempt to answer that question when the wage issue is discussed.

Issue: Article 7; Hours of Work Section (New) Duty Hours

Union Position: The Union demands that the City give at least a 60 day notice if it intends to change the current scheduling pattern of assigning 12 hour shifts to the patrol officers.

City Position: The City rejects any Union demand related to scheduling. The City contends that scheduling is a Management Right and that it does not have to bargain on this issue.

Discussion: After listening to the Union's rationale for its demand, the City indicated that it was willing to add a memorandum of understanding to the contract. The Union wants the memorandum to state that the City will give a 60 day notice of its intention to change officer schedules. The City countered with a 30 day notice.

The Fact Finder is recommending the City's position on this issue. Scheduling is a Management Right; and as such, the Employer does not have to make any concession on this issue. A 30 day notice period is less than the Union demanded, but it is reasonable given the fact that there is no language related to scheduling in the current agreement.

Finding of Fact: The parties agreed to append a Memorandum of Understanding to the contract stating that the Employer will give at least 30 days notice of any intention to change the current scheduling pattern. Both parties agree that the Memorandum of Understanding will not make scheduling a mandatory issue for future negotiations.

Suggested Language:

Memorandum of Understanding

Abolishment of Twelve (12) Hour Shift Schedules

In the event that the City determines to abolish the use of twelve (12) hour shift schedules, the affected officers will be provided with a minimum of thirty (30) calendar days advanced notice.

It is understood and agreed by the parties that this Memorandum of Understanding shall not serve to make scheduling a mandatory topic of bargaining.

This Memorandum of Understanding shall expire on March 31, 2021.

Issue: Article 12: Appeal of Disciplinary Action

Union Demand: The Union demands that any disciplinary action that leads to a suspension be subject to the arbitration procedures found in the contract.

City Position: The City rejects the Union's demand.

Discussion: There was very little discussion of this issue during the mediation and formal hearing. The Fact Finder notes that there is no discipline clause in the contract. Therefore, there is no progressive discipline ladder specified, although Article 12 does imply that the officers are subject to progressive discipline. In many, although not all, contracts any discipline that leads to a suspension is subject to the arbitration language of the contract. Therefore, the Union's demand is unexceptional.

The Fact Finder has very little information on how to evaluate this issue. There was no discussion of the number of grievances or the number of suspensions, etc. Therefore, the Fact Finder is unsure if the current language is causing any problems for the parties. Moreover, the City testified that the current language was negotiated into the just expired contract and has caused no problems. Consequently, the Fact Finder is not

recommending any change in the current language. However, if there are problems with the current system, then the Union should raise this issue again in future negotiations.

Finding of Fact: The Union did not prove that there was a need to change the language of Article 12.

Suggested Language: Current /contract Language

Issue: Article 28: Equitability

City Position: The City demands that Article 28 be removed from the contract.

Union Position: The Union rejects the City's demand.

Discussion: The Introduction to this report has already discussed this issue to some extent. However, the issue was raised at the hearing, and the parties' positions on this issue need some further discussion.

The City argues that its hands are tied when bargaining with the police officers. The City believes that it must maintain the offer that the firefighters accepted or it will be forced to change the settlement package that it negotiated with the firefighters. That is, the City argues that it would be subject to "whipsawing" if it changed the language in the Articles that it settled with the Fire Department. Therefore, the City is unwilling to discuss issues that have an economic impact with the OPBA. It must be noted at this point, that the City is unhappy with this outcome. The City believes that the OPBA should be able to negotiate on its own.

The OPBA is also unhappy with the current state of events. The Union pointed out numerous times that the Equitability Clause should mean that the police officers and the firefighters should be in the same economic position. However, the OPBA proved

that the firefighters earn significantly more than the patrolmen. Much of the difference is found in the different educational bonuses and the paramedic pay language in the IAFF contract. The firefighter's educational bonus is much higher than the police officers' bonus. A police officer would need to earn a Ph.D. to earn the same bonus that a firefighter earns with an Associate Degree in fire science. In terms of the paramedic pay stipend, a firefighter/paramedic earns a 5.0% pay increase for holding the paramedic certifications. (Article XXVI of the IAFF contract)

The City stated during the mediation that when it required its firefighters to earn a paramedic certification that it had to pay a bonus to the firefighters. This is another reason for the difference in the 'bonus payments' found in the two contracts. The firearms qualification bonus found in the police contract is less than the paramedic pay bonus found in the IAFF contract. What this illustrates is that the City had to pay a market rate, i.e., a higher wage to hire and keep paramedics than the rate it had to pay police officers to qualify with their firearms. This market wage argument is the antithesis of the Equitability clause. That is, the firefighters earned a unique bonus that was unavailable to the police officers, and the overall labor market for paramedics necessitated a high wage supplement payment.

Consequently, the OPBA believes that it should be able to negotiate with the City without the Equitability Clause creating a situation where the City argues that it must consider the impact that the patrol officers' settlement will have on the firefighters and by extension the entire City. The City also believes that the current system is not in any way optimal. Given the Fact Finder does not think that the clause allows collective bargaining

to proceed in a way that was envisioned by the Legislature when it passed ORC 4117, the Fact Finder does not believe that the Equitability Clause should remain in the contract.

Finding of Fact: Both parties believe that the Equitability Clause interferes with their ability to negotiate a contract that meets their unique needs.

Suggested Language: Delete Article 28.

Issue: Article (New) Personal Leave

Union Position: The Union demand is for two shifts of Personal Leave per calendar year. This means that an officer on a twelve hour shift earns twenty-four (24) hours of Personal Time and an officer on an eight (8) hour shift earns sixteen (16) hours of Personal Time.

City Position: The City is offering eight (8) hours of Personal Time for the members of the bargaining unit.

Discussion: This demand is based on the firefighters' contract. This is a case where the Equitability Clause should apply. The IAFF has a Holiday Article in their contract, and personal leave is "hidden" in the language of the holiday article. The OPBA units do not have a Holiday Article in their contracts. That is, there is no Personal Leave clause in the Firefighters' Holiday Article, but personal leave is mentioned a number of times throughout various sections in the Article. It is not clear to the Fact Finder how long the Personal Leave language has been included in the IAFF contract.

Regardless, the OPBA now wants parity (equality) with the IAFF. The original demand by the OPBA mirrors the IAFF language. During negotiations and the mediation before the formal hearing, the City and the OPBA modified their positions on the issue.

The OPBA demand is for two personal days. Because there are twelve hour and eight hour shifts, the OPBA demand is for a different number of personal leave hours depending on the police officers shift. An officer with a twelve hour shift would receive twenty four hours of personal leave, and an officer with an eight hour shift would receive sixteen hours of personal leave, i.e., regardless of the shift assignment all OPBA members receive two personal days. The City has offered eight hours of personal leave for all of the members of the bargaining units. This offer is not comparable to the personal leave in the firefighters' contract.

This is a situation where the Equitability Clause would seem to apply. However, the personal leave language in the firefighters' contract did not find its way into the OPBA contract. That implies that the contracts are not "equitable." This also tends to support the idea that the Equitability Clause has not worked as it was intended and that each party should be free to negotiate a contract that meets their individual needs.

The Fact Finder is recommending that the OPBA contracts include sixteen hours of Personal Leave. This is not strictly comparable to the firefighters' contract, but it does bring the two contracts into a rough agreement on this issue. The concept of Personal Leave is standard in many contracts, and it is a way for the Employer to allow his/her employees to take time off for family matters. In these negotiations, the parties have agreed to place Personal Leave language into their agreement. The only change that the Fact Finder is recommending is that the number of hours of personal leave should be somewhat similar to the other bargaining units in the City.

Finding of Fact: The OPBA contracts are deficient in Personal Leave time compared to other City bargaining units.

Suggested Language:

Article 30
Personal Leave (New)

Section 1: Sixteen (16) hours of paid personal leave will be placed in a non-probationary employee's account on January 1st in each year of the contract, commencing January 1, 2019. Any new hired probationary employee will be credited with a pro-rata share of personal time following successful completion of the first year of employment.

Section 2: Requests for use of personal leave must be submitted at least seventy-two (72) hours in advance of the date being requested. Personal leave must first be used in full shift increments (eight hours or twelve hours) and must be approved in advance by the Chief or her designee; remaining hours, if any, that do not constitute a full shift may then be requested. In the case of emergency circumstances, the Chief/designee may waive the seventy-two (72) hour advance request requirement

Section 3: Any hours of unused personal leave remaining in an employee's personal leave account on December 31 of each year, or at the time of separation from employment if prior to December 31, are not subject to payment and will be eliminated.

Issue: Appendix A: Choice of Uniform

Union Position: The Union demands that the officers be given the choice of wearing summer or winter uniforms (shirts).

City Position: The City claims that this issue is covered by the Management's Rights clause and that it is not a mandatory item for negotiations.

Discussion: The City's position is correct. However, the parties discussed the issue during mediation. The discussion showed that the officers wear long sleeve uniforms between October and April and short sleeved uniforms between May and September. In addition, if the weather is unusually warm, the City stated the Chief often allowed the officers to wear short sleeved shirts. Therefore, while the City is not willing to negotiate on the issue, it did state that Chief was aware that there were some days when long (short) sleeved shirts could be worn out of season.

Finding of Fact: This is a permissive item, and the City is unwilling to add any language on this issue into the contract.

Suggested Language: None

Issue: Appendix B: Compensation – Wages

Union Position: The Union demands a four (4.0%) percent wage increase in each year of the prospective contract.

City Position: The City is offering two (2.0%) percent in each year of the prospective contract.

Discussion: The IAFF contract specifies a wage increase of two (2.0%) percent in each year of the prospective contract. The City claims 1) that this is all it can afford, and 2) that the Equitability Clause ties its hands regardless of any other consideration. The Fact Finder has already stated that he believes that the City can afford to meet the OPBA demand. The question is whether the City should meet the OPBA's demand.

The parties presented evidence on the wage issue in the form of comparables data. The data presented by the parties is not consistent because there is very little overlap between the Parties' lists of comparable jurisdictions. The City uses Beachwood, Berea, Cuyahoga Falls, Euclid, Lakewood, Lyndhurst, Mentor, Parma, Shaker Heights, South Euclid and University Heights as its comparables. The Union presents data on Beachwood, Lyndhurst, Shaker Heights, South Euclid, and University Heights. These jurisdictions are the five highest paid jurisdictions on the City's comparables list.

The Union also presented a large spreadsheet of all jurisdictions in Cuyahoga County. That spreadsheet has most of the jurisdictions found in the City's comparables

list with the exception of Cuyahoga Falls and Mentor because neither of these jurisdictions are in Cuyahoga County. That data shows that Cleveland Heights is in the middle of the comparables with respect to wages in Cuyahoga County.

That finding is reinforced if information from the highest wage jurisdictions is omitted. Beachwood, Highland Heights, Independence, and Solon pay significantly more than other jurisdictions in Cuyahoga County. These jurisdictions have significantly different demographic conditions than most other cities in Cuyahoga County. Furthermore, their tax receipts are higher than other cities in the County. Therefore, these cities seem to be outliers and are not really comparable to Cleveland Heights.

Surprisingly, the City's data show that the police officers and ranking officers are more poorly paid than the Union's spreadsheet. However, the conclusion reached above is still valid. Cleveland Heights is somewhere in the middle of the pay scale for jurisdictions that are listed as comparable by the parties. Therefore, the Fact Finder does not believe that either of the parties have shown a need for an equity adjustment.²

The data for ranking officers shows that the Lieutenants are comparatively well paid with regard to other lieutenants in Cuyahoga County. The same data show that the Cleveland Heights sergeants are among the worst paid sergeants. There is really not enough data to determine the relative positions of the captains. However, the data that is available shows that Cleveland Heights police captains are relatively well paid.

The next piece of evidence put into the record by the parties is SERB data on negotiated wage increases. That data shows that 2.0% is the median wage increase and

² It should be noted that if Cleveland Heights falls any further behind in the coming years, the City may fall into the lower third of pay for Police Departments in Cuyahoga County.

that anything above 2.0% is somewhat unusual for contracts negotiated in 2017 and/or 2018. The SERB data also shows that the wage increases for Cleveland Heights are similar to wage increases negotiated both in the local area and throughout the entire State. For 2017 the data shows that for the Cleveland Region, the average wage settlement is 2.15%. The average wage settlement for cities in 2017 was 2.16%, and the 2017 average wage settlement for police departments was 2.2%. Cleveland Heights paid a 2.0% wage increase.

In summation, the data presented by the parties does not show that Cleveland Heights is among the highest paid police departments in the Cuyahoga County area. At that same time, the data does not show that the Cleveland Heights Department is among the lowest paid Departments. It is somewhere in the middle.³

The next question that needs some discussion is the impact that any recommendation made by the Fact Finder would have on the City as a whole. Assume for the sake of argument, that the Fact Finder determines that the police patrolmen deserve a three percent wage increase. Under the Equability Clause, the firefighters would also get a three percent raise, which is more that the IAFF agreed to in negotiations.

The Fact Finder in the police negotiations is not the Fact Finder in the IAFF negotiations. He does not know anything about the fire department. He does not know if the fire comparables show that IAFF members are well or poorly paid. He does not have

³ It would be helpful if the parties could agree on what constitutes a comparable jurisdiction. The Fact Finder used all of the data presented by both parties in various combinations, but the result was always the same. However, the parties themselves are the best judges of what constitutes a comparable jurisdiction.

any information at all except the fire contract. Moreover, if the police and fire units receive a three percent raise, that will sooner or later spread throughout the City.

The result is that a Fact Finder making a judgment on one bargaining unit will have an outsized impact on the City's entire labor force. This is not what the framers of ORC 4117 envisioned when they passed the Collective Bargaining Act. The Fact Finder believes that the Equitability Clause leads to a situation where either the OPBA unit is held captive to the IAFF settlement or vice-versa depending on which unit goes first in a set of negotiations. Moreover, the City understands that the Equability Clause means that it must guard against whipsawing, and that means it must always consider the impact that any decision has on all safety forces, not just the one at the bargaining table.

The Fact Finder believes that internal comparability is an important consideration in wage negotiations, but it cannot be the only consideration. The current system in Cleveland Heights means that other factors besides those cited in Rule 4114-9-05 must be given less weight than any theory of collective bargaining implies.

Finding of Fact: The data presented by the parties shows that the Cleveland Heights Police Department is neither among the best or worst paid Police Departments in the area. Moreover, a two percent wage increase is reasonable given all of the data in the record.

Suggested Language: All of the contracts shall show an across the board wage increase of 2.0% per year for each year of the prospective contract.

Signed this 10th day of October 2018, at Munroe Falls, Ohio.

/Dennis Byrne/

Dennis M. Byrne, Fact Finder



CLEVELAND HEIGHTS

October 3, 2018 Minutes

COMMITTEE OF THE WHOLE

6:30 – 7:23 p.m.

Mayor Roe presiding

Roll Call: Present: Dunbar, Roe, Stein, Stephens, Ungar, Yasinow
Excused: Seren

Staff present: Boland, Briley, Butler, Clinkscale, Juliano, Lambdin, Mannarino, McRae, Mecklenburg, Niermann O'Neil, Sabin, Smith, Trupo, Wong

Topics discussed: 2018 Resident Survey Results Presentation, Legislation Overview, Report of City Council Members, Discussion of Staff Reports.

CITY COUNCIL

7:31 – 8:15 p.m.

Mayor Roe presiding

Roll Call: Present: Dunbar, Roe, Stein, Seren (arrived 15 minutes later) Stephens, Ungar, Yasinow

Staff present: Boland, Briley, Juliano, Lambdin, Mannarino, McRae, Mecklenburg, Niermann O'Neil, Sabin, Smith, Trupo, Wong

The minutes of the regular Council meeting held Monday, September 17, 2018 were approved with corrections submitted.

Personal communications from citizens

Wendy Hyde, the Ohio and Michigan Director for Tobacco 21 made a statement of support for the Tobacco 21 legislation.

Rick Novikis, Director of Environmental Health at the Cuyahoga County Board of Health, made a statement of support for the Tobacco 21 legislation.

Diana Woodbridge, Chair of Cleveland Heights Greater Cleveland Congregation, thanked Council and made a statement of support for foreclosure legislation.

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
WEDNESDAY, OCTOBER 3, 2018**

Barbara Sosnowski from Noble Neighbors made a comment of appreciation for Public Works, Council staff and landscaping staff for the planters in the Noble Neighborhood. She requested that Noble Roanoke green space be seeded with grass.

Report of the City Manager

Nothing to report

Report of the Director of Finance/Clerk of Council

Notify Council that notice has been received from the Ohio Department of Liquor Control advising that an application has been made by the following: Bookers Enterprise II LLC, dba Bookers Lounge, 13179 Cedar Road, Cleveland Heights, OH 44118, new D1 permit

Matter of Record

Refer to: Public Safety and Municipal Services Committee of Council, the City Manager, and the Director of Law

Committee Reports

FINANCE COMMITTEE

Nothing to report

HOUSING AND TRANSPORTATION COMMITTEE

ORDINANCE NO. 110-2018 (HT), Second Reading. An Ordinance amending Chapter 1369, “Basic Standards for Business Occupancy,” of Title Seven, Business Maintenance Code, of the Codified Ordinances of Cleveland Heights to enact a provision requiring a cash bond upon foreclosure of vacant commercial properties.

Introduced by Council Member Dunbar, Seconded by Council Member Ungar

Council Member Stein stated that Council Member Seren arrived. Council Member Seren thanked everyone involved in this legislation. Vice Mayor Yasinow made a statement of support for the legislation. Council Member Stephens made a statement about the foreclosure process and a statement of support for the legislation. Council Member Dunbar made a statement of support for the legislation.

Roll Call: Ayes: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow
 Nays: None

Legislation Passed

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
WEDNESDAY, OCTOBER 3, 2018**

ORDINANCE NO. 111-2018 (HT), Second Reading. An Ordinance amending Chapter 1351, “Basic Standards for Residential Occupancy,” of Title Five, *Housing Code*, of the Codified Ordinances of Cleveland Heights by enacting a new Subsection 1351.33(d) to enact a provision requiring a cash bond upon foreclosure of vacant residential properties.

Introduced by Council Member Dunbar, Seconded by Council Member Ungar

Roll Call: Ayes: Roe, Seren, Stein, Stephens, Ungar, Yasinow, Dunbar
Nays: None

Legislation Passed

The League of Women Voters is holding a Candidates’ Night at the Senior Center tomorrow at 7:00 p.m. Saturday, October 6, Council Member Dunbar is leading a bike ride from Roxboro. The Happy 5K is at Cedar Lee on October 7 at 10:00 a.m. The Heights Chamber Orchestra is having a concert at 3:30 p.m. at the Fairmount Blvd. Baptist Church. October 10 is Walk or Bike to School Day.

PLANNING AND DEVELOPMENT COMMITTEE

RESOLUTION 115-2018 (PD). A Resolution authorizing the City Manager to execute a non-binding Letter of Intent and subsequent Purchase Agreement with Julianne C. Aldige concerning the City’s possible purchase of 60 Severance Circle

Introduced by Vice Mayor Yasinow, Seconded by Council Member Stephens

Vice Mayor Yasinow made a statement of support for the legislation as an ongoing effort for the redevelopment of Severance.

Roll Call: Ayes: Roe, Seren, Stein, Stephens, Ungar, Yasinow, Dunbar
Nays: None

Legislation Passed

The upcoming deadline for registering to vote is October 9. The Happy 5K is at Cedar Lee on October 7 at 10:00 a.m. and the 1 mile Fun Run starting at 9:30 a.m. The City’s resident survey results are back and the City scored above the national average in 41 of 59 areas. It rated 18% above the national average in overall satisfaction of city services. Vice Mayor Yasinow reminded residents to lock their doors and keep valuables in the trunk.

RECREATION, COMMUNITY AND EXTERNAL RELATIONS COMMITTEE

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
WEDNESDAY, OCTOBER 3, 2018**

RESOLUTION NO. 116-2018 (RCER). A Resolution joining communities throughout the nation in proclaiming October 2018 National Breast Cancer Awareness Month; October 13, 2018, Metastatic Breast Cancer Awareness Day; and October 19, 2018, National Mammography Day

Introduced by Council Member Seren, Seconded by Council Member Dunbar

Roll Call: Ayes: Stein, Stephens, Ungar, Yasinow, Dunbar, Roe, Seren
Nays: None

Legislation Passed

RESOLUTION NO. 117-2018 (RCER). A Resolution proclaiming October 2018 as *Domestic Violence Awareness Month*

Introduced by Council Member Seren, Seconded by Council Member Dunbar

Council Member Dunbar made a statement about the domestic violence reported in the Sun News. Vice Mayor Yasinow made a statement about domestic violence and her support for the legislation.

Roll Call: Ayes: Stephens, Ungar, Yasinow, Dunbar, Roe, Seren, Stein
Nays: None

Legislation Passed

SAFETY AND MUNICIPAL SERVICES COMMITTEE

ORDINANCE NO. 118-2018 (SMS), First Reading. An Ordinance enacting Chapter 729, Tobacco Product Vendors; Sales to Persons Under 21, of the Codified Ordinances of Cleveland Heights to prohibit sales to persons under 21 and to provide for permitting of businesses who sell tobacco products; and repealing Section 537.16, "Illegal Distribution of Cigarettes, Other Tobacco Products Or Alternate Tobacco Products," in Chapter 537, Offenses Against Person, of the Codified Ordinances of Cleveland Heights.

Introduced by Council Member Stein

Council Member Stein made a statement of support for the legislation.

Council Member Stephens made a statement of support for both the Breast Cancer Awareness legislation and the Tobacco 21 legislation.

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
WEDNESDAY, OCTOBER 3, 2018**

Council Member Ungar made a statement that his daughter is the Executive Director of the organization and that is how he became aware of the issue and why he has to recuse himself from the vote.

ADMINISTRATIVE SERVICES COMMITTEE

Nothing to report

Mayor's Report

There is a Community Meeting for Top of the Hill on Wednesday, October 10 at 7:30 p.m. at the Community Center.

Next week, as part of the Committee of the Whole meeting, the Housing and Transportation Committee of Council will meet.

Several Council members participated in the dedication of the Barbara Boyd Park, formerly Caledonia Park, last Sunday.

There is a Committee of the Whole Meeting next week and the next City Council meeting is Monday, October 15.

Executive Session

8:23 – 9:28 p.m.

Vice Mayor Yasinow made a motion to begin Executive Session, which was seconded by Council Member Stephens, to consider the terms of a lease of City-owned real property.

Roll Call: Ayes: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow
 Nays: None

Council Member Stephens made a motion to end Executive Session which was seconded by Council Member Dunbar.

Roll Call: Ayes: Dunbar, Roe, Stein, Stephens, Ungar, Yasinow
 Nays: None

**AGENDA (tentative) CITY OF CLEVELAND HEIGHTS
WEDNESDAY, OCTOBER 3, 2018**

Respectfully submitted,

Carol Roe, Mayor

Laurie Sabin, Clerk of Council
/jkw

DRAFT