



## CITY OF CLEVELAND HEIGHTS, OHIO MINUTES OF THE COUNCIL MEETING OF MONDAY, MARCH 16, 2009

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:20 p.m.

Edward Kelley, presiding

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

Council Members absent: Montlack, Tumeo

Mayor Kelley excused the absence of Council Members Montlack and Tumeo.

Staff present: Carter, Czaga, Downey, Malone, Mannarino,  
Niermann O'Neil, Wagner, 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 6:58 p.m. Second by Vice Mayor Evans.

Edward Kelley, presiding

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

Council Members absent: Montlack, Tumeo

Mayor Kelley excused the absence of Council Members Montlack and Tumeo.

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

Topic of discussion included personnel.

Executive Session concluded at 7:09 p.m. and resumed into Committee of the Whole, adjourning at 7:26 p.m.

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

Edward Kelley, presiding

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

Council Members absent: Montlack, Tumeo

Mayor Kelley excused the absence of Council Members Montlack and Tumeo.

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

The minutes of the Regular Council Meeting held Monday, March 2, 2009 were signed by Vice Mayor Evans along with the resolutions passed at that meeting.

### **REPORT OF THE CITY MANAGER**

Mr. Downey stated, "Thank you very much, your Honor. I have just one item this evening and that would be to request authority to advertise for bids for the Yellowstone Road Water Main Replacement Project, the annual Street Resurfacing Program and the purchase of fire hydrants."

Mayor Kelley made them a matter of record and referred them to the Municipal Services Committee of Council.

Council Member Caplan moved that the City Manager be given the authority as requested.

Second by Vice Mayor Evans.

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

Nays: None

**Motion passed**

### **REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL**

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

### **REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE**

Council Member Caplan stated, "Thank you. I have Ordinance No. 20-2009(PSH), As Amended, Second Reading, amending Chapter 751, *Commercial Snow Removal*, of Part Seven, *Business Regulations*, of the Codified Ordinances of the City of Cleveland Heights to require the registration of persons providing commercial landscaping services within the City, to increase registration fees for persons subject to Chapter 751, to increase required property damage insurance limits for persons subject to Chapter 751, to prohibit the deposit of plant materials on the median strips, the paved portions of public rights-of-way and private property by persons subject to Chapter 751, to increase the penalty for second and subsequent offenses relating to the deposit of snow and plant material on the public rights-of-way and other unlawful locations by persons subject to Chapter 751 and to provide for revocation of permits for violations of the requirements of Chapter 751; and declaring an emergency. The City currently requires commercial snow removal services to obtain a permit from the City prior to providing snow removal services within the City of Cleveland Heights; and this Council has determined that it would be in the City's best interests to also require commercial landscaping services to obtain a permit from the City prior to providing landscaping services. In reviewing the provisions of Chapter 751 which governs commercial snow removal services and now will also govern commercial landscaping services, the City has determined it would be in the City's best interests to upgrade and amend certain provisions regarding registration fees, insurance requirements, penalty provisions, and revocation of permits and

to prohibit the deposit of plant materials by commercial landscapers on the median strips, the paved portions of the City's rights-of-way and private property.

So no more will we see (we hope) grass being blown into the streets, because it goes down into the sewers and we're going to see appropriate cleanup of material left by the landscapers.

There are all kinds of rules about getting a permit, an application and fees. One thing to notice is one commercial entrepreneur does both, landscaping and snow plowing and they can even at a reduced fee get one permit. So they don't have to do this twice. We have in the Ordinance rules about Insurance, about Prohibited Acts, Distribution of the Rules and Regulations. Notice has been given and this Ordinance is for passage tonight. So, I offer Ordinance No. 20-2009(PSH) for passage."

Mayor Kelley accepted Ordinance No. 20-2009(PSH), As Amended, Second Reading.

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

Nays: None

**Ordinance passed**

Council Member Caplan continued, "Thank you. Now, I have Ordinance No. 25-2009(PSH), amending Subsection (a) of Section 1321.01, *Permit Required; Fee*, of Chapter 1321, *Fences*, to raise the fee for a fence permit, amending Subsection (a) of Section 1511.03, *Permit Application, Issuance, Term, Renewal and Fee*, of Chapter 1511, *Child Day-Care Homes*, to raise the fee for a permit to operate a child day-care home, and to set increased fees for other procedures and services pertaining to the administration and enforcement of the Zoning Code in order to more adequately reflect administrative costs associated with such services; and declaring an emergency. The City has not charged any fees for some permits and services pertaining to the administration and enforcement of the Zoning Code. In other situations, including the issuance of permits for child day-care homes and fences, the fees presently charged by the City to provide these services have not been increased since the 1980's and are inadequate to cover the City's administrative costs. So, it is necessary to increase these fees to more adequately reflect the City's costs pertaining to the administration and enforcement of the Zoning Code. Therefore, be it ordained by this Council that Subsection (a) of Section 1321.01, *Permit Required; Fee*, of Chapter 1321, *Fences*, of the Codified Ordinances of the City of Cleveland Heights shall be amended and shall read as follows:

- (a) No person shall construct any fence without first obtaining a permit therefor from the Zoning Administrator and paying a fee of Fifty dollars (\$50.00).

To operate a Child Day-Care Home you shall need to apply for a permit. It shall be renewed annually and the fee is Forty dollars (\$40.00).

Some of the other fees have also been raised about fees for permits and services in a variety of different situations including Outdoor Dining. So the fees have been raised to some extent. They are consistent with other cities. We have looked at other cities and they are consistent with our whole range of fees. Notice shall be given and this Ordinance shall be declared an emergency for passage tonight. I offer Ordinance No. 25-2009(PSH) for passage tonight."

Mayor Kelley accepted Ordinance No. 25-2009(PSH).

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

Nays: None

**Ordinance passed**

## **REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE**

Council Member Dietrich stated, "Thank you, your Honor. I have Ordinance No. 26-2009(AS). This is the Ordinance that we do every year before April 1<sup>st</sup>. Ordinance No. 26-2009(AS), of the City of Cleveland Heights, Ohio, establishing salary schedules, position classifications and other compensation for officers and employees of the City; and declaring an emergency.

This is a twenty-four page ordinance, so I'm not going to read it all to you. It is, of course, always on file in the Clerk of Council's office. This Ordinance, this year, certainly reflects the economic conditions that we are in. For the second year in a row, no one in City Hall is getting the anticipated two percent (2%) raise, the raise that they thought they would get. This year, the Public Works' union also is experiencing a salary freeze. All the people in City Hall and the Public Works' union [employees] will have to take ten (10) unpaid days off per year. So, as you can see our staff is really taking a hit here. So smile or say thank you when you see somebody or when you see the men picking up your trash or whatever, thank them because our staff is working harder and harder than ever. Our Police union also has agreed not to take their anticipated raise. So, as you can see all these various people who work for the city are getting no increases this year. There is one good little change and that is Ohio raising its minimum wage from Seven Dollars (\$7.00) to Seven Dollars and thirty cents (\$7.30) an hour it affects very few people. It only affects part-time hourly employees, people who might be new and have small jobs with the city. Actually, our Ordinance is two pages shorter than it usually is because we are erasing twenty-five whole job categories. I will read you a few of the job categories that no longer exist: data collector, social worker, violation's counselor, part-time graphic designer, part-time housing consultant, a utility inspector, a zoning inspector, a rental consultant, day camp counselors, all these and that's just a smattering of the list. There are all sorts of jobs that are being eliminated. Of course, you all know the reason for this. It does not have to do with the staff not being careful with expenditures. We have been very, very careful. We have held the line really well as far as the expenditures that we've been cutting, but this has to do because our revenues really are down drastically and that mainly has to do with the fact that peoples' incomes are down and that we have fewer homes occupied now than we did in the past. This is only on first reading tonight. It's not a happy reading of Ordinance No. 26-2009(AS), but it's the first reading."

Mayor Kelley accepted Ordinance No. 26-2009(AS), first reading only.

## **REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE**

Vice Mayor Evans stated, "Thank you, your Honor. There is no legislation this evening, but I would like to announce the 19<sup>th</sup> annual Spring Egg Hunt, which is scheduled for Saturday, April 4<sup>th</sup> at 11:00 a.m. sharp in the meadow at Forest Hill Park near the playground. There are several different age categories starting at one-year old going through age nine. We are reminding people that if it rains, snows or shines please be sure to have your children dressed appropriately. There will be over 5,000 eggs. We are going to have a fire truck there. It is always great fun and actually it is one of Council Person Caplan's favorite event. We are going to use this to have a food drive. So if you are able to attend, we would like for you to bring a non-perishable food item. That completes my report today."

## **REPORT OF THE FINANCE COMMITTEE**

Council Member Wilcox stated, "Thank you, your Honor. There is one Resolution from the Finance Committee tonight and it is Resolution No. 27-2009(F), authorizing the City Manager to

enter into an amendment to an agreement with American Express Travel Related Services Company, Inc. for credit card processing services to reduce the processing fees charged to the City; providing compensation therefor; and declaring an emergency. The City's current agreement with American Express Travel Related Services Company, Inc. ("American Express") for credit card processing services for transactions at Cain Park provides for fees in an average amount of 2.8% of the cost of transactions. The City has received a proposal from American Express to provide the services on the same terms as are offered the State of Ohio, which is a processing charge of 2%. This Resolution authorizes the City Manager to amend the agreement with American Express for credit card processing fees to lower those fees consistent with the State of Ohio, and we're obviously happy, any little bit helps these days and hopefully this will encourage some people to buy their Cain Park tickets with their American Express cards. I offer this Resolution for passage tonight."

Mayor Kelley accepted Resolution No. 27-2009(F).

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

Nays: None

**Resolution passed**

Council Member Wilcox continued, "Thank you. I did have one comment since this is the Finance Committee and it's less than thirty days until April 15<sup>th</sup>. If you are a resident of Cleveland Heights and you earn income either in or outside the City or if you earn income in the City you need to file an income tax return by April 15<sup>th</sup> along with your federal and state income tax returns. The City does provide the tax forms on line. You can get those on line, download them and send them in with the other materials as well as your check, of course. Again, the city's income (revenues) are essentially about one-half from the income tax, so it is very important that everybody who owes income tax to the city lives up to their civic responsibility and files their taxes on April 15<sup>th</sup>. That concludes my report."

### **REPORT OF THE MUNICIPAL SERVICES COMMITTEE**

Council Member Caplan stated, "Thank you. I have one piece of legislation. On the agenda it says two, but we've pulled one of the pieces. We have pulled Resolution No. 29-2009(MS) and we'll deal with that next time.

I have Resolution No. 28-2008(MS). I can't believe we are going to talk about this. We are ending winter and we're going to talk about buying salt for next year.

This is Resolution No. 28-2009(MS), authorizing the City Manager to enter into an agreement with the Ohio Department of Transportation for participation in the Department's contract for the purchase of sodium chloride; providing compensation therefor; and declaring an emergency. Section 5513.01(B) of the Ohio Revised Code provides the opportunity for political subdivisions to participate in contracts of the Ohio Department of Transportation ("ODOT") for the purchase of machinery, materials, supplies or other articles. Section 171.10 of the Cleveland Heights Codified Ordinances authorizes the City to participate in the ODOT Cooperative Purchasing Program; and it would be in the best interest of the City and its residents to enter into an agreement with ODOT to participate in the Department's contract for the purchase of salt for the 2009-2010 winter season.

We did this, this past year also.

Now, therefore, be it resolved by this Council, that the City Manager is authorized to enter into an agreement to purchase sodium chloride for next winter from ODOT. The agreement shall be for a one year period, effective as of the date of award, and shall contain the following terms:

- a) The City shall purchase between 80% and 120% of the estimated salt tonnage of 8,000 tons;
- I. The City shall be bound by the terms and conditions of ODOT's contract with the successful bidder / vendor;
- II. The City shall be responsible for payment directly to the vendor for quantities purchased under the contract; and
- III. The City shall hold the Director of Transportation and the Ohio Department of Transportation harmless for any claim or dispute arising out of participation in the contract.

Notice of passage shall be given and this Resolution shall be declared an emergency for passage tonight, and as an aside, many of you, I assume have noticed that we are no longer salting the side streets, we only do the main streets, the intersections and the hills. If you think it didn't make a difference, I want to tell you what the difference was. Last year and up to this year the snow fall has been about the same. It's been 77-78 inches and last year for that amount of snow we used 12,000 tons of salt. Because of our new way of doing it this year, for the same amount of snow we have only used 4,600 tons of salt. It's like amazing. So think about it - it's about 250 to 300,000 dollars. So, it really did make a difference and it doesn't seem that there has been an increase in accidents. People just go slower which is really kind of a good thing. I offer Resolution No. 28-2009(MS) for passage tonight."

Mayor Kelley accepted Resolution No. 28-2009(MS) and added, "It is also a little bit more economically-friendly not using all that rock salt on our side streets and helping us get to filling the chuck holes that are on the main streets and giving us a little bit more time to get to the side streets. They may not be as damaged as they've been in the past from the salt eating away at the blacktop and cement."

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

Nays: None

**Resolution passed**

Council Member Caplan added, "It is certainly environmentally-friendly also. I can't resist commenting about the spring egg hunt. It's worth coming out just to see the hundreds of children who come. The fire engine blows its whistle and in a minute 5,000 eggs have disappeared. It is so much fun and it is fun to see all the young families come out and to see the number of babies that have been born during the winter, because everybody brings their children. It's fabulous! So it is fun to come see and if you decide to come do bring cans of food.

The only other comment I would like to make, you can help Cleveland Heights in its economic problems by spending some of your leisure and entertainment money here. We have two movie theaters and I want to tell you that the movie theater at Severance has the best seats of any theater in town, really, they are the most comfortable. We have fabulous restaurants, an amazing array. I was just at a new one that is open a couple of months called Taste on Lee Road and it adds to the whole array of restaurants. It's fabulous! So when you think about going out, think about going out in Cleveland Heights. You want to buy something, you can buy almost anything here. So, try and spend your dollars here and that's all I have."

#### **REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE**

Council Member Wilcox stated, "Thank you, your Honor. There is no legislation from this committee, but I did just have a brief report and that is to report on the annual meeting of the Housing

Council and the Tax Incentive Review Council. The Housing Council is set up to review all the tax abatement projects in the City that relate to residential housing. The Tax Incentive Review Council reviews the tax abated properties for commercial projects. Although, we haven't had any new projects to announce this year, the results of our efforts over the last several years show that out of the tax abated properties in Cleveland Heights, the county records show that 1.6 million dollars has been collected in property tax. The abated amount was 561,000 [dollars] and as you probably know most of that money goes to help our schools, but some of that, obviously, comes back to the city as well. So, that our efforts at creating new housing even with the tax abatement shows new property taxes falling into the community. I also want to report on our Tax Incentive Review Council which has two programs that have offered abatement for commercial projects. One is the Zagara's MarketPlace which now has 100 full-time and 35 part-time employees which far exceeded their goals and the Kaiser Clinical Decision Unit which now has listed 43 full-time employees as a result of that development. So again, these are developments that have helped the city maintain its property tax base at the same time as offering the tax abatement. That concludes my report."

### **REPORT OF THE MAYOR**

Mayor Kelley stated, "Many of us know we are into March Madness - - and no that's not a bunch of my Irish friends running around tomorrow on St. Patrick's Day. It is college basketball at its finest, both men and women. On the men's side of the bracket, congratulations to our very own Cleveland State for being in for the first time since 1986, Ohio State, Akron and Xavier - all four Ohio schools are in, making everybody very proud. It'd be very lovely to have an All Ohio Final Four. I don't think it will happen for a lot of reasons. Besides you've got to win a lot of games to get there, but it's great to have them in, it's great to have Cleveland State back after the twenty-three year absence and I look forward to watching a lot of this as it goes on. I think a lot of these teams will make the State of Ohio proud and maybe we'll have a little bit more on the women's bracket. I think that actually comes out tonight, if I'm not mistaken. I'm sure there will be some representation of some great Ohio colleges. So, I look forward to it and enjoy your time and as Councilwoman Caplan stated watch as many games as you want in any of our fine establishments on Coventry, Lee Road, Cedar-Fairmount. I think even Nighttown has a tv for basketball. It's a good time to be around.

I want to congratulate Lutheran East, who I believe is in the 'Sweet 16' and they probably will be playing Wednesday or Thursday. I look forward to them making it to the final four if not further as they did a few years ago and we will bring Lutheran East in very soon to honor them for this fantastic season. As you know, they are right across the street from us. I think it was three or four years ago we brought them in, they were the runner up, but later they became the champions when it was discovered that the other team used an illegal player or an illegal practice facility. I don't know which it was but Lutheran East became the champions. So congratulations to both the Heights' boys and girls basketball teams on a fantastic season and the coaches and the athletic director. A lot of great games, great teams. We will figure out a way to beat Warren Harding and just a great season and great fun and great entertainment and a lot of the kids are going on to play college ball.

That concludes my report at 8:04 p.m. Our next meeting will be Monday, April 6, 2009. Thank you for coming tonight."

Respectfully submitted,

Edward J. Kelley, Mayor  
President of Council

Thomas K. Malone  
Clerk of Council

/mwc