



# CITY OF CLEVELAND HEIGHTS, OHIO

## MINUTES OF THE CITY COUNCIL MEETING OF WEDNESDAY EVENING, APRIL 4, 2007

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:19 p.m.

Edward Kelley, presiding

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

Council Members absent: Evans

Mayor Kelley excused the absence of Council Member Evans.

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

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

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

Edward Kelley, presiding

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

Council Members absent: Evans

Mayor Kelley excused the absence of Council Member Evans.

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

Topic of discussion included litigation.

Executive Session concluded at 7:40 p.m. and adjourned into Committee of the Whole concluding at 7:42 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:47 p.m.

Edward Kelley, presiding

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

Council Members absent: Evans

Mayor Kelley excused the absence of Council Member Evans.

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

The minutes of the Regular Council Meeting held Monday, March 19, 2007 were signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

"My name is Allyson Robichaud. I live at 2173 Oakdale Road. It's my understanding that there is a nice piece of wilderness that the Board of Education currently owns that is by Severance and the Millikin School is on it and it's been under consideration for them to sell it. I teach environmental ethics at Cleveland State University and [I'm] a philosophy professor there and it's been a very depressing semester because we've been watching things like Al Gore's movie, An Inconvenient Truth and reading lots of literature about how the only interest that seems to prevail in these matters is an economic interest and that extraneous things are never taken into account. That is things like pollution, people suffering, the suffering of animals, the loss of plants and eco-systems and so forth. And so I've been trying to find ways to give these students some hope for the future in light of all of these very depressing facts and in light of the fact that from where they're sitting it looks as though economic considerations, much to their chagrin, continue to be the overriding concern. It looks to me as though this is a really nice opportunity for Cleveland Heights, a community that I really take pride in living in, because there have been some great strides made with respect to recycling. I was delighted to see that you now accept much more plastic than you used to do. I've campaigned up and down my street to try to get my neighbors to recycle. I've got my students, bags that they take, and we're all practicing not taking plastic bags from anybody - and for recycling. I was telling them that I'd heard about this piece of land and that I was intending to come to the council to try to make a case for them buying this piece of property and maintaining it for the future - for whatever purpose it might be used for and in the meanwhile it can sort of stand as a beacon of hope against economic interests prevailing above all else and as a sort of possibility for the reduction of carbon footprints that we've all been trying so desperately in this class to do. I've been taking the bus. My students have been car pooling and so I wanted to report back to them that I had taken some public action. I've been trying to convince them that they too need to take public action, and this is my step forward. Thank you."

"My name is Sam Richmond. I live at 1519 Crest Road. Thank you, Mayor Kelley, Members of Council for giving us the opportunity to speak with you on this matter. What I gave to the Mayor is a copy of the development plans that were put forth by - in one of the bids that was given to the Board of Education for the Millikin land. The reason why I bring it to you tonight is - maybe you've already seen it, but the thing that's important to me with the 150 foot perimeter around Severance that was to be there, a forest perimeter, a treed perimeter - it was to be left as a buffer all the way around Severance. It's no longer there on the north and east side except for some small exceptions, but it's very solid along the south side and there is a pretty good strip there on the, I'm sorry, on the east side that includes the Millikin property. Unless they break that 150 foot line entirely, you look at those development plans, now every tree is gone right up to the fence of the people who live along Crest Road [over] there. There's really nothing to be developed if the 150 foot buffer is maintained. So, again, what I'm urging you to help to preserve the woods in whatever ways are possible for you to do that. The reasons that my colleague, Allyson Robichaud gave, I think are the primary ones that we need to absorb CO<sub>2</sub> not to produce more CO<sub>2</sub>, especially we have a long history here in our neighborhood of that 150 foot buffer being honored and it doesn't look like the developers are considering that at all, at least not insofar as they would put forth a proposal like this. I hope you will not give tax subsidies or any kind of public support to develop those woods. Thank you very much."

“Vicky Knight. I reside at 1519 Crest Road. I’ve lived there for over 30 years, only the last few in the shadow of Wal-Mart. The last time I was here I proposed a project for the Millikin property, that it be turned into a nature center for lifelong learning and to preserve the little left of woods and marshland that separates commercial Severance from [the] Millikin neighborhood. One council person suggested that I might not appreciate that it wasn’t an easy matter to do this. I don’t believe it’s easy, but I believe it’s necessary and will require a lot of effort. I’ve learned much more about the site since I came before you first. I used to think it was an urban island as well as a wetlands. I didn’t know it was part of the Dugway Brook Watershed. I didn’t know that the personnel at Shaker Lakes Nature Center would have an interest in it. And I didn’t know that botanists at the Museum of Natural History would be willing to come and walk the woods and see what they could do to preserve it, nor did I know that Cleveland Heights had entered into an agreement with other cities regarding climate change. Finally, I didn’t know what huge amounts of money the governor proposes to spend, some of it not requiring legislative approval, some it federal funds never before applied for in our state for initiatives for the environment, for energy projects across Ohio, and I remind you that this site is ideal for wind - it’s a very high site and it’s very windy. I didn’t know until recently that land will have to go through many layers of review and it probably will not be allowed to be developed. There is no intelligent development on this last ten acres.

Similarly, I didn’t see before how much the public could do with or without the participation of the Council or the Board of Education to save the two endangered public spaces where our rapidly diminishing commons, the Millikin Woods and the building with its beautiful gymnasium and facilities, and Coventry School, the real heart of Cleveland Heights’ people say, with the playground built by the parents with materials they purchased. How are these things to be financed if there are state preservation funds and I’ve asked our Ohio legislators to look into that. There are federal funds that may be pertinent. But there is also the ability of the City Council or some other authority to issue long-term bonds, which we could call social welfare bonds or peace bonds and the fact that they’re tax-free means that people who find in their conscience great difficulties supporting federal wars would have that part of their income which came from municipal bonds exempt from those purposes. How would the city be able to pay back such funds? One of the governor’s main initiatives concerns public pre-school education, which needs to be applied for - for Coventry School for example, where enrollment is declining. The governor also proposes great funds to address disparities - and we live in a district - a school district - that particularly at the high school level is largely segregated. The ability to start a magnet school, for example at Coventry, is not confined to the Board of Education. I come from New York and you know there was a city college there. The city sponsored it. Citizens can do this. One of the things the city - - . I mention the pre-school and the addressing of disparities, because it is well-known that although these initiatives may not pay off big time this year or next year they will over twenty or forty years. You know that pre-school education, which need not be sponsored by the Board, reduces incidents of teen pregnancy, of crime, it increases chances of people going to college, it increases income over time. These are ways that the bonds could be paid off from general revenues in Cleveland Heights. All kinds of health initiatives - it would be a tremendous investment in this community.

We only have a little opportunity to address the Council and the public that has cable, at a small portion of the council meeting. Could not the City Council or the city sponsor some forums that the Board of Education is unwilling to hold regarding the use of our commons’ areas which are in the city? Thank you.”

Mayor Kelley responded, “I just want to spend a minute on this issue since it keeps coming up where it’s at, where it may go or where it’s not going, so we’re clear on where it is, and [as] I said at the last meeting and I know it came up again at the March 12<sup>th</sup> Board of Education meeting, Mr. Ruben’s development, which is the Courtyards of Severance - it’s been stated now at least two times at two

different meetings, that the City put in the roads and the infrastructure for that development. *That simply is not true.* I said it at our last meeting and I'll say it again so if it is being reported out there or put out there, that is not a true statement or an accurate statement. So, again, I want to say that on the record, the Courtyards of Severance or even the Bluestone Project or any other project, the City - any member of the City or staff or any other person or any type of financial package did not include putting in the road work or the sewers or the infrastructure, so let's be clear about that.

Secondly, as far as the Millikin property, as far as I know through reports in the newspapers and talking to some of the people that actually bid on the project, all bids that were submitted to the school board have been turned down at this point and time. Furthermore as reported in the Sun Press in late March, one of the options the school board discussed was the option of moving the transportation depot there and the maintenance and storage facility including the possibility of putting I would imagine a gas pump or something like that on there - I want to read to the people that are here tonight a clear letter that was sent on our behalf on the behalf of this City Council and the city administration by Richard Wong, who is the gentleman who sits in the corner over there [pointing] it was dated March 27 to:

Mr. Stephen Shergalis, who is the Director of Business Services of the Cleveland Heights-University Heights City School District, 2155 Miramar Boulevard, University Heights.  
Re: Millikin zoning. The letter reads:

Dear Steve,

Hope you are well. Last week's Sun Press article mentioned that the Board was considering using the Millikin site for a centralized transportation depot and a maintenance and storage facility. The property is zoned "A" Single-Family and the above-mentioned use would not be permitted. Please feel free to call if zoning code questions come up.

Sincerely,

Richard Wong  
Director of Planning and Development.

I believe there will be an article in the Sun Press as early as tomorrow stating that Council's position will not be supportive of any endeavor by the school board headed in that direction. So let's be clear about that rumor and put that rumor to rest right here and now, so that will not be happening and I can say a 7-0 position of this City Council and the administration and staff, so let's just wash that rumor right out the hair so to speak.

As far as this development plan that Mr. Richmond gave us, this is the first time we've seen it and it means absolutely nothing to me or this council at this point in time. It's not been submitted. It means absolutely nothing. The school board is in control of the property as I've said time and time again. Anything that happens here will go through a very long and very tedious process before anything happens and that's just the way it is. So, I think we are ready to move on because there is no one else who wants to address council tonight so we will move to the report of the Assistant City Manager pinch hitting for Mr. Downey tonight, Mrs. Kathleen Ruane who will surely do just as well as Mr. Downey."

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

Mrs. Ruane stated, "Thank you, Mr. Mayor. Your Honor, we request authority to advertise for bids for improvements for Parking Lots Nos. 15 and 24."

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

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

Second by Council Member Tumeo.

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

Nays: None

**Motion passed**

Mrs. Ruane continued, "Your Honor, we request authority to advertise for bids for 3-Position Fire Dispatch Console for the Joint Fire Dispatch Center located at Station No. One."

Mayor Kelley made it a matter of record and referred it to the Public Safety and Health Committee of Council.

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

Second by Council Member

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

Nays: None

**Motion passed**

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

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that one notice has been received from the Ohio Department of Liquor Control advising that application has been made by the following: Peace Paint & Pottery Ltd., d.b.a. Studio You, new D5 permit, premises 2180 Lee Road, 44118. Your Honor, I need to make this be made a matter of record."

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

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

Council Member Tumeo stated, "Thank you, your Honor. I have two ordinances tonight. First, I have Ordinance No. 35-2007(AS), amending Section 4 of Ordinance No. 25-2007, "Wage and Salary Ordinance", to incorporate the terms of the labor agreement with National Production Workers Union Local 707 of Cleveland representing Fire Dispatchers for the time period April 1, 2007 through March 31, 2010; and declaring an emergency.

Last meeting, we passed on second reading the Wage and Salary Ordinance that details all the

wages and salaries for the upcoming year, actually three years<sup>1</sup> and goes over our wages, salaries, holidays, all of those kind of things. At that time, we did not have the finally contract agreement with our Fire Dispatch personnel. That contract has been finalized and negotiated and comes in line with our other contracts. Therefore, we need to amend the previous ordinance to include that. It would include the following amendment:

Employees in the bargaining unit as described in the labor agreement between the City of Cleveland Heights and National Production Workers Union Local 707 of Cleveland representing Fire Dispatchers shall have those items, conditions and benefits of employment as described in said agreement. That agreement covers the time period of April 1, 2007 through March 31, 2010. A copy of the labor agreement is on file in the Office of the City Manager.

I'd like to move Ordinance No. 35-2007(AS) for passage tonight."

Mayor Kelley accepted Ordinance No. 35-2007(AS).

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

Nays: None

**Ordinance passed**

Council Member Tumeo continued, "Next, I have Resolution No. 36-2007(AS), authorizing the City Manager to enter into agreements with two temporary services agencies, Snider-Blake, Inc. and MinuteMen Staffing Services, for the provision of seasonal temporary workers for the Public Works Department; providing compensation therefor; and declaring an emergency.

We do this every year. It turns out that it's much more cost effective for the city, for some of these services to actually have a temporary level of service. These two companies have been selected. They will provide workers as we need them at a billing rate not to exceed Eleven Dollars and Twenty-five Cents (\$11.25) per hour per worker. These agreements incorporate the agencies to be responsible for recruitment, interviewing, evaluation of skills, reference and driving record checks, and drug testing for these employees. The workers shall be employees of the agencies so they are not our employees so they take care of workers compensation. The total for the year shall not exceed Fifteen Thousand (15,000) personnel hours unless we authorize it further on Council. I would like to move Resolution No. 36-2007(AS) for passage tonight."

Mayor Kelley accepted Resolution No. 36-2007(AS).

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

Nays: None

**Resolution passed**

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

Council Member Dietrich stated, "Thank you, your Honor. I have one piece of legislation which is Resolution No. 37-2007(CRR), joining with the United States Department of Housing and Urban Development ("HUD") and other communities throughout the nation in the observance of "Fair Housing Month"; reaffirming the City of Cleveland Heights' commitment to open housing; and declaring an emergency. In celebration of the 39<sup>th</sup> anniversary of the federal Fair Housing Law, the United States Department of Housing and Urban Development have promoted the observance of "Fair Housing

Month” throughout the nation. Our City, since 1965, has encouraged Fair Housing throughout Cleveland Heights and the entire Cleveland metropolitan area. Thirty-one years ago, in 1976, Council established a Nine-Point Plan to prevent resegregation, and to work with residents, community organizations, the Board of Education, the business community, and other institutions to implement the Nine-Point Plan. Since that time, the City of Cleveland Heights has created and operated programs to continue integration, and to education and persuade residents and non-residents of the benefits of integrated neighborhoods. Therefore, be it resolved, that the City of Cleveland Heights joins with the United States Department of Housing and Urban Development and other communities nationwide in the observation of “Fair Housing Month”, and reaffirms its commitment established over 40 years ago to fair housing in Cleveland Heights and throughout the Cleveland area and the nation. That is Resolution No. 37-2007(CRR).”

Mayor Kelley accepted Resolution No. 37-2007(CRR).

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

Nays: None

**Resolution passed**

Council Member Dietrich continued, “I thought while we’re on that subject, I would tell you a little bit more specific information about what we actually are still doing here in Cleveland Heights to promote fair housing, because contrary to what a lot of people think it’s still is an issue that we have to pay attention to. Discrimination in housing is much less blatant than it used to be, it’s subtle, but it does occur. My favorite - it’s really the opposite of my favorite - it’s really the one that bothers me the most, but my favorite is realtors who steer people away from using public schools. So we all should be on the lookout for that. But, as far as Cleveland Heights and the specifics of our fair housing work, we do contract with Heights Community Congress to audit both homeowner and rental markets to detect discrimination. This year, in 2006, HCC did twelve paired rental audits for the city and twelve paired home-ownerships for the city and actually found in those twelve cases did find no cause to bring any action. We also through our CDBG funds contract with the Cleveland Tenants Organization so that our residents can make use of their services which provide things like information to landlords and tenants regarding their rights and responsibilities under the fair housing law. We have real estate staff on our city staff that monitors the housing and rental market for trends and issues and that provide home owner seminars and if you ever read about our new home owner seminars, those also include topics of fair housing and available pro-integrated programs for perspective home buyers. We also provide seminars for landlords and fair housing is one of the topics there. We work with the real estate industry just to make sure that they too understand the fair housing guidelines and our pro-integrative programming. And finally, through our CDBG funds we support Heights Community Congress diversity program which strengthens our resident’s understanding of diversity and multi-culturalism in our community. On that subject, while I’m on Heights Community Congress, I just want to mention that Heights Community Congress is right in the final stages of finishing a strategic plan. They were lucky enough to get Mandel School students who are getting their master degrees in non-profit organizations to conduct a strategic planning process. Really HCC, I am so encouraged by Heights Community Congress lately, just moving forward in a very focused way. In fact, last night was the first of branching out the Race, Class and Diversity series into Maple Heights. They are going to be doing the same structured kind of series that they did here [they will do in] Maple Heights. Bringing some of these meetings/ programs to other communities, there is a lot of new young leadership on the HCC Board now and very energetic goal-setting going on with an eye to relevance. I just wanted to congratulate HCC as part of Fair Housing Month on this positive direction that they’re taking lately. That’s all that I have.”

## REPORT OF THE FINANCE COMMITTEE

Vice Mayor Montlack stated, "Thank you, your Honor. There is one piece of legislation from this committee. Tonight, it is Resolution No. 38-2007(F), authorizing the reprogramming and reallocation of Community Development Block Grant Funds; and declaring an emergency.

As many of you know, the block grant funding operates as a somewhat separate budget, so that from time to time when it is necessary to move funds around within that budget, the opportunity is reviewed with the CAC, our committee of citizens that looks at this, and with their recommendations that reprogramming occurs and that's exactly what happens here tonight or what will happen here to tonight, I should say.

In this case, there are some funds that are administered by HRRC which formerly was known as the FHC, the Fair Housing Corporation, and that organization, the Home Repair Resource Center, among other funded programs through our block grant funding operates three programs that are known as Assist Programs or Assist Benefits. They operate more or less in conjunction - one with the other and so sometimes the amount of funding designated for one of those three Assist Programs makes more sense in a slightly different variation which would be another of the Assist Programs. In this case, a couple of the sub-funds, I might put it that way, are being reallocated to the Assist 0% Benefit Program, which is a program that provides a grant that covers the interest of bank financing for home repairs and that way makes the monthly loan payment more affordable - an objective that is of special interest when we hear so much about foreclosures and interest rates with regard to home loans. That grant program reduces the repair cost in effect where that is financed by a bank loan. There is more to the program. If any one is interested I'll explain it later on after the meeting.

Section 1 provides the \$2,000.00 is to be taken from the Assist Incentive Grant Program reprogrammed to the Assist 0% Benefit Program and \$5,000.00 from the Assist Deferred Loan Match Program and given to the Assist 0% Benefit Program. Again, essentially a bookkeeping reprogramming of funds so that all the funds that are available can be used as they are desired. Resolution No. 38-2007(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 38-2007(F).

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

Nays: None

**Resolution passed**

## REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Caplan stated, "Thank you. I have several pieces of legislation. The first is Ordinance No. 40-2007(MS), enacted by the City of Cleveland Heights, Cuyahoga County, Ohio hereinafter referred to as the Municipality, in the matter of the hereinafter described improvement and requests the cooperation of the County of Cuyahoga by its Board of County Commissioners, hereinafter referred to as the County, and declaring an emergency. The Municipality (which is us) has recognized a need for and proposes the improvement of a portion of public highway which is described as follows:

The resurfacing of Lee Road from the Cleveland Heights South Corporation Line to Dellwood Road.

We need consent. It is declared to be in the public interest that the consent of Cleveland Heights and the County to participate together in the cost of the above improvement.

We are going to cooperate. The City will cooperate with the County in the resurfacing of Lee Road. The City will arrange for the preparation of construction plans and specifications, including necessary engineering reports. The City will arrange for the supervision and administration of the construction contract. The County will review the construction plans. They will approve those plans and specifications and they will make an inspection of the completed project. The Municipality will agree to provide the County with a complete set of as built plans upon completion of the project.

The funding, this is really the part that I was getting to. The City will agree to participate with the County in the cost. The project will be financed with State or Federal-Aid funds. The funds will be administered by the Ohio Public Works Commission. The County will contribute fifty percent (50%) of the non-Issue I share of the cost of construction to a maximum of \$250,000.00. The project will probably cost about \$1,760,970.00. The City will contribute about fifty percent (50%) of the non-Issue I share of the cost of construction. We're going to work together and do this. I'm going to offer Ordinance No. 40-2007(MS) for passage tonight"

Mayor Kelley accepted Ordinance No. 40-2007(MS).

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

Nays: None

**Ordinance passed**

Council Member Caplan continued, "Thank you. I have Ordinance No. 41-2007(MS), authorizing an agreement with Johns Trailer Inc. for the purchase of two (2) eighteen-foot landscape trailers and accessories for the Public Works Department through the Ohio Department of Administrative Services Cooperative Purchasing Program; providing compensation therefor; and declaring an emergency. The City has determined to purchase two (2) eighteen-foot landscape trailers. There is an Ohio Revised Code that authorizes cities and other governmental entities to purchase supplies, equipment and services through the Ohio Department of Administrative Services Cooperative Purchasing Program without obtaining competitive bids. We have authorized participation in this program in 1988. The City Manager has determined that these selected trailers may be purchased through this program at a lower price than could be obtained through bidding. The City Manager is authorized to enter into an agreement with Johns Trailer Inc. for the purchase of these trailers. The agreement shall provide for the purchase of two (2) eighteen-foot landscape trailers and accessories at a total cost not to exceed Five Thousand Five Hundred Dollars (\$5,500.00). The City reasonably expects that the cost of such expenditures will be paid with proceeds from the City's issuance of tax-exempt notes or bonds in a principal amount that is not anticipated to exceed Five Thousand Five Hundred Dollars (\$5,500.00). Notice of passage shall be given and I offer Ordinance No. 41-2007(MS) for passage as an emergency measure tonight."

Mayor Kelley accepted Ordinance No. 41-2007(MS).

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

Nays: None

**Ordinance passed**

Council Member Caplan continued, "Thank you. I now have Ordinance No. 42-2007(MS), authorizing an agreement with Southeastern Equipment Co., Inc. for the purchase of a Case 721E Wheel Loader (we use it for picking up leaves and snow - a big heavy piece of equipment that has a claw -

we're not buying a claw because we have another one that we could attach to it) for the Public Works Department through the Ohio Department of Administrative Services Cooperative Purchasing Program; providing compensation therefor; and declaring an emergency. The City Manager is authorized to enter into an agreement for the purchase of this Wheel Loader for the Public Works Department at a cost not to exceed One Hundred Fifty-two Thousand Ninety-five Dollars and Fifty-six Cents (\$152,095.56). A radio for the truck shall be purchased from Independence Communications at a price not to exceed Eight Hundred Dollars (\$800.00) (and I assure you it is not a radio that they will listen to music on - I am sure it is one to communicate with other city officials). The City reasonably expects that the cost of such expenditures will be paid with proceeds from the City's issuance of tax-exempt notes or bonds in a principal amount that is not anticipated to exceed One Hundred Fifty-three Thousand Dollars (\$153,000.00). I offer Ordinance No. 42-2007(MS)."

Mayor Kelley accepted Ordinance No. 42-2007(MS).

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

Nays: None

**Ordinance passed**

Council Member Caplan continued, "Thank you. Now I have Resolution No. 43-2007(MS), authorizing the City Manager to enter into an agreement with Mackay Engineering & Surveying Company for professional services for the inspection of twelve City culverts and the completion of ODOT Bridge Inspection Reports; providing compensation therefor; and declaring an emergency. The ODOT, which is the Ohio Department of Transportation requires the annual inspection of twelve culverts in the City and the submission of Bridge Inspection Reports.

The Bridge Inspection has to do with the roadway that goes over the culverts and we have twelve of those so we have to do a semi-annual submission of a report.

The services are professional. No bidding is necessary. The City Manager is authorized to enter into an agreement with Mackay Engineering & Surveying Company for services at the Engineer's usual hourly rates, not to exceed the sum of Seven Thousand Five Hundred Dollars (\$7,500.00). Notice of passage shall be given and I offer Resolution No. 43-2007(MS) for passage tonight."

Mayor Kelley accepted Resolution No. 43-2007(MS).

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

Nays: None

**Resolution passed**

Council Member Caplan continued, "Thank you. I only have a couple of comments. Actually, I'm really glad that people come and talk about what a single person can do in changing what happens in any kind of government actually. I'd also like to suggest to your class, Allyson, if they haven't seen it already to watch the movie, 'Who Called the Electric Car?' It is an amazing movie and also, unfortunately, tells us how economics, interests change how things are done in our, probably the world, just not in our country. So keep on making noises. There's not a lot we can do about Millikin, because it's not under our jurisdiction, but the more noise you make, maybe somebody will listen.

Spring really has come. We had a Spring Egg Hunt last Saturday morning where probably about 700 children came and in a matter of maybe three minutes and three minutes may be a long time, they gathered up thousands of little eggs that had candy inside. It's wonderful. It's wonderful to see these

families come out. There were lots of babies born in Cleveland Heights this year because we saw them being carried with their older brothers and sisters who were two, three, four up to about ten years old. Mayor Kelley was there with two of his children. I was there with three grandchildren. It was fun and it's fun to see who comes out in spring. It's sort of my idea when spring starts here.

The only other thing I would say is that we're in the middle of Passover and Easter is coming and I wish everybody a good healthy holiday."

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

Council Member Wilcox stated, "Thank you, your Honor. I just want to comment about spring in Cleveland. Eighty degrees yesterday and as we said here tonight it's snowing. That is spring in Cleveland.

I have one resolution from this committee tonight, that's Resolution No. 39-2007(PD), Opposing Ohio Senate Bill 117 and Supporting The Local Cable Franchising Process; and declaring an emergency.

This Resolution is necessary because of the continued efforts of the General Assembly which is controlled by the Republicans to continue to erode Home Rule powers of charter cities in Ohio such as Cleveland Heights. A number of matters have been passed by the legislature in the past couple years, everything from overruling residence rules to gun control laws in various jurisdictions, and this is another example of the effort of these to try to overrule the control of cable television franchises in Ohio.

The Senate Bill 117, was introduced in March and there has been at least one hearing. There will be more hearings in April. In it's present form, this bill would eliminate local authority over cable and other video service providers that must use the City's rights-of-way to provide service and would replace that authority with only minimal oversight and enforcement powers by the Ohio Director of Commerce. The bill, would among other things, unilaterally abrogate and abandon existing cable contracts and would outlaw the extension of any franchise agreement. It would reduce franchise fees paid to the City by cable operators in exchange for the use of City's rights-of-way. It would impair the City's ability to audit cable and competitive video service providers' franchise fee payments. It would substantially reduce, if not completely eliminate, the City's Public, Educational and Governmental access channels. In other words the channel you are watching this council meeting on and would eliminate entirely all specific funding for other services, such as free cable service to City buildings and public school. It would prohibit the City from continuing to require that the incumbent cable operator or any new cable operators provide an Institutional Network that provides voice, video and data communications between and among City buildings, public and private school buildings, and library buildings within the City. It would also prohibit the City from enforcing cable customer service standards as we currently do through our Cable Television Commission and our cable ordinances. It would also most likely lower the ability of low-income city residents to actually receive competitive video and broadband service in the foreseeable future. This legislation encroaches on local authority to monitor and regulate video and cable service providers using the City's rights-of-way to provide video/cable service to the City's residents and is not in the City's best interest and is strongly opposed by his Council. For the reasons I stated above and the City objects to the legislation and also to any provision which diminishes the City's authority to manage its public rights-of-way or otherwise infringes upon its Home Rule authority under the Ohio Constitution. Section 1 of this Resolution, Council opposes Ohio Senate Bill 117, presently before the Energy and Public Utilities Committee of the Ohio Senate, and urges the Ohio Legislature to oppose and defeat Senate Bill 117 and any other legislation which would further erode local government control and authority over the use of its rights-of-way in video/cable service providers utilizing its rights-of-way. Section 3 of this Resolution also directs the Clerk to serve a certi-

fied copy of this Resolution upon the members of the Ohio Senate Energy and Public Utilities Committee, upon Governor Ted Strickland, upon State Senator Shirley Smith, and State Representative Barbara Boyd. And finally, this legislation would be passed as an emergency. I offer Resolution No. 39-2007(PD) for passage tonight.”

Mayor Kelley accepted Resolution No. 39-2007(PD).

Vice Mayor Montlack stated, “First of all, a special thank you to our Law Director John Gibbon, who really pours over the communications’ legislation and other activities that are involved in this resolution and has given us a very good overview of exactly what’s happening. I did a lot of thinking about this resolution, not in isolation, but in terms of other resolutions that we’ve passed in time to time. We talk of Home Rule and as Councilman Wilcox indicated, there certainly has been an invasion of cities/municipalities Home Rule rights, in terms of gun control, residency, an attempt to weaken the city income tax structures. We’re going to be hit this year with probably a constitutional amendment on eminent domain that will be written in a one-size fits all, definition of blight, that you can be sure will do great harm to cities efforts to survive and prosper. A matter of fact, the kinds of issues that many residents came before us at the beginning of this meeting to talk about. And, of course, the state is - the General Assembly about to further erode all of the revenue that is available from the state tax and not replace those revenues. But, for whatever it means, because I don’t think the General Assembly is waiting on pins and needles for our particular resolution, but a number of resolutions will help, but for whatever it means in this regard, to discuss this and dismiss it as an invasion of Home Rule would not quite be getting it right, because, in fact, although it saddens me to say this, our General Assembly simply doesn’t measure up in the area of political competence. I don’t say that as a personal attack, but there are so many instances where on the one hand Home Rule is weakened for no good reason and on the other hand where Home Rule in some cases ought to be challenged but this General Assembly would never do so. Consider for a minute, that all the municipalities in Ohio are free to accept or reject their fair share of affordable housing, that is why the resolution we passed earlier on Fair Housing Month, quite frankly is an academic statement, because cities are free through subtle means to enact policies that keep affordable housing out - - and that has a great impact. Consider for a minute that municipalities are free to have exclusionary zoning - zoning that has the affect of keeping out poor people and people of modest means and these exclusionary municipalities are frankly the ones that wield the most power in the General Assembly today. And so, under that scenario, the municipalities that are the inclusive municipalities where people of various of economic, ethnic and racial backgrounds live are often considered the losers. The losers in the sense that economically, their tax bases take the biggest hit. I could give many, many more examples, but suffice it to say, that what we have to consider is more than just Home Rule, although Home Rule is important. What we have here is a state government, at least on the legislative side at this point, that has frankly an anti-urban bias and simply looks at too many issues in a parochial way. I know that these comments will be encapsulated and be considered long and hard by all the members of the General Assembly and that is the spirit in which I make those comments.”

Council Member Tumeo added, “I’d like to concur with those statements. I’d also like to suggest that people, especially people watching this on cable, might want to consider stepping up to the plate and writing their legislators. This is very serious for us. If we lose this battle, we will by all means probably lose the ability to broadcast this council meeting, school board meetings, all the things that we do depend on to try and get information out. I think it’s a very, very bad idea. So, I would encourage you to - if you think it’s wrong, consider it and write your legislator and write the governor should this go through. He does have the veto power.”

Mayor Kelley added, “I just want to concur with the comments of Councilman Wilcox, Vice

Mayor Montlack, and Councilman Tumeo. So often we've seen in the last few years the Republican control of legislature. This doesn't have the political common sense to do the right thing. They get involved in issues that really, to set our city and many other cities in the same situation, they set us back ten, fifteen, forty years ago. The landslide [of] Ted Strickland is all they can see in him, was swept into office for a reason and the reason was to turn around Ohio and his Turn Around Ohio Plan. While we should be focusing on the economy and education, these people in Columbus want to get involved in this issue. We've made great strides in this city with our cable tv channels. It's what we try to do here. We're working on a WiFi plan, one of the first cities to have it. And these knuckleheads in Columbus want to go ahead and get involved in this thing and try to set it back to 1978 when Viacom, I believe was the first cable provider in the city. This is absolutely outrageous that they're going to try to get involved in this. I hope and I know that Governor Strickland will veto it, but this is just plan nonsense. There are too many other things that they should be working on and it's clear to me that the lobbyist involved with Time Warner and Cox Cable and whoever else does business in this state, has gotten to them. There is a reason why only eleven or twelve other states have done this and it's time for us to stand up with our passing resolution, but we need to do more, because it's going to happen. We're not going to have our access channels. We're not going to have the ability to have our Institutional Networks wired, communications. We're not going to have the extra channel. We fought very hard on their last contract to get this. John Gibbon, is certainly the guru or the expert in this - not just in the city but in the state and in the country. This is just ridiculous that the senate is playing this game when there is so many more important things in this state. I mentioned the problems of education. How about the poverty level? How about just anything else to work on, than to spend time in any committee to try to set back cable back to the 1970's. This is just a simple waste of time and to spend time on this is just outrageous. So, of course, we'll all be supporting this and moving it forward."

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

Nays: None

**Resolution passed**

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

Council Member Caplan stated, "Thank you. I'm going to spend some more money. I have Ordinance No. 44-2007(PSH), authorizing an agreement with Taylor Motors for the purchase of a Dodge Durango SUV for the Fire Department through the Ohio Department of Administrative Services Cooperative Purchasing Program; providing compensation therefor; and declaring an emergency. The City has determined to purchase a new SUV for the Fire Department. The Ohio Revised Code Section says we can do this without bidding through the Ohio Department of Administrative Services Cooperative Purchasing Program. The City Manager has determined that the selected vehicle may be purchased through this Program at a lower price for the city. The City Manager is authorized to enter into an agreement with Taylor Motors for the purchase of an SUV for the Fire Department. The agreement shall provide for the purchase of a Dodge Durango SUV at a total cost not to exceed Twenty-three Thousand Five Hundred Dollars (\$23,500.00). Notice of passage shall be given and this Ordinance shall be passed as an emergency measure. I offer Ordinance No. 44-2007(PSH) for passage tonight."

Mayor Kelley accepted Ordinance No. 44-2007(PSH).

Council Member Tumeo added, "I would just like to point out that when we buy cars and trucks and stuff, people are out there thinking, 'Boy, they're buying these nice things'. We bump these down, so the fire chief now is going to be driving this and the next person is going to be driving the one that he had and the one that gets bumped out at the bottom has over 120,000 miles on it. So, we're not doing this lightly and we don't waste money."

Mayor Kelley added, "Thank you for pointing that out, Councilman Tumeo."

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

Nays: None

**Ordinance passed**

Council Member Caplan continued, "Thank you. Now, we're going to buy something else. This is Ordinance No. 45-2007(PSH). I'm glad Councilman Tumeo said that about bumping down the vehicles and we also do a whole study of how much we're going to spend and what we're going to do each year. This one is Ordinance No. 45-2007(PSH), authorizing an agreement with 32 Ford for the purchase of a F-250 SC pickup truck for the Fire Department through the Ohio Department of Administrative Services Cooperative Purchasing Program; providing compensation therefor; and declaring an emergency. The City is determined to buy a new truck. We're going to use this Program. The City Manager has determined that this is a good thing to do. We're going to do this F-250 SC pickup truck at a total cost not to exceed Twenty-two Thousand Five Hundred Dollars (\$22,500.00). Notice of passage shall be given and we'll do this as an emergency measure. I offer Ordinance No. 45-2007(PSH) for passage tonight."

Mayor Kelley accepted Ordinance No. 45-2007(PSH).

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

Nays: None

**Ordinance passed**

## **REPORT OF THE MAYOR**

Mayor Kelley added, "Just a few things. I want to congratulate our Ohio State Buckeyes for an excellent season not just in football, but especially basketball. It was a thrill to watch them all six games. I had the privilege of watching them in Lexington, Kentucky in two exciting games and it was a great season for them and I am looking forward to seeing them again next year go all the way.

I also want to congratulate our Cleveland Indians in spite of the cold weather in Chicago, they are off to a 2 and 0 start. I expect them to be 98 and 62 the rest of the way, maybe they'll win 100 games, I will not guarantee it, but they'll pretty well come close to it.

I do want to inform our public there is a May primary in the county, but we do not have an issue on the ballot so anybody who thinks they need to go to the polling place on the 8<sup>th</sup> of May, don't go. There is nothing in Cleveland Heights. So there is no reason to vote.

I do want to congratulate our Secretary of State Jennifer Brunner for sweeping or attempting to sweep out those scoundrels - well two of those scoundrels - well, let me jump backwards. I do want to congratulate Jennifer Brunner, Secretary of State, for taking very strong and positive actions at the Board of Elections. Reform was definitely needed there and asking and looking forward to have the board members step down is the most impressive and positive thing to come out of the Secretary of State's office in about 16 years. I know I support what she's doing. It needs to be done and I suggest Mr. Bennett to get out of the way and quit running up the taxpayers dollars by getting someone to represent you. It's time for you to go. Do your magic in Columbus as the Republican chairman and help those scoundrels that I talked about before. Enough is enough. Let's get four people in there that can do the job, whether they're professionals or whatever. It's time to move on. The two Democrats peacefully stepped

aside and let's move the process on. The important thing is that every vote should be counted. People should be treated fairly and equally as we saw with our issue in this city. Mr. Vu did not know what to do and the Board, especially the two Republicans stuck by with them on that issue that we almost had to file a lawsuit for the people to be able to vote in the proper location, proper place and that was absolutely a travesty of justice. So, I salute Jennifer Brunner for taking this quick, corrective action to fix the problem. It's been in this county for many, many years. The patron system is well and alive. All you have to do is walk in that front door at the Board of Elections and you get the stench when you walk in there. So, it's time to get four good people in there as board members and clean the place up and make those elections run the way they should run. There is no reason why every night and in the other 87 counties by 9:30 - 10:30 at night every vote is counted in every other county and we sit there for weeks, sometimes months waiting for the votes to get counted. Two, three people were indicted. Two were convicted and they are doing jail time because votes were counted right or recounted right. This place is just as bad as Florida and we saw what happened a number of years ago in Florida and we are paying the price in our national policy and across the country for that election and we cannot afford to have that. I really want to congratulate and support Jennifer Brunner on her good positive steps. And as I said, Mr. Bennett, get out of the way. It's time for you to go. Spend your time in Columbus.

Our next meeting will be Monday, April 16, 2007. I do want to say, we will not have a work session, next Monday, April 9, 2007. We are cancelling that meeting. It would have been a Public, Safety and Health work session. That will be moved to the 5<sup>th</sup> Monday, April 30 will be the Public, Safety and Health meeting. So next Monday's meeting of April 9, 2007 is cancelled. We will give the proper notifications and postings, what have you, in addition to me mentioning it now, that will be moved to the 5<sup>th</sup> Monday, April 30. You will still get your 3 Mondays and 1 Wednesday from this Council. But next Monday's meeting will be cancelled and moved to April 30<sup>th</sup>.

Thank you all for coming tonight. I want to thank the people that are here again tonight and telling us how they feel and the passion you feel around Millikin. It's not just shared by you but it's shared by many other people in the community. So you are not alone in what you feel about Millikin, so thank you for coming tonight.

We are adjourned at 8:54 p.m. Thank you for coming."

Respectfully submitted,

Edward J. Kelley, Mayor  
President of Council

Thomas K. Malone  
Clerk of Council

/mwc

<sup>1</sup> City of Cleveland Heights and the Northern Ohio Patrolmen's Benevolent Association and the International Association of Fire Fighters, the agreements cover the period commencing April 1, 2006 and ends March 31, 2009. City of Cleveland Heights and National Production Workers Union Local 707 representing service employees, the agreement covers the period commencing April 1, 2005 and ending March 31, 2008.