



# CITY OF CLEVELAND HEIGHTS, OHIO

## MINUTES OF THE COUNCIL MEETING

### OF MONDAY, APRIL 6, 2009

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:37 pm.

Edward Kelley, presiding

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

Council Members absent: None

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

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

Council Member Dietrich moved to adjourn into Executive Session at 7:22 p.m. Second by Council Member Caplan.

Edward Kelley, presiding

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

Council Members absent: None

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

Topic of discussion was personnel.

Executive Session concluded at 7:30 p.m. and resumed 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 7:50 p.m.

Edward Kelley, presiding

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

Council Members absent: None

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

The minutes of the Regular Council Meeting held Monday, March 16, 2009 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. I have just one item this evening and that would be to request authority to advertise for bids for the demolition of city-owned HUD properties."

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

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

Second by Council Member Dietrich.

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

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 two resolutions of the Board of Zoning Appeals have been received pertaining to variances in the Zoning Code and are requested by the following: BZA Calendar No. 3179 Todd & Laurie Guenther, d.b.a. Guenther's Sporting Goods/Logos on Lee, 3101 Mayfield Road, commercial identification regulations; and BZA Calendar No. 3180 MLS Properties, Ltd., 2710 Euclid Heights Boulevard, setback and site development regulations. Your Honor, I need to make these a matter of record."

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

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

Council Member Dietrich stated, "Thank you, your Honor. I have one piece of legislation. This was read at the last meeting and it is Ordinance No. 26-2009(AS), As Amended, Second Reading, establishing salary schedules, position classifications and other compensation for officers and employees of the City; and declaring an emergency. This became effective as of April 1, 2009 and it is for one year. This is as I said the last time a twenty-four page Ordinance and so I am not going to go through it all, but you could look for it on file in the Clerk of Council's office if you wanted to. What is important in this Ordinance is really the effect of the economy on our employees. City Hall employees and Public Works employees are having a salary freeze for the second year in a row. They will also have to take ten unpaid days off per year. The police union has also agreed not to take their anticipated raise and we are still in negotiations with the fire fighters union, but the City Manager has the authority to continue their employment on a month by month basis based on the contract that expired on April 1<sup>st</sup>. Last time I did describe the positions that have been eliminated this year and basically the bottom line here is that there are fewer people employed by the city to provide the services that we provide. They are just working really hard and they are not getting the pay raises that they thought they would be getting by this time. It's not the happiest ordinance, but I offer Ordinance No. 26-2009(AS), As Amended, Second Reading for approval."

Mayor Kelley accepted Ordinance No. 26-2009(AS), As Amended, Second Reading.

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

Nays: None

**Ordinance passed**

Council Member Dietrich continued, "Thank you. A couple of announcements that have to do with the non-profits that I am liaison to for Council and these are a little bit more cheerier. If you're thinking about spring, which it doesn't seem like tonight we might be thinking about, but, there are some rain barrel workshops that you could take advantage of. Learn how to make a rain barrel for your yard so that you can catch the rain water and use it to water your plants. There are certain ways to do this so that it is code-conforming and you can learn how to do these. There are two workshops offered at the Nature Center, April 18<sup>th</sup> from 10:00 to noon or from 2:00 to 4:00 or on April 25<sup>th</sup> you could go to the Cleveland Botanical Garden from 10:00 to noon and get the same lesson. It costs \$75.00 and of course you get to take your rain barrel home with you. It is \$65.00 if you are a member. You do have to register by either calling the Nature Center or the Botanical Garden if you'd like to learn how to make a rain barrel.

The other event for non-profit that I'd like to announce is a little fund raiser for the Heights Community Congress. Like most of the non-profits in the city these days everybody is trying harder to earn their funds and Heights Community Congress is having a fund raiser at the Juma Gallery, it's an art gallery on Murray Hill. It is on April 25<sup>th</sup> and anything that you buy at the Juma Gallery on April 25<sup>th</sup>, twenty percent of that money will go to the Heights Community Congress. You get to see, maybe buy some good art and benefit Heights Community Congress at the same time. That's all that I have."

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

Vice Mayor Evans stated, "Thank you, your Honor. I'd like to present Resolution No. 30-2009(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. Whereas, in celebration of the 41st anniversary of the federal Fair Housing Law, HUD has promoted the observance of "Fair Housing Month" throughout the communities of this nation. This City, since the year 1965, has continually and consistently approved and encouraged the concept of fair housing throughout the City of Cleveland Heights and the entire Cleveland metropolitan area. Thirty-three years ago, in 1976, this Council committed itself to a Resolution establishing the Nine-Point Plan to promote a well-maintained, full-service residential community and prevent resegregation, and to develop programs with residents, community organizations, the Board of Education, the business community, and other institutions to implement this Plan. Since that time, the City of Cleveland Heights has created and operated programs to continue integration, and to educate and persuade residents and non-residents of the benefits of integrated neighborhoods in this City and others across the country. Therefore, be it resolved by the Council of the City of Cleveland Heights, Ohio, that: Section 1. The City of Cleveland Heights, Ohio joins with the United States Department of Housing and Urban Development and other communities nationwide in the observance of "Fair Housing Month", and hereby reaffirms its commitment established over 41 years ago to fair housing in Cleveland Heights, Ohio, and throughout the Greater Cleveland area and the nation. Section 2 is notice of passage and Section 3 declares this to be passed as an emergency measure. I'd like to submit Resolution No. 30-2009(CRR) for passage this evening."

Mayor Kelley accepted Resolution No. 30-2009(CRR).

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

Nays: None

**Resolution passed**

Vice Mayor Evans continued, "This past Saturday, the 19<sup>th</sup> Annual Spring Egg Hunt was held on April 4<sup>th</sup> and it was attended by many, many of our residents and all the kids had a great, great time even though we had the eggs placed in the tennis courts because the grounds were a little damp, but nonetheless the children just had a grand time. There was a magician there, Richard McClendon, so we would like to thank him. The fire truck was there so the kids could visit it and do what they do when it's out there. Also, many of the residents brought food items for the food bank. So I would like to thank Dee Marsky and all the other employees with the city for all their help. There were also some Kiwanis there to help out as well as Monticello Middle School students. I think everyone had a great time. It was a nice dry day and there was some sunshine, although it was a little chilly, but it still was a great, great event.

The next city event is scheduled for Tuesday, April 22<sup>nd</sup> at Forest Hill Park and it is our 5K walk/run event. That is a fund raiser for the Youth Scholarship Fund. That completes the report this evening."

### **REPORT OF THE FINANCE COMMITTEE**

Council Member Montlack stated, "Thank you, your Honor. There is one piece of legislation from this committee, Resolution No. 31-2009(F), authorizing the reprogramming and reallocation of Community Development Block Grant Funds; and declaring an emergency. This happens from time to time with our HUD Block Grant Funds and as in most of these actions, the Citizens Advisory Committee (CAC) looking at block grant allocations has given its approval. Here are the actions to be taken: \$25,000.00 will be taken from the Nuisance Abatement Fund and given to the Condo Conversion Rehabilitation Program. \$5,000.00 will be taken from the Short Term Deferred Loan and put into the same Condo Conversion Rehabilitation Program, and \$20,000.00 will be taken from the Short Term Deferred Loan and put into the Condo Rehabilitation Renovation Program Fund.

These funds are used, for those unfamiliar with the lingo, to complete some excellent renovations on East Derbyshire Road between Cottage Grove and Lee Road and also to start a third conversion and rehab effort which is in the process of helping to transform that part of East Derbyshire and assist that neighborhood.

Resolution No. 31-2009(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 31-2009(F).

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

Nays: None

**Resolution passed**

Council Member Montlack continued, "A few reminders. As you probably have recently seen in your water bill the Cleveland Heights City Income Tax long forms are due April 15<sup>th</sup> and any tax amount that is due and not paid by that date is subject to penalty and interest charges. You can call City Hall at area code 216-291-3978 if there are questions. Also, you can go online at [www.clevelandheights.com](http://www.clevelandheights.com) for an online tax filing tool that will help to make this filing effort a little less complicated. I didn't say less painful, but a little less complicated. Also, if you are someone like me that likes to hold paper

in your hands come to City Hall and pickup one of the forms that is just inside the vestibule. I don't need to tell you that the city needs your money more than ever. So filing is made as simple as possible and that completes this report."

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

Council Member Caplan stated, "Thank you. I have one piece of legislation and it is Resolution No. 29-2009(MS), authorizing an agreement with Reader Roofing for emergency replacement of an industrial heating unit at the Service Garage; providing compensation therefor; and declaring an emergency.

You've been hearing about this since June. On June 9, 2008, there was a fire which started in a garbage truck causing significant damage to the Service Center, burning through a portion of the roof and destroying a heating unit located on the roof. It was necessary to replace the unit on an emergency basis as part of the repair work. The City Manager recommended that the unit be purchased from the company doing the roof repairs, Reader Roofing. The estimate by Reader Roofing was the lowest estimate received by the City, and the Contractor was well-qualified to provide the necessary labor and materials. Therefore, be it resolved that the City Manager be authorized to enter into an agreement with Reader Roofing for the purchase and installation of an industrial heating unit in the Service Garage. The agreement shall provide for compensation for materials and labor in the sum of Fifty Three Thousand Three Hundred Sixty Dollars (\$53,360.00), and shall be approved as to form by the Director of Law. Council has determined that the purchase and installation of the industrial heating unit on an emergency basis was necessary to provide essential services to the residents of Cleveland Heights. Notice of passage shall be given and this Resolution shall be declared an emergency for passage tonight. I offer Resolution No. 29-2009(MS) for passage."

Mayor Kelley accepted Resolution No. 29-2009(MS).

Council Member Wilcox requested, "Your Honor, I would ask permission to abstain from voting on this because of a potential conflict due to something from my law practice."

So moved by Council Member Montlack.

Second by Vice Mayor Evans.

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

Nays: None

**Motion passed to abstain**

Mayor Kelley called for the vote on Resolution No. 29-2009(MS).

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

Nays: None

**Resolution passed**

Council Member Caplan continued, "Thank you. Other than wishing all of our residents a good holiday season. This is Passover and Easter and I hope everyone has a joyous holiday. That's all I have."

## REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There are two Board of Zoning Appeals' resolutions and one other resolution from this committee. I am going to ask Councilwoman Dietrich to handle the Board of Zoning Appeals' resolutions since she attended the meeting of the Board of Zoning Appeals on these matters."

Council Member Dietrich stated, "Thank you. The first one is BZA Calendar No. 3179 Todd & Laurie Guenther, d.b.a. Guenther Sporting Goods/Logos on Lee, which is at 3101 Mayfield Road (that is the Rockefeller building) in a C-2 Local Retail District, and they requested a variance from the commercial identification regulations of the Zoning Code, to permit fifty square feet of commercial identification signage for their business. According to the Zoning Code it is kind of a complicated formula but the maximum permitted area for commercial identification signs in a commercial district is ten square feet plus one square foot for each linear foot of building frontage over ten feet, which translates for this business into 31.75 square feet of signage that they would be allowed and the variance is for fifty square feet. This business has just moved around the corner from the same building on the Lee Road side where they were in one small store front and now they are on the Mayfield side in two storefronts that are adjacent to each other as a larger operation. The BZA did grant this variance because it is an historical building, it is also a local landmark and listed on the National Register of Historic Places and the BZA felt that the building was deserving of signage in keeping with the previous historical signage and the building's design. Our staff researched what the signage looked like - I think from the 30's and this is going to be kind of a replacement of that. The other reasons that they allowed the variance is that the building is set back more than fifty feet from the road and it is a very busy road there on Mayfield so this would draw more attention to the business. Also, the Architectural Board of Review and the Landmark Commission endorsed this proposal and actually preferred the look of it over the code-conforming design. They felt the signage is attractive and it compliments the building and actually adds to the value of the property. The only condition is that this be completed within four months. I offer BZA Calendar No. 3179."

Second by Council Member Wilcox.

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

Nays: None

**Resolution confirmed**

Council Member Dietrich continued, "BZA Calendar No. 3180. This is a very small variance - it's several variances, but a very small affect. MLS Properties, Ltd., which is an apartment house at 2710 Euclid Heights Boulevard, right at the corner of Mornington Lane. It is a 'MF-3' Multi-Family District and they have requested a variance from the setback and site development regulations of the Zoning Code, to permit a 7'-high dumpster enclosure that would be eleven feet from Mornington Lane and sixteen feet from the property line that abuts 2729 Edgehill Road which is their backyard neighbor and also that this would project four feet into the required sight triangle for coming out of the driveway onto Mornington. The Zoning Code requires a 15' setback from Mornington Lane, a 25' setback from 2729 Edgehill, the neighbor, and no projection into the required sight triangle. Again, the BZA did grant this variance because the topography of the site where the apartment building is located create limitations on where and how far back a dumpster may be placed on the site; and that this new proposal improves the overall site from the way it was before by allowing for a less visible and better screened dumpster. The applicant is required to submit a landscaping plan for approval by the Planning Director. So they have to provide low landscaping for the area around the dumpster. They have to trim some existing shrubs north of the driveway to be in compliance with the Code as far as visibility at the intersection

where they come out of the driveway. Another condition is that trash from this dumpster shall only be collected between the hours of 7:00 a.m. and 9:00 p.m. and that construction be completed within six months. I offer BZA Calendar No. 3180.”

Second by Council Member Tumeo.

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

Nays: None

**Resolution confirmed**

Council Member Wilcox stated, “Thank you. Next, I have Resolution No. 32-2009(PD), approving a Change Order with American Building and Kitchen Design Company for a contract for the renovation of two East Derbyshire properties; providing compensation therefor; and declaring an emergency.

This follows up on the legislation Councilman Montlack read earlier reallocating Community Development Block Grant funds for or part of those funds will be used for this particular resolution. The City awarded a contract to American Building and Kitchen Design Company for the renovation of two City-owned properties located at 3132-3134 East Derbyshire Road and 3144-3146 East Derbyshire Road. Additional labor and materials were necessary due to hidden conditions (this often happens in older homes) and extra work requested by the City, resulting in an increase in price. The Company has submitted to the City a proposed Change Order covering the additional materials and labor, and such proposal has been recommended by the City’s Housing Programs Manager.

Just to briefly review those at 3132/34 Derbyshire, that includes building a 4-car garage instead of a 2-car garage and the additional cost associated with that. 3144/46 included on further inspection a new roof instead of repair of a roof. Once the aluminum siding was removed, additional work was needed on the exterior of the house and finally a new furnace was required. Again, these are funds that are being used on East Derbyshire to convert large two-family homes in a one-block area from Lee to Cottage Grove, back to more owner-occupancy as was the original intent when those homes were built - there was much more owner-occupancy. So, we are using block grant funds to convert these to condominiums and hope to spur more home ownership.

Section 1 of this Resolution provides authorization and approval of the changes to the contract. The original contract amount would increase by \$35,700.00 due to the changes I noted. The total contract is now \$318,200.00. I offer Resolution No. 32-2009(PD) for passage tonight.”

Mayor Kelley accepted Resolution No. 32-2009(PD).

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

Nays: None

**Resolution passed**

Council Member Wilcox concluded, “Thank you. I just wanted to emphasize the fact that we are using block grant funds for this program, not any of the city’s general fund money as Councilwoman Dietrich noted in our salary ordinance, we are obviously watching our general fund budget very tightly. It’s important that we’re continuing to get funds from the federal government for programs such as these to renovate our existing housing stock and to put it back on the market. So, again without the federal funding we get from block grant we wouldn’t be able to do this kind of a project and that concludes my report.”

## REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Tumeo stated, "Thank you, your Honor. I have no legislation tonight. I want to take just a couple of minutes. I'm sure that many of you if not all of you know that I recently had the opportunity to speak to the Charter Review Commission of University Heights and I want to take the opportunity to present to the people here of Cleveland Heights an idea that I presented there. As you know we're in pretty dire economic times. We've been doing a lot of budget cutting here. University Heights is also doing the budget cutting and it's important that we find ways as a government to do our business of government more efficiently, more economically to maintain the quality of life that our citizens here deserve and expect. To do that in these times sometimes we have to think outside the box that we've all managed to put ourselves in over the past several years. So, what I presented to the CRC for the bait - discussion - this is not a proposal or a motion, it's something that I would like to see the citizens of Cleveland Heights and University Heights discuss. As a resident of Cleveland Heights I went to University Heights to present it to them to start the discussion. I did that as a citizen not as member of this council. I spoke for only myself. I had mentioned to my council colleagues that I was going to do this. I didn't want to surprise anybody and I was sure that there would be those who thought I was being a mouthpiece for someone else. I'm sure those people who know me know that, that's a highly unlikely situation. So, with that, what I would like to propose is that the residents of Cleveland Heights and the residents of University Heights step back and consider the concept of merging the two cities. Doing that would bring us to well over 60,000 people and we can gain a large amount of the economy of scale from that. The Mayor has already spoken about in his State of the City Report that just doing joint fire between the two cities could save 3 to 5 million [dollars]. Given that kind of number, think how much we could save if we were also doing joint police, joint garbage, joint snow plowing, all of the other services that a city government must provide to its residents. That kind of savings could allow us, if not to lower our income tax, at least not to have to raise it for a very long time and I think that's a very, very important concept for all of us to think about. A larger population base gives us a larger income base and gives us a much more sound economic future. The concept is not simple. There are a lot of questions to be answered. I think the most important thing to know is this is not something that this City Council or the City Council of University Heights or the Mayor of University Heights or the Mayor of Cleveland Heights can do. This can only be done by the citizens of the two cities. The law requires that if this were to happen much like if you were to merge a company, the stock holders, you, the citizens have to step up and start a petition. That petition has to be circulated in both cities and ten percent (10%) of the voters of the two cities - the registered voters have to sign the petition and then it goes on the ballot in those cities. This is just to get the idea on the ballot. If the idea passes in both cities, then a Charter Review Commission is formed in both cities together to look at putting together a charter for the unified city. That charter then would have to be voted on by the residents of both cities and passed. The City Council can't put this on the ballot. The City Council can't call the Charter Review Commission to do this. This has to be done by a petition of the residents of both cities. So, my idea is to let's get it out there and discuss it. It's been surprising to me - I've had people come to me and say, 'Oh, we've thought about this but it's too out there, it's too politically unlikely. I can't believe that you're saying that.' I think part of the duty of an elected leader is to actually step up and lead. It's okay to talk about ideas that may seem new or unusual or beyond the realm of the political reality that we now have. But, if we never talk about and think about things beyond that are real now, the future is going to be a pretty confined and dismal place. So, I think we need to talk about it. I urge the residents to talk about it and if it is something that the residents think is a good idea, then somebody needs to step forward. I'll be willing to help as much as I can to start to circulate the petition. That's my report for tonight."

Mayor Kelley added, "Thank you, Councilman. Just a footnote, when I call merging a fire department I talk about in addition to Cleveland Heights-University Heights there is also Shaker

Heights. We are already in joint dispatch and that's where the 3 to 5 million dollar savings comes into effect, not just in personnel but in equipment and buying things together, doing things together, training, etc. That's a discussion for another day, but it is also Shaker Heights in case anybody is out there and is going to e-mail us and say - -. As far as the fire, we're more than interested in looking at other cities too. I've said that before, whether it is South Euclid or Beachwood and more and if you take the map and look at it and make a square or whatever there are a lot of other possibilities besides the three cities. The three cities have been working together. At least us and Shaker, I believe at least 15 years in joint dispatch and University Heights probably in the last five years or so. Something there will be out there and hopefully, we'll all get to talk about."

### **REPORT OF THE MAYOR**

"Mayor Kelley continued, "Moving to the Mayor's Report, very quickly. I just want to say to the Tighe-King Family, most of which all live in Cleveland Heights, deepest sympathy from this council on the passing of our very own Marlene Tighe. Last week we lost a leader in our community. Marlene was on our Commission on Aging, valiant member of our Visioning Committee. I think she was our ARRP president. She led the way to our community center and the debates and what have you and made sure that the beautiful 10,000 square feet of community center was dedicated to our seniors. She made sure that happened and that was always on the forefront. She also secured a grant for the computer center from Ohio Bell for the community center. We will certainly miss Marlene Tighe, a life-long 71 year-old resident of our city. Her brother, Bill, and her sister still live on Cleveland Heights on Berkshire and Atherstone and I believe her sister is a nun at Jesuit in neighboring University Heights. So our deepest sympathies and to her many, many nieces and nephews who dot the Cleveland Heights-South Euclid-Lyndhurst and a number of things whether it's a dentist or a doctor or just the volunteer coaches. We certainly miss Marlene and with Kay Heylman earlier, we've lost two giants, senior citizens who really taught us how to integrate our community and be part of our community. Very special seniors right up to the end and we certainly do miss them both and our sympathies to both families.

Our next meeting will be Monday, April 20, 2009 at 7:30 p.m. Thank you for coming. This meeting is adjourned at 8:26 p.m."

Respectfully submitted,

Edward J. Kelley, Mayor  
President of Council

Thomas K. Malone  
Clerk of Council

/mwc