



CITY OF CLEVELAND HEIGHTS, OHIO MINUTES OF THE COUNCIL MEETING OF MONDAY, JANUARY 5, 2009

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:15 p.m.

Edward Kelley, presiding

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

Council Members absent: None

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

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

Council Member Caplan moved to adjourn into Executive Session at 7:28 p.m. Second by Council Member Evans.

Edward Kelley, presiding

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

Council Members absent: None

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

Topic of discussion included litigation.

Executive Session concluded at 7:34 p.m. and resumed into Committee of the Whole adjourning at 7:35 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, Dietrich, Evans, Kelley, Montlack, Tumeo, Wilcox

Council Members absent: None

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

The minutes of the Public Hearing held Monday, December 15, 2008 were signed by Council Member Dietrich.

The minutes of the Regular Council Meeting held Monday, December 15, 2008 were signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

REPORT OF THE CITY MANAGER

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

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

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

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "Thank you, that was fast. I think that this is probably the tenth time that I've done this resolution, because this is something we do every January. This Resolution No. 1-2009(AS) authorizes the City's agreement with Arthur J. Gallagher & Co. to continue the protected liability self-insurance program for the City; to provide compensation and its also declared an emergency.

The Arthur J. Gallagher & Co. acts as an independent insurance agency to obtain liability and property insurance for the City. Each year Gallagher obtains quotes from various companies for full and partial coverage and makes recommendations to the City. Over the past twenty years the City has chosen to be partially self-insured. The current limits of the self-insurance are \$50,000.00 per event for damage to city property and \$100,000.00 for liability. Excess coverage policies for 2009 will remain with Travelers St. Paul. The City's 2009 premium is actually lower than it was in 2008, despite a large loss that we had when there was a fire in the service garage. The agreement with Gallagher also includes the procurement of claims administration and risk management services. Gallagher Bassett Services works with the City's Human Resources and Law Department to adjust all claims filed against the City.

So what this Resolution does is authorizes the City Manager to enter into the necessary agreements with Arthur J. Gallagher and the other necessary entities to continue the City's protected liability self-insurance for the period from January 1, 2009 to December 31, 2009 at a cost not to exceed Three Hundred Forty-five Thousand Six Hundred Eighty-two Dollars (\$345,682.00) in accordance with the terms set forth in their proposal. A copy of which is on file with the Clerk of Council and that all documents and contracts be approved as to form by the Director of Law. I offer Resolution No. 1-2009(AS) as I always do at this time for passage.

Mayor Kelley accepted Resolution No. 1-2009(AS).

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

Nays: None

Resolution passed

Council Member Dietrich continued, "A couple of brief comments to begin the New Year. I just have to say that heading into 2009 I just feel so hopeful for our country and our world. I feel

confident in our President-elect and the people that he is choosing and I also have great confidence in our Governor. I feel that they are such reasonable and thoughtful and smart people, and to me those are the qualities that I think will best lead us out of the circumstances that we have been in.

I want to talk about something else that is a little more - it sort of comes under the category of a complaint I suppose. This is something that I notice periodically, it seems to happen a lot when there are holidays. I don't know if that is because people are home more and they are noticing things that they don't always notice, but every once in awhile there seems to be a rash of people mistakenly expecting that the City has powers that a City doesn't have and that some people really feel like we, as a City are being either, stupid or lazy or we don't care, because we're not fixing these problems that are really beyond our jurisdiction to fix. Today, I don't know if you read the *Monday Moaning* on page two of *The Plain Dealer*, I always read it, but there was one from a Cleveland Heights person. I'm going to read to you a little bit of it. It says "I don't know where our elected officials are but why isn't something being done for people? It's as simple as telling banks that they can't throw people out of their homes and there is going to be no shutting off of gas, water and electricity to people until the economy straightens up." Obviously, this person thinks that it is as simple as that, that the City can just tell a bank - you must let this person stay living in your house whether the person pays or not and that the City must be able to tell utility companies that they have to keep providing their utility to people who aren't paying.

I know that this is an extreme example, but I feel like we've been getting a just a plethora of e-mails lately from residents who sort of expect to act above or outside the law. Expecting us to be able to take over vacant houses, with no due process and demolish them or rehab them and to evict people who aren't good neighbors. I don't mean to confuse these with e-mails that people offer us suggestions or they're telling us about homes in their neighborhood that are becoming problems. We really do welcome that. These are e-mails that express real outrage, that we aren't sort of wielding power willy-nilly. I just want people to know that we try as hard as we can to be proactive about the problems that we are facing but, there are just certain laws that a City can't just overstep and there are times in our enthusiasm to solve problems that we come up with ideas, but then our well guided Law Director puts us on the straight and narrow, and he says "No, no, you know you can't do that." I guess what I'm saying is that we really want to communicate with people and that suggestions are truly good and we want to know what your concerns are, but when you come at us with such sarcasm and such accusations that we really don't care at all - it just makes it really hard to carry on the conversation that you're wanting to have. If you're wanting to have a conversation with e-mail or whatever, if you can come at us without the outrage. If we don't respond and you want to get outraged then I understand that, but very often it would be someone's first try at conversing with somebody from the City and it is full of accusations and I just want to say it doesn't help us communicate with each other. That's my complaint. Thank you."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION

Vice Mayor Evans stated, "Thank you. I'd like to present Resolution No. 2-2009(CRR), is a resolution authorizing the City Manager to accept a grant from Cuyahoga Arts and Culture on behalf of the City of Cleveland Heights; and declaring an emergency. Cuyahoga Arts and Culture has awarded a grant of Twenty-one Thousand One Hundred Fifty Dollars (\$21,150.00) to the City of Cleveland Heights to support the 2008 Cain Park Arts Festival. Acceptance of said grant will aid in the City's efforts to continue the presentation of the Cain Park Arts Festival, and will be of benefit to the City and its residents.

Section 1 states that the City Manager will be authorized to accept a grant from the Cuyahoga Arts and Culture in the amount of Twenty-one Thousand One Hundred Fifty Dollars (\$21,150.00). I'd like to present this feel good Resolution for passage this evening.

Mayor Kelley accepted Resolution No. 2-2009(CRR).

Mayor Kelley commented, "I just want to say that I'm very respectful and glad we are getting this money but when you look at the two years that the program has been in existence and these are actually our tax dollars being returned to us. We received only .42 cents a citizen. A very, very minor amount of money, compared to what tax dollars come out of Cleveland Heights and I think we'll be spending this year as a Council, maybe as the First Suburbs Group, pursuing it more to see that we get, what I call our fair share. Cain Park is a jewel. We have many great nonprofit performing arts and theaters and venues here in Cleveland Heights including Heights Arts, that really - I don't think we get our fair share. I think this will be one of our issues on our table for the year 2009. I realize the Commissioners have a lot of other things on their agenda with the nearly billion dollar general fund, but it's time Cleveland Heights got its fair share. The first year they didn't even know how to categorize us to receive a grant, and I don't think it is acceptable that we are being treated this way and we will pursue it later on."

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

Nays: None

Resolution passed

Vice Mayor Evans continued, "I would once again like to remind our listeners that we will have a wonderful Martin Luther King celebration on Wednesday, January 14th at 7 p.m. at the Community Center. I certainly want to encourage everyone to come out and be a part of that program. We generally have a really nice program and everyone comes out of the program feeling really good at the end of that evening. Monday, January 19th, Martin Luther King Day, City Hall will be closed, so just a reminder - not to put your trash out, it will be a day later that things will be picked up. That concludes my remarks. Happy New Year."

REPORT OF THE FINANCE COMMITTEE

Councilman Montlack stated, "Thank you, your Honor. Other than wishing everyone a Happy New Year, there is no report."

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Councilwoman Caplan stated, "Thank you. I have one piece of legislation, Ordinance No. 3-2009(MS). This is an old issue, it's about those wonderful looking silver boxes that AT&T who does business - Ohio Bell that does business as AT&T wants to put out. This is an Ordinance authorizing easements to The Ohio Bell Telephone Company dba AT&T Ohio for upgraded equipment and underground wiring on a portion of the City-owned property identified as Permanent Parcel No. 683-25-014 and located at the northern corner of the intersection of South Taylor Road, Severance Circle, and Access Drive No. 3 to Severance Center. That's the one that comes half-way between Mayfield and Euclid Heights.

In order to provide upgraded service The Ohio Bell wants to install their equipment on our land. We have negotiated with them to push it back away from the sidewalk and closer toward the ravine that's there. Hopefully they will hide it to some extent with greenery. It's something they are supposed to be doing around the City. Sometimes their greenery isn't so green looking. But we have no choice really. The state legislature has taken away all of our options to force Ohio Bell to do anything more than what it is that they do. So, the grant of such proposed easements will not interfere with the use of the property for municipal purposes and would be in the best interests of the City and its residents, so

that you could all watch tv on HDTV or whatever it all is. Therefore be it ordained by the Council that the City Manager is authorized to execute two documents granting easements. The first easement is an exclusive easement and the second one is a nonexclusive easement on that property that I just told you about. Notice of passage shall be given and this Ordinance is declared to be an emergency for passage tonight. So, I offer Ordinance No. 3-2009(MS) for passage.

Mayor Kelley accepted Ordinance No. 3-2009(MS).

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

Nays: None

Ordinance passed

Councilwoman Caplan continued, "Thank you and now with the new year and it's a time to think about being hopeful. Many of us really are hopeful about the incoming new president and perhaps a new spirit in our country. Maybe we can all begin to think about our environment in a new way and I encourage you to think about making a small new year's resolution that would really affect the greater community and that is to be better about recycling. A lot of you are marvelous about the blue bag stuff, you put in those cans and those bottles and you're really good about it. Lots of you do the newspapers, but you have so much paper coming into your house that doesn't go out in a bag and I want to tell you it pains me, that when I see how the garbage is picked up, and I can see in my neighborhood - sometimes the garbage is picked up first and the recycling is later and you can see how few people put out all those boxes that came with all those toys for Christmas, all of the decorations, paper bags, paper wrappings that could have all been recycled. Recycling the tubes for the wrapping paper, think about those cereal boxes and the inside of the paper towels. It really matters and now when you're putting out your Christmas trees, do not put them in plastic bags. Drag them out to street, the City will pick them up and recycle them. If they're in a plastic bag it doesn't get recycled. So, think about the world larger than the two minutes that you think you don't have to do this. Really, it takes no time - you open your mail over a paper bag that you get at the grocery store, because I know you don't get your groceries packed in a double bag, where it's a paper bag and then it's a plastic bag. I know you don't do that because you know how bad those plastic bags are. So I encourage you, to really make a new year's resolution and try and think about the bigger environment because each person could really make a difference. With that, I wish you a Happy New Year. Thank You."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Councilman Wilcox stated, "Thank you, your Honor. I have one piece of legislation. Resolution 4-2009(PD) authorizes the City Manager to enter into a renewal of an agreement with the Cleveland Restoration Society: Preservation Resource Center of Northeastern Ohio for historic preservation consulting services in connection with the Heritage Home Loan Program; providing compensation therefor; and declaring an emergency.

This is another one of those pieces of legislation that we have adopted every January to continue our relationship with the Heritage Home Loan Program and the Cleveland Restoration Society. This began in 2001 with Council authorizing the City Manager to enter into an agreement with the Cuyahoga County Commissioners for participation in the Heritage Home Loan Program. That program provides low below market interest rate loans for owners of historic properties in the City for repairs and housing improvements. As I said, Council has authorized annual agreements with the Cleveland Restoration Society for historic preservation consulting services in connection with the program and it would be in the best interest of the City to continue that. This Resolution authorizes the City Manager to enter into a renewal of that agreement with Cleveland Restoration Society: Preservation Resource Center of

Northeastern Ohio for historic preservation consulting services in connection with the Heritage Home Loan Program. These services include the qualification of eligible properties, working with borrowers to develop specifications for historic rehabilitation plans, consultation during construction and inspection of the properties at the conclusion of the construction and the compliance with preservation specifications. The agreement is for one year from January 1 through December 31 of this year and the compensation to be provided is Twenty-five Thousand Seven Hundred Fifty Dollars (\$25,750.00). I should say this is one of those programs that we have in the City that really maintains our housing in first class order and I should also note if you are not familiar with this program, many of our residents are and have taken advantage of it over the years. There are no income restrictions on this program like many of our home preservation programs. This one does not have an income restriction and the loans can range from \$3,000.00 to \$150,000.00 and they are below market and they can be used for all sorts of improvements to the house, including energy efficiency and other improvements. The other thing I wanted to mention - what qualifies as a historic home under this program, is a home that is 50 years or older. So, I would say most of our residents would probably comply with that requirement. I offer Resolution 4-2009(PD) for passage tonight.

Mayor Kelley accepted Resolution No. 4-2009(PD).

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

Nays: None

Resolution passed

Councilman Wilcox commented, "Thank you and that concludes my report."

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Councilman Tumeo stated, "Thank you, Sir. I have two pieces of legislation tonight. First I have Resolution 5-2009(PSH) declaring January, 2009 as *Fibromyalgia Awareness Month* and declaring an emergency. Actually, we had a great deal of discussion about this - before at our work session, before coming to this. We do these awareness months relatively regularly and this one is a new one for us. We've not done this before. I think to a person, everyone on Council first asked what is fibromyalgia? I think that only highlights why this is an accurate and an important thing for us to be doing. Fibromyalgia is not a made up illness. It actually is a true illness, it's a chronic pain disorder, it's characterized by widespread muscular-skeletal aches, pains, stiffness, soft tissue tenderness, general fatigue and sleep disorder. It is in the category of autoimmune diseases that include things like MS and lupus, where the body starts to attack itself, and in this instance it causes an inflammation and some decay of the nerve fibers, the sheathing around the nerves. It's really a very serious illness and about ten million people in the United States suffer from that. That's somewhere between 6 to 8% of the population in the country is estimated to have this. The problem is, it's not a well known disease and a lot of our medical community isn't even aware of it, or how to diagnose. As a result, it usually takes about five years to get a diagnosis of fibromyalgia which means people who are suffering and going to their doctor and trying to figure out what's going on, can't figure it out, because people just don't know about it. In the face of this, a group of individuals that actually have fibromyalgia in November of 2007 formed a group to try and raise awareness so people could start understanding what's going on and they have actually gotten a bill introduced in the Ohio Legislature to declare this month an awareness month and have asked the various local entities to follow suit, which we have agreed to do. This Resolution would declare that January 2009 is Fibromyalgia Awareness Month in the City of Cleveland Heights and we urge all our citizens to support the search for a cure and assist those individuals whose families deal with this devastating disorder on a daily basis. I introduce Resolution 5-2009(PSH) for passage tonight.

Mayor Kelley accepted Resolution No. 5-2009(PSH).

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

Nays: None

Resolution passed

Councilman Tumeo continued, "Thank you. My second Resolution No. 6-2009(PSH) to suspend enforcement of Section 351.09 of Part Three (Traffic Code) of the Codified Ordinance of the City of Cleveland Heights for the period ending December 31, 2009, or at such earlier time as Council may subsequently prescribe, on the following-described streets; providing for on-street overnight permit parking on specified portions of Kensington, Hillcrest, Belmar, Glenmont and Eddington Roads; and declaring an emergency.

This is something we do every year, as a general rule our Ordinance prohibits parking of any vehicles on any City streets from 3 a.m to 6 a.m., however, there is insufficient on-street parking for the residents and guests on certain streets, the ones that I just mentioned, in certain parts of their streets and because of that, we have to make some kind of accommodation for these individuals to actually park their cars. Additional resident parking on Kensington Road, between Lee Road and Cottage Grove, on Hillcrest, Belmar, Glenmont and Eddington Roads, between Mayfield and Avondale can be allowed, but the residents have to get a permit. They pay for a permit and they can park on the street between those hours. This Ordinance suspends the enforcement of that section of the Ordinances that say you can't park on the street between 3 a.m. and 6 a.m. for those specified areas up until the end of next year. As you see, we do this every year or earlier if something comes up and we deem that's necessary. The specific roads are all listed in the Ordinance, you can get it from the Clerk if you want the specific roads. In general, everyone who needs this knows about it and they can get that information. I introduce Resolution 6-2009(PSH) for passage tonight.

Mayor Kelley accepted Resolution No. 6-2009(PSH).

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

Nays: None

Resolution passed

Councilman Tumeo commented, "Thank you. I have a couple comments. First, Happy New Year to everyone and I join in the hopefulness of the coming year, not only for the new national government and the continuation of the state government but, actually things will get better economically. I know that everyone in the City is struggling with that and so I wish you all some prosperity in the coming year. We can all use a little. Secondly, I want to address a couple of things that have gone on since the last meeting and the holidays. As you probably have been reading in the newspaper on December 18th there were three events at the High School, after these events let out, there was shall we say, extracurricular activity that was not necessarily beneficial and I want to give a commendation to *The Sun Press*, they got the story right and to our police that responded appropriately and very strongly, we had 19 cars respond. There were several fights, not all on the school's property, so not necessarily recorded by the school's security apparatus. We've done a good job with trying to handle those things, and no, I'm not saying it's the Cleveland Heights students or not, but a disturbance is a disturbance in the neighborhood and we don't really care as residents where that disturbance comes from, so I want to thank the police for doing their job and doing it well and making what really could have been an ugly set of incidents actually pass and move the problem along. I want to commend the police for that and commend them on a strong and very quick response.

The other thing is I want to join Councilwoman Dietrich in encouraging you to contact us and let us know the problems but recognize that we do have a limited scope of power and none of us have the magic wand that can solve the problems instantly. We'll work together to get that done and with your help and your patience we will have a happier, healthier and hopefully prosperous 2009. Thank you."

REPORT OF THE MAYOR

Mayor Kelley stated, "Just to piggy-back on what Councilwoman Dietrich and Councilman Tumeo said, e-mail is great but pick up the phone and call us. I know that we respond, you get an answer directly. Our numbers are published online, on the Cleveland Heights website, and I know for a fact that each and every one of us returns our calls and takes our calls. We don't have people here at City Hall waiting to take our calls, these are our home numbers, our office numbers, our cell phone numbers, whatever number you can get a hold of us. Sometimes, picking up the phone the old fashioned way - as someone might say, can solve your problem in two minutes or less. So, I would take advantage of the old fashion way and call us on the phone. You're certainly free to e-mail, fax us, send us letters, whatever you feel is comfortable, but sometimes - just picking up the phone works. That concludes my report.

Due to the fact that Ohio State just kicked off their football game, a few of us want to wander home and the new season of The Bachelor is on, so we will call this meeting over at 8:14 p.m. We'll see you again in two weeks and one day, we will be meeting on Tuesday, January 20th at 7:30 p.m. Thank you for coming."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/jh

ACTIONS TAKEN BY COUNCIL
JANUARY 5, 2009

RESOLUTION NO. 1-2009(AS), PASSED: authorizing an agreement with Arthur J. Gallagher & Co. for continuation of its protected liability self-insurance program for the City; providing compensation therefor; and declaring an emergency.

RESOLUTION NO. 2-2009(CRR), PASSED: authorizing the City Manager to accept a grant from Cuyahoga Arts and Culture on behalf of the City of Cleveland Heights; and declaring an emergency.

ORDINANCE NO. 3-2009(MS), PASSED: authorizing easements to The Ohio Bell Telephone Company dba AT&T Ohio for upgraded equipment and underground wiring on a portion of the City-owned property identified as Permanent Parcel No. 683-25-014 and located at the northern corner of the intersection of South Taylor Road, Severance Circle, and Access Drive No. 3 to Severance Center; and declaring an emergency.

RESOLUTION NO. 4-2009(PD), PASSED: authorizing the City Manager to enter into a renewal of an agreement with the Cleveland Restoration Society: Preservation Resource Center of Northeastern Ohio for historic preservation consulting services in connection with the Heritage Home Loan Program; providing compensation therefor; and declaring an emergency.

RESOLUTION NO. 5-2009(PSH), PASSED: declaring January, 2009 as *Fibromyalgia Awareness Month*; and declaring an emergency.

RESOLUTION NO. 6-2009(PSH), PASSED: to suspend enforcement of Section 351.09 of Part Three (Traffic Code) of the Codified Ordinances of the City of Cleveland Heights for the period ending December 31, 2009, or at such earlier time as Council may subsequently prescribe, on the following-described streets; providing for on-street overnight permit parking on specified portions of Kensington, Hillcrest, Belmar, Glenmont and Eddington Roads; and declaring an emergency.