



CITY OF CLEVELAND HEIGHTS, OHIO

MINUTES OF THE COUNCIL MEETING

OF MONDAY, JULY 20, 2009

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

Edward Kelley, presiding

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

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Wagner, Wong

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

Committee of the Whole adjourned at 7:13 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:35 p.m.

Edward Kelley, presiding

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

Council Members absent: Caplan

Mayor Kelley excused the absence of Council Member Caplan.

Staff present: Carter, Czaga, Downey, Gibbon, Malone, Wagner, Wong

The minutes of the Regular Council Meeting held Monday, July 6, 2009 were approved and signed by Mayor Kelley along with the ordinances and resolutions passed at that meeting.

"David Bernstein, retired Rabbi and Chaplain, 2487 North Taylor Road, Apartment 9, Council Gardens. I'm a resident of Cleveland Heights for the last three years. It is my first time in a meeting. Two main issues: first I called somebody in the planning committee - I don't know - he's not here, somewhere the other day. If somebody could pay attention to fix the potholes, we have in the Severance and also on Taylor Road. They are getting very bad and for too many reasons. First of all, it is a public hazard. I, myself, when in I go in the mall in a bus, I don't sit down anymore, and that's the truth. You jump sometimes, if you have an injury, if you can make a new injury - it's very risky. Taylor Road is

also very bad. I don't have a car myself, but sometimes I get rides from [unclear]. It's very bad coming from the mall, intersections over there too - Mayfield Road, in the right side, at least that's where I'm going. This is very important. It's a public hazard and besides that, it's kind of a depressive state that we are in the city also. It looks like - you see on the tv old neighborhoods abandoned here and there. It looks like this is also going around being abandoned - nobody cares for it. It's a depressive state. I think it would be very important to fix it. So, if we see that we take care and not everything is over, there's something to do about it. This is one issue.

The other issue, I live in a complex of citizens, you know, behind the fire station and there are about 120 apartments over there. I think about half of the population over there don't have cars and they have to come here to do their shopping at Dave's Market. The summer it's okay, but the winter is very, very hard and to go all around. My proposition is, if we can make a little pathway in the lawn cutting through from Mayfield Road - you know like a little round cement and about a week later [after it is dry and it could be used] and eventually we cut off the distance from more than a half and all of us (senior citizens) people in wheel chairs, I see sometimes people with canes crossing over the lawn, it's very risky. Myself, I fell twice coming from the market. If it is not snowy and icy, it's muddy and it's also dangerous. So, just maybe there is a chance we can make such a cut in Mayfield Road coming to City Hall and would be tremendously helpful for everybody. That's all I'm going to say."

Mayor Kelley responded, "Thank you for coming, thank you for coming tonight. Mr. Downey, our City Manager is here tonight and I'm sure he heard your complaints about Severance and Taylor Road. You are talking about Severance Circle, correct? The potholes on Severance Circle?"

Rabbi Bernstein replied but it was unclear.

Mayor Kelley continued, "The road that we own. We will look into the shortcut. Is there any chance your Council Gardens can get a bus to transport your folks up here in the winter time?"

Rabbi Bernstein replied but it was unclear.

Mayor Kelley continued, "Since I sit on the RTA Board and I'm vice-president [I know] it is available for para-transit service also to go to and from the market."

Rabbi Bernstein said, "But sometimes we're walking. [unclear]"

Mayor Kelley replied, "We'll look into it, but I can't give you any guarantees, Sir."

"Sheryl Zellner, 1780 Cumberland Road. First of all I'd like to say that I love Cleveland Heights and we have lived at 1780 Cumberland Road for seventeen years. So, I think that the issue that I have is with Cumberland Park. It seems to be a little overcrowded and I was wondering if we could get some more security / patrolman up at Cumberland Park and to make sure that when the park closes everyone is off the basketball court. I haven't been up there to take a survey, but my guess is that there are a lot of East Cleveland residents coming into Cumberland Park to take over the basketball court. So, I was wondering if we could have more security or monitor that would check ID's at Cumberland Park and if the park is overcrowded and the basketball court gets overcrowded can it be cleared?"

Mayor Kelley called on Mr. Downey to answer that question.

Mr. Downey replied, "Sure. Mrs. Zellner is correct. There has been more activity at Cumberland Park and I don't mean just the pool, but the basketball area there as well. We've had a person there to

check ID's, but that is not sufficient. The younger people can't do the job that needs to be done when they're trying to tell someone that, 'well, you live in Cleveland Heights and you live in Cleveland Heights, but you don't and you don't have an ID', and that gets troublesome. So, we're having to try to move into having some adults help us out there as well and we have just in the last week or so, since you'll recall, we talked about a party that was going to be held in the park. Chief Lentz has rearranged the patrol through the park with emphasis on Cain and Cumberland and checking ID's at the tennis courts and the basketball courts, etc. If you don't feel a little difference in the next week or so, please by all means give me a call, because that's something we can move kids along when the park closes and it's time to go or they don't have an ID."

Mrs. Zellner replied, "I have spoken to you before and you did call me back. You're very attentive."

Mr. Downey continued, "That's why I said your problem is for real, because after you told me about it we checked it out and our youngsters were having a hard time moving people along and that isn't going to work."

Mrs. Zellner continued, "The police force is excellent. I just want to make that - anytime I call, they are there in four minutes, maybe three minutes. So, they do come, but I don't feel that I should have to come home from work every evening and call. I just think maybe if someone can monitor it a little bit better that it would be easier for everyone."

Mr. Downey replied, "We'll do that. Sure."

Mayor Kelley added, "Thank you for coming and thank you obviously for your commitment to Cleveland Heights and thank you for helping make sure that people enjoy their experience at Cumberland Park. We don't want to run into a situation that we'll all be sad about. Thank you."

"Hello, My name is Sheree Harris. I live at 2435 Noble Road. Mayor Kelley, I love him. Our family has owned property in Cleveland Heights since 1988 and I love Cleveland Heights, also. I think it is a wonderful model for what diversity is about and we try to respect people for their religious beliefs and everything else. I also want to file a complaint about the kids. I walk, sometimes, at Monticello Middle School and Yellowstone - they always have gangs of kids. I've seen several police cars there and they are able to move the kids along, but it's like, if there isn't a police presence there then they loiter. In addition to that, on Yellowstone there are a couple of abandoned homes and I've called to complain about high grass. This year it's a little better. I don't know the actual address of the home, but one is still abandoned and the grass has been higher than it normally is, but a better job has been done on it. So, I just want to know, I guess, first of all I have two things, if we could get the grass cut regularly? I know it's a bank-owned property. I could call back with the actual address."

Mayor Kelley asked, "What block are we on, on Yellowstone, right by Monticello Junior High?"

Mrs. Harris replied, "Right before you get to Noble."

Mayor Kelley added, "Mr. Wagner is here, our Housing Commissioner. He'll give you his name and number, but I'm sure he'll get in his car on his way home tonight if it's still light and take a look at it and we'll be more than happy to cut it or ask the bank to cut it and if indeed they don't comply we will cut it and we will assess them the amount of money it takes to cut it, on their bill. We will aggressively - - ."

Mrs. Harris said, "The street really looks bad and like I said, I've been in Cleveland Heights for many years and that particular street is just starting to look run down, in addition to the block."

Mayor Kelley said, "You know what we're going to do. We're going to look at the whole street tomorrow. Rick is going to go up and down the whole street or have one of his assistants look at the whole street and get it cleaned up for you. We're very tough on people. If we need to do some hard work over here and cite some people we will do it."

Mrs. Harris said, "And as far as the children?"

Mayor Kelley said, "Two things. I want to tell you about - we did ask for a police grant from more of a community-police-type aspect both in our commercial areas and our residential areas. I believe we asked the Obama stimulus money for ten or thirteen new officers."

Mr. Downey replied that it was ten.

Mayor Kelley continued, "Ten new officers - about a million dollars over the next three years, so, hopefully to combat some of these issues. But, more importantly - well, that's a very important thing. This City Council will be meeting in August. One of our issues to talk about in August is the kids. What to do about kids, not just these issues, but in and around school - when school goes back into session, the first warm day in March and April and the kids can be anywhere from ten years old to twenty-five years old, because we are seeing young adults out of work and it's very frustrating, but they're maybe the ones playing basketball and doing things that just aren't acceptable here in Cleveland Heights. So, we will be meeting in August to discuss those issues. So, keep your fingers crossed. The best thing would be is to get more police on the street, not just not in the commercial areas but the residential areas and really go hard after this. Sometimes it just needs a friendly reminder from the policeman and to walk on the sidewalk and to stop the profanity, to do things a little bit nicer the way we were all raised."

Mrs. Harris replied, "That's true."

Mayor Kelley continued, "Sometimes you just need a little bit of a stick. We're working on that. Your comments are very appropriate and very timely."

Mrs. Harris replied, "Thank you."

Mayor Kelley responded, "Thank you for coming. Thank you for your comments."

REPORT OF THE CITY MANAGER

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

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that three 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. 3187 Halley Moore and Jason Drake, owners of 2235 Harcourt Drive, accessory use regulations; BZA Calendar No. 3188 Doris Ward Williams, 3723 Bainbridge Road, accessory use regulations; and BZA Calendar No. 3189 Chuck and Janice Miller, owners of 3368 Mayfield Road, accessory use 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 PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Tumeo stated, "Thank you, your Honor. I have no legislation tonight. I just have a few comments. One of the things that has been discussed recently is that perhaps we on Council don't let everyone know what we're doing as effectively and we try and do that a lot during these committee reports. So, I just want to address a few things that are being considered or being brought forward in my committee that the Council will be discussing. No resolutions or promise of which way it's going, just so you know what we're talking about. You've already heard from Mayor Kelley about the first thing - we do have a retreat planned. We will be focusing on issues, what I would call behavior issues that we may have in the community to some extent. One of the things that I'm hoping to do with that and the Council is working on finding new ways or tools to address it, one of the things that we will be discussing is how to engage our faith communities to have them help, because a lot of times they can step up and help in that. A second thing, and this is a specific one that's come forward and it's in the news now anyway so we're doing the same thing. We're looking at the potential, whether or not we will do it or not of passing some type of ordinance that would ban the use of handheld cell phones or texting while you're driving. Both sides of the argument are very interesting. Of course, we all know that's a bad idea, but so is eating or disciplining your kids or trying to drive and put on makeup or balancing check books. If you drive up Cedar Hill you've seen it all being done while you're driving up the hill and it's kind of hard to just outlaw everything, every single action. One would hope that driving non-recklessly would be sufficient, but we're looking at those kinds of activities as well. Thirdly, I want to report out that the trial Oxford Neighborhood Group, we have the liaison with the police department to have a better communication to find out what's going on in your neighborhood, there is a liaison that's meeting weekly with Captain Cannon, getting the kind of reports and reporting back to the neighborhood. That's moving along nicely. They're figuring out how to best spread that information among the neighborhood, because right now they're using e-mail but not everyone is on e-mail and they want to make sure that information is widely circulated. I'm hoping that by September, we will have just figured out how much effort that takes on both sides and how to best do that so that we can take the pilot program and expand it to other neighborhoods that would be interested in forming a group and having one person come in and report back to that group about things that are going on in their specific neighborhood. That concludes my report, your Honor."

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "Thank you, your Honor. I also have no legislation tonight. I think we are all kind of barking up the same tree tonight. We all have our minds on the same thing. I think, for me, what prompted me to think about some of these behavior issues, besides the fact that we are having a retreat about it in August, is that I think we all notice an up-tick in the phone calls that we get from residents who are experiencing problems with neighbors who are less considerate than they should be and of course, it's always worse in the summer because our windows are open and people are outside. Some neighbors just don't realize that they don't live in isolation and that what they do can really be very irksome to their neighbors. I have three things that I just want to say about people who may be experiencing problems with the behavior of neighbors. If your neighbors are noisy at all hours, if their yards are full of trash, if their yard smells, if the dog is barking all the time, if people are swearing loudly outside at all moments - all these kinds of things. People often feel apologetic about calling. We really do want to hear from you. We don't always know exactly where these things are rising and falling at certain times of the year and from one year to the next. So, you are not bothering us when you call us. Don't be surprised, 'cause when you call us, you'll get us - at home or at our job

or on our cell phone. We don't have an office here at City Hall. So, don't feel badly that you're calling on our home phones. That is our job. These neighbor problems are, as you know, among the hardest ones for us to solve. I do think that some of our efforts over the years have made a difference, just things like holding a landlord responsible for tenants' behavior which we did not used to be able to do or having an absentee landlord make sure that there is a contact person that lives locally, so that when there are problems, the City has somebody to get in touch with. These things help, but the second thing besides calling us as you know and people here have talked about it tonight, you have to call the police at the moment that something is happening. I know that the response to that is, yes, they come out and by the time they get there - you're right it's only 3 or 4 minutes, but somehow people see them coming and suddenly everything quiets down and people go inside and the police, as you know, can not do anything ticketing or arresting, etc., unless they witness whatever it is that is happening. If you should then have to call again a second time in the same night or even if you should have to call again a third time and bring the police out, all those times, it really is okay. You are not being a bother to them. That is your way of helping them. If you can let them know, 'look it's happening again, it's happening now, come now. I know you came a half an hour ago and you didn't see it', but try again. Don't feel embarrassed if you have to do that. Thirdly, a step that we found that really does help is if you organize your neighborhood to set a positive tone. Create a neighborhood street group, have a block party, host a meeting at your house. All these things foster a sense of neighborhood. I know that often the people that are the perpetrators of the bad behavior don't come. So, you think, well what good does that do and that's very true. The people who are the misbehavers probably are not going to come, but it does become harder to become the one standout, troublesome, family or person on a block when all the other neighbors are acting in a way that they're communicating with each other. We really have found from neighborhoods where this has worked and it only takes one person to get the ball rolling and get neighbors knowing each other and this is something where the city can help you. The city can print your flyers for you if you want to let people know that you're having a meeting. The city would send a staff person or a police officer or a council person, whatever you would want at your meeting. Just reminding people as we go into the second half of the summer, please do call the police when things are happening and if you have the inkling to do it, we have found lots of success in organizing neighborhoods. So, I just thought I would pass that advice on to you. That's my report."

Mayor Kelley added, "As you know, there are two ways to call our police department. One is 911, obviously, and the other one is to call 216-321-1234. 911 your name comes up on the screen, 321-1234 your name doesn't. The important thing, as Councilwoman Dietrich has said and Councilman Tumeo before her, call the police if you're not happy with what's going on in your neighborhood. They will come out, they will handle the situation, they are trained professionals, they are very well educated. Most of them live in our community or the live on some of these streets and they could be a very good asset, but call. It's better off to be safe than sorry or let a problem fester and people quietly leave or quietly get upset. Let's all work together on this one. Thank you."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Vice Mayor Evans stated, "Thank you, your Honor. I'd like to present Ordinance No. 70-2009(CRR), amending the use regulations and rates for admission and other services for the Cleveland Heights Community Center and parks for the 2009-2010 fall/winter season, and repealing Ordinance No. 90-2008. The City of Cleveland Heights annually reviews its use regulations and rates for admission and other services for its Community Center and parks; and, in anticipation of the 2009-2010 fall/winter season, it is deemed desirable to reaffirm the 2008-2009 regulations with minimal rate changes.

In this lengthy ordinance it has basically been decided that there will be no changes in the Community Center passes or monthly pass fee. The yearly passes were adjusted in 2008 and we also

added the opportunity for people to purchase monthly passes in 2008. We believe that the price right now is where it should be, given the economy. We want to encourage our residents to certainly continue to come to the community center and those of you who have not begun working out there, look into it, we think you would enjoy it.

In Section 2 titled Rates and Charges under Ice Rinks for 2009, on Page 5 which is subsection (g) Group Instruction; Cleveland Heights residents with a skating pass the 1/2 hour lesson will be increased from \$4.00 to \$5.00; for Cleveland Heights residents with an I.D. card the lessons will be \$6.00 for a 1/2 hour session. They were \$5.00 and the Non-resident with skating pass is going to be increased to \$8.00 per 1/2 hour a lesson. It was \$1.00 and Non-resident without a pass the session will be \$9.00 per 1/2 hour lesson and that was increased by a \$1.00. In addition, an annual fee of Ten Dollars (\$10.00) may be charged to group lesson participants that the City registers with the U.S.F.S.A and that was \$7.00. We also see a little increase under subsection (k) Ice Rink - City free style ice rental. That session will be increased a \$1.00 so it goes up from \$8.00 to \$9.00. The Seven (7) session card was \$45.00 and that will be increased to \$50.00. The Monthly free style pass for I.D. holders was \$85.00 will be increased to \$100.00 and all others will be increased to \$120.00 and it was \$105.00. We have the category Speed Skating and the fee skating fees were all adjusted by a little under ten percent. We believe that the fees were too low for what was being offered. Those charges under subsection (o) the following rates and charges are hereby established for the Speed Skating Program: I.D. holders will be increased to \$7.00 from \$5.00 for a 1/2 hour session and all other lessons will be \$9.00 and that was increased from the \$8.00 fee. Speed Skating Club Memberships Mondays or Thursdays - Recreation I.D. holders will be increased to \$210.00 whereas it was \$195.00 and all others the fee will be \$245.00. That's a \$15.00 increase. Saturday Recreation I.D. holders, the fee was \$170.00. It will be \$190.00 and all others will be increased to \$215.00 which is a \$15.00 increase.

Then everything remains the same until we get to Section 6, which is on Page 11 and that is titled Rates and Charges - Adult and Youth Sports Leagues, Miscellaneous. For the adult teams, the Men's Hockey teams will be increased about ten percent. The Resident cost for one program will be increased from \$88.00 to \$105.00, for two programs it will be increased to \$175.00 from \$154.00 and the Non-resident charge which is always a little bit higher will be increased from \$165.00 to \$185.00 and the two programs will be increased from \$268.00 to \$295.00. The Adult Basketball which includes the men, women and the co-ed increased to a little less than ten percent. Our Resident team fee will be increased \$50.00 from \$550.00 to \$600.00 and the Non-resident team fee will be increased to \$700.00 from \$650.00. There is a slight increase with the Youth Basketball and this is for the Travel team. It will be increased from \$47.00 to \$60.00, but the cost of the uniforms will be included in that and this is the first time we have included the cost of the uniforms. Other than that, there are no recommended changes and Ordinance No. 70-2009(CRR) is being presented on first reading only."

Mayor Kelley accepted Ordinance No. 70-2009(CRR) on first reading only.

Vice Mayor Evans continued, "Thank you. I would certainly like to thank Susanna O'Neil and all of her staff for making sure that the Cain Park Festival ran very, very smoothly. It was certainly enjoyed by many and there were quite a few thousand people that were out for all three days. Saturday, of course, started off a little bit more slowly than we would have liked, but the weather interfered with the attendance being up, but later on in the afternoon, there were a lot of people around, a lot of people were spending money. So the artists were just thrilled and you may have noticed that we probably had more local artists than we usually have, but it's still great, it's still a juried show and everyone enjoyed it. So, I'd certainly like to thank all of the staff for that.

Lately, you may have heard some talk about swimming pools and not having the safety drain

caps in place and I just want to assure everyone that ours were all taken care of at the pool, at our one pool now. It was installed prior to the season and that was purchased with our Issue 27 funds so we don't anticipate any problems there.

I do want to remind people that half of the Cain Park schedule has already taken place, but there are a number of good acts. If you do not have a schedule, you can go online at www.cainpark.com. Certainly, see if there is something that might be of interest to you. In addition to that, there are a couple of \$2.00 Tuesday evenings. One is next Tuesday on July 28 and the last one for the season is August 11th. Take your friends, your family and just go down there and have a great time. It is a great setting and as long as the weather is terrific you'll have a great time. That concludes my report."

REPORT OF THE FINANCE COMMITTEE

Council Member Montlack stated, "Thank you, your Honor. There is one piece of legislation from this committee, it is Resolution No. 67-2009(F), Second Reading, approving the adoption of the 2010 Tax Budget; and declaring an emergency. The City Manager has submitted that tax budget for City Council's review.

It is at this point the first draft or the first guess as to the revenues that the City will realize in 2010 and the expenditures that it must make. The purpose at this point is to, once we pass the Resolution is to send it down to the Cuyahoga County Budget Commission, preparatory to its collection and distribution of tax funds for the year 2010. As with every budget it starts with the City Manager meeting with all of the department heads and seeing during these years how we can frankly get through the next year against a bad economic scene.

A copy of that 2010 Tax Budget is available for inspection by the general public at the office of the Director of Finance at City Hall, first floor of City Hall. Immediately before this City Council meeting we held a public hearing and at that time the City Manager, on behalf of the staff, presented the background and rationale for the budget.

Without going line by line and I'm hoping that these numbers I'm giving, frankly, are conservative, but nobody has a crystal ball. Amongst all of the sources of revenue, which we anticipate for the most part will continue to be depressed - not to mention some of us on Council feeling the same way - we are looking at perhaps a total General Fund revenues of \$39,874,600. Just to give you some [end of tape]. Going back to the end of 2007 our revenues were at a little more than 42 million dollars and so even with cost of living increases, etc., you can see right now where we - not to mention most of the nation - is headed at this time. And in terms of the General Fund line items for the various departments we are projecting expenditures of about \$39,870,677. There is still more work needed on this budget and you can certainly anticipate amending it at least once before the end of 2009. Again, looking forward to 2010 and as the City Manager mentioned in his remarks at the public hearing, one of the question marks only is what will happen with the Local Government Fund and its cousin the Local Government Assistance Fund coming out of the state which is based on a formula which relates to the revenue that the state realizes. So at this time only, I will introduce for a second reading, Resolution No. 67-2009(F) for passage tonight."

Mayor Kelley accepted Resolution No. 67-2009(F).

Council Member Tumeo stated, "I wanted to take a moment and congratulate the City Manager and the Finance Director for something that people may not think about a lot in terms of the management of our budget and we don't toot our horn enough and so I want to take this moment to toot their horn. I'll give you a little bit kind of an analogy to your own budget. The city, of course, has income, but

we also take out credit and we have short-term loans which we would call credit card debt, perhaps, if in your own home and the long-term like mortgage loans, those kinds of things. Over the past few years, trying to adjust our budget, we have not only paid off our credit cards, we have no short-term debt - we paid off the majority of our long-term debt as well. And so, as a consequence of that, in the next year, which we know is probably going to be a little bit down even income-wise from this year, we won't have to be paying that interest. So the money we do get can go to maintaining the services. It's kind of mundane work and it's balancing these bonds and those debts and paying things off and moving inside millage and outside millage around to allow us to manage ourselves and I just want to congratulate Tom Malone and the City Manager Robert Downey for something that we don't think about a lot, but they have managed that very, very well for us and it will serve us very well next year."

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

Nays: None _____ **Resolution passed**

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Montlack stated, "Thank you, your Honor. There are two pieces of legislation from this committee, two resolutions from this committee tonight. First is Resolution No. 71-2009(MS), authorizing the City Manager to enter into an agreement with CT Consultants, Inc. for engineering and support services for Phase I of the Monticello Boulevard Rehabilitation Project; providing compensation therefor; and declaring an emergency. The City has been awarded funding through the Ohio Public Works Commission for one of three phases, repaving of Monticello Boulevard. Each phase relates to a section of that highway. CT Consultants, Inc. has been selected based on its estimate of costs and work to do engineering. The City Manager, on passage, is authorized to enter into an agreement with CT Consultants, Inc. for that work, the services to be provided by the engineer are as set forth in the proposal on file with the Clerk of Council, who is also the Finance Director. It will include development of project mapping and subsequent construction plans utilizing procedures supplemented by field surveys, traffic maintenance plans, coordination of utilities, preparation of detailed drawings to show the work to be done, and technical data, preparation of quantity and cost estimates, and the contract documents as well as periodic on-site inspections. Very important work. The compensation is to be equal to ten and two-tenths percent (10.2%) of the first Seven Hundred Fifty Thousand Dollars (\$750,000.00) of actual construction costs, plus seven and four-tenths percent (7.4%) of the next Two Hundred Fifty Thousand Dollars (\$250,000.00) of construction costs, plus six and five-tenths percent (6.5%) of construction costs over One Million Dollars (\$1,000,000.00). The agreement shall further provide for compensation for pavement coring services in the amount of Eight Thousand Five Hundred Dollars (\$8,500.00). All documents to be in a form approved by the Director of Law.

We have plans under way for all of the reconstruction eventually of Monticello Boulevard. It was mentioned earlier at the public comment, as part of this hearing, that there is a part of Taylor Road and I'm going a little off the subject - that has potholes and there is a portion of Taylor Road (not the same portion that was addressed in the public comment, but another phase or portion of Taylor Road which will be underway for reconstruction soon). Which is another way of saying, we're peddling as fast as we can.

Resolution No. 71-2009(MS) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 71-2009(MS).

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

Nays: None

Resolution passed

Council Member Montlack continued, "Thank you. Resolution No. 72-2009(MS), reestablishing the City's Electric Aggregation Power Supply Program, authorizing the City Manager to enter into an agreement with First Energy Solutions Corp. to provide electric power at discounted rates to the City's residents and businesses under the City's Electric Aggregation Power Supply Program; and declaring an emergency. The genesis of this program happened actually before 2000, but was on the ballot in November of 2000 when the Council worked to do so and the city's electors authorized the city to establish such a governmental aggregation program in terms of discounted electric power, the basic idea being that by offering to purchase in bulk - in quantity, we thought - I should say - the Law Director John Gibbon researched, worked at it and let us know that we could realize savings for the residents and this is what has happened. That went into effect first in 2001 and since that point through December 2005 we have realized a savings for the residents. First Energy Solutions Corp. is one of in effect two kinds of programs that after continued research and work by the law department and John Gibbon has been available for our review. After he reviewed it and then reported to the City Council and we discussed it and after all was said and done we felt that the best deal for our residents related to First Energy Solutions Corp.'s offer. I'll try to tell you briefly what that offer is. First of all it is an "opt-out" deal. In other words, if you like it and you want to take a chance on it, because nothing is guaranteed in this life, you don't need to do anything when you get a notice. It gives you the opportunity to "opt-out", you will be in it and the Resolution authorizes the City Manager to enter into an agreement to establish this program with the following items: a guaranteed six percent (6%) off the CEI standard service offer for residents and a guaranteed four percent (4%) off the CEI standard service rate for qualifying businesses. The program, as I said, will be on an "opt-out" basis. The City will not be required to pay any administrative costs to First Energy Solutions Corp. and First Energy Solutions Corp. will pay the "switching fee" for any resident newly entering the program. Of course, the agreement will be in a form approved by the Director of Law.

Just a few other comments. We anticipate that the "opt-out" notice, which will give you some of these details, will be in a form of a card that will come to the households and businesses at the beginning of August and you will have a time to by the end of August to decide if you wish to "opt-out". Let us say for the energy corp. it has its own little "opt-out" provision, which we do not think will come to pass, which is that if Ohio law or the PUCO regulations or procedures change dramatically and they establish different criteria for pricing of electric power, etc., that the corporation has the option of saying as they do in the Bronx, *forget about it*. I already reviewed or John Gibbon went through an extensive procedure to get to that point. We anticipate that things will get organized in September and this program should begin running and the savings hopefully should be accruing in October. Those complete my comments. I rarely invite the staff to comment during this portion of the report, but frankly if there is anything I missed or didn't state the way correctly, I would invite John Gibbon to comment on that."

Mayor Kelley called on Mr. Gibbon.

Mr. Gibbon added, "I don't recall, Mr. Montlack, whether there was a thirty-three month program mentioned?"

Council Member Montlack responded, "Well, if I didn't, I am saying it now. It is for thirty-three months."

Mr. Gibbon continued, "The other comment I might make is that there was a period of time,

which was two years, where we didn't have any supplier make a bid to supply us with electricity. Prior to that period of time our program had always been able to save our residents money on their electric bills, but for a two-year period, because of the uncertainty of Ohio regulations and the PUCO regulations no supplier was willing to make a bid to us or any other cities. Now, as a result of the auction that took place this spring, the two suppliers have been willing to make an offer to us and we have felt that the offer from First Energy Solutions was the best offer for us."

Mayor Kelley accepted Resolution No. 72-2009(MS).

Council Member Wilcox commented, "I just wanted again to thank our law director for bringing this proposal to us. It's unfortunate that we weren't able to have suppliers come forward the last several years, but as the law director explained, we do now have the ability to offer our residents a six percent (6%) discount and I think it's worth emphasizing that this is for a thirty-three month period. So it is through June of 2012, which means we get two summer periods when our electric bills are usually the highest. At least for the next two summers we know we will be getting a six percent (6%) discount off the standard service rate. Again, congratulations to the law director."

Council Member Dietrich commented, "I just want to make sure that people don't confuse this with the gas aggregation program. This is not the gas aggregation program. Hopefully, we think this will be more successful for our residents."

Mayor Kelley added, "I just want to say that I'm so happy that we're back in the electric deregulation game here. It's been a few years since we've been involved here, but in this day and this economy where everyone's budgets are stretched, it's nice to know that your city came through to get this six percent (6%) decrease for you for the next thirty-three months. Be careful, there will be teaser rates out there. It will be like mortgages. There may be other companies offering all kinds of different things or a twelve or an eight or nothing during the summer. This is six percent every month no matter what you use and obviously good for the summer months. So be careful, don't get sucked into some fancy thing that comes to you in the mail. This will be one of the best programs you'll see in years. We've not forgotten about gas aggregation either. We were not happy with the performance of our supplier last year and we are looking at each and every alternative this year and to do something maybe quite possibly a little bit different. We are on electric tonight. We are continuing to look at our gas program. We were not happy with the rates that were offered last year. Stay tuned, there will be more to come in the future. This is money back in each and every homeowners' pocket or if you're paying rent and you're getting charged for electricity, you get money back also. These are directly taken right off your bill. Nothing fancy about it. You don't have to fill out forms. You don't "opt-out", you stay in the program. Money will be coming back to you like years ago. This is very good for the city and like I said we're on the trail of some gas alternatives or whatever. Stay tuned for more.

Resolution No. 72-2009(MS) has been offered."

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

Nays: None _____ **Resolution passed**

Council Member Montlack concluded, "The Mayor has specifically requested that I comment on recycling. So, I'm happy to do so, but I will not go over how easy it is to recycle and the various aspects of it, because you'd have to live in a cave not to have heard it somewhere about how to recycle in Cleveland Heights, but if you are just emerging from a cave and you want to know about it, just call City Hall, ask for the public works department or let them know you want to know about recycling

and you'll get all the information and maybe a little magnet for your refrigerator - who knows and it will help you. It is very easy and even now when the recycling markets are way down, it still saves the city - saves you and your neighbors lots of money by virtue of not paying the landfill fees which under the state budget will go up a bit more.

My own personal comment on this, is that frankly it is a responsibility of citizenship right now in our city, just like refraining from anti-social acts as we heard earlier is obviously a responsibility of citizenship. In case I never mentioned it before, recycling ought to be mandatory, but we will get to that perhaps another year or decade. That's my comment on that.

Finally, going really outside of Municipal Services, we heard a lot of comments today about anti-social behavior and contacting the police department, to which I certainly say, 'amen'. Also, if there is anything that relates to any housing or property condition, ask for the housing department or you can ask for Rick Wagner by name, the manager. It used to be that housing inspections actually just inspected houses. That's not what we do anymore. Rick Wagner has carved out an entire new career troubleshooting problem properties and problem people who reside in and make problem properties often times. But we know that we on Council also have a great responsibility. First of all everyone should understand that we're not council people by ward. You can call any of us regardless of where you live or where we live. The entire city is our ward. So, if you're not successful with a call to City Hall or some communication, give us a call, we want to know about it. In my particular case, frankly, I'd rather get a call from a live voice than an e-mail, but reach us anyway you can or you're comfortable with. I'm hoping that as we go forward on this City Council we will work in terms of police enforcement towards a situation where we go lighter on the warnings and get right to the heart of anti-social behavior, because nothing stops a city progress like a lack of feeling of security by the residents and businesses. I'm also hoping that we can look at new ideas to target nuisances.

One of the things that's happening in cities and communities and in the law is that there is beginning to be a recognition that in the area of nuisances it's not just someone who lets their yard be overgrown, as bad as that may be, but in area of public nuisances, whether it's an irresponsible lender or anti-social behavior, that the behavior itself in an ongoing way constitutes that nuisance. So, we all know that we've got a lot of work to do and we're certainly going to step up to that challenge as we have done. That concludes this report. Thank you."

Mayor Kelley added, "And back to recycling. If you're not recycling at all, why don't you take this City Council's challenge and start with some cans and bottles and some papers and magazines. Start off very simply. Take it out of your garbage, put it in plastic bags, put it on your lawn, we'll be more than happy to pick it up. Last year alone we saved 48% going to landfills by doing recycling in this town and we'd like to see that go even higher. So start simply. We have a lot of ways to tell you how to do every type of recycling, but maybe if you start with the cans and bottles and newspapers and magazines you'll certainly make this city a better place."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There is one piece of legislation from this committee tonight and there are also three resolutions from the Board of Zoning Appeals. I'm going to ask Vice Mayor Evans to read the BZA Resolutions since she attended the meeting of July 15th."

Vice Mayor Evans stated, "Thank you. The public hearing was held on July 15th at 7:30 and as Councilman Wilcox mentioned there are three resolutions and each of these resolutions under the opinion of the Board of Zoning Appeals that each applicant clearly demonstrated there were special conditions and circumstances resulting in practical difficulty in complying with the requirements of the

Zoning Code, and, further that the variance was in harmony with the general purpose and intent of the Zoning Code, and that the public health, safety, and general welfare were safeguarded and substantial justice was done.

I'd like to start off with presenting BZA Calendar No. 3187 Halley Moore and Jason Drake, owners of 2235 Harcourt Drive, have made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit a 4' tall ornamental metal fence in a front yard 30' from the Harcourt Drive right-of-way. The applicable provision of the Zoning Code is contained in Subsection 1121.12, which requires a fence no taller than 3' in a front yard. The applicants would suffer practical difficulty if the variance is not granted because this is a unique historic property in a recognized historic neighborhood; in light of the lot's large size, planned setback and existing heavy front yard landscaping, the proposed fence will be barely visible; the applicants have a desire to maintain the features of the home's historic landscape designed by A.D. Taylor and aligning a fence with the house's setback would bisect the historic patio; and this is a large family home and the minor variance of 1' in height permits the yard to be enclosed and safely utilized by children and pets of present and future owners; and the applicants' predicament cannot be resolved without a variance. The issuance of a special permit is hereby authorized to Halley Moore and Jason Drake to build a 4' tall ornamental fence in a front yard as shown in plans submitted to the Board. The applicants are required to obtain Architectural Board of Review approval and a fence permit prior to construction. Staff shall determine that the site visibility and the site triangle are maintained. All construction which is the subject of this application shall be completed within 90 days of the approval of this resolution by City Council. I'd like to move that BZA Calendar No. 3187 be accepted this evening."

Second by Council Member Wilcox.

Council Member Dietrich commented, "For anybody who is a frequent watcher, you might know that Councilwoman Caplan and I often vote against these height variances for fences. In this case, this fence and the one that is coming later tonight are metal ornamental fences. They are about as transparent as you can get. So, less anybody think that I'm caving in on my principals I will be voting for these, but it is because they do not create that fortress-like appearance that I so hate."

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

Nays: None _____ **Resolution confirmed**

Vice Mayor Evans continued, "BZA Calendar No. 3188 Doris Ward Williams, 3723 Bainbridge Road, has made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit a 20' x 24' garage covering 30% of the rear yard. The applicable provision of the Zoning Code is contained in Subsection 1121.12(d), which requires rear yard coverage of no greater than 20%. It has been determined that the applicant would suffer practical difficulty if the variance is not granted because the 40' x 120' lot size and siting of the house make a Code-compliant garage unfeasible; and any two-car garage would require a lot coverage variance; and the applicant's predicament cannot be resolved without a variance. The issuance of a special permit is hereby authorized to Doris Ward Williams to construct a 20' x 24' garage covering 30% of the rear yard, as shown in plans submitted to the Board. The applicant is required to obtain a building permit prior to construction. All construction which is the subject of this application shall be completed within 90 days of the date of approval of this resolution by City Council. I would like to move that BZA Calendar No. 3188 be accepted."

Second by Council Member Tumeo.

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

Nays: None _____ **Resolution confirmed**

Vice Mayor Evans continued, "Next is BZA Calendar No. 3189 Chuck and Janice Miller, owners of 3368 Mayfield Road, have made formal application requesting a variance from the accessory use regulations of the Zoning Code, to permit a 4' tall ornamental metal fence in a corner side yard 14'-6" from the Compton Road right-of-way. The applicable provisions of the Zoning Code are contained in Subsections 1123.12 and 1121.12, which require a fence no taller than 3' in a corner side yard. The applicant will suffer practical difficulty if the variance is not granted because the property has unique grading that drops off toward Compton Road; there are two substantial trees which the applicants wish to preserve; this is a minor variance of 1' in height to enclose the yard in a residence, which like many others, has pets; and the applicant's predicament cannot be resolved without a variance. The issuance of a special permit is hereby authorized to Chuck and Janice Miller to build a 4' tall ornamental fence in a corner side yard, as shown in plans submitted to the Board. The applicants are required to obtain Architectural Board of Review approval and a fence permit prior to construction and submit a landscape plan for Planning Director approval. All construction which is the subject of this application shall be completed within 90 days of the date of approval of this resolution by City Council. I'd like to move that BZA Calendar No. 3189 be accepted this evening."

Second by Council Member Dietrich.

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

Nays: None _____ **Resolution confirmed**

Council Member Wilcox continued, "Thank you. As I indicated there is one Ordinance from this committee tonight and this is on second reading for passage tonight. This is Ordinance No. 65-2009(PD), authorizing the City Manager to purchase with Neighborhood Stabilization Program Funds vacant, abandoned and foreclosed single- and two-family homes located in Neighborhood Stabilization Program Priority Target Areas for the purpose of demolition or rehabilitation and eventual resale; and declaring an emergency.

Before I read this, I should point out that it is nice tonight after we heard a lot about budget constraints and vacant houses and all sorts of other issues and problems that we actually have some legislation that deals with funding from the federal government to try to address those problems by approximately 2.35 million dollars worth of money has been allocated to the City through this Neighborhood Stabilization Program to try to address some of these problems. We don't have the money yet, but we're expecting it any month now.

Council has previously authorized the City Manager to submit an application to the Ohio Department of Development for funding through the Ohio Neighborhood Stabilization Program ("NSP") for projects to address vacant, abandoned and foreclosed residential properties in the City. That Program is funded by the federal government through HUD, as I indicated. The Ohio Department of Development did award a funding to the City to address these problems in the four target areas which I described last time as the North Lee Neighborhood which is Lee Road between Mayfield and Cedar and some of the adjacent streets, the Caledonia Neighborhood, the Noble-Monticello Neighborhood, and the Randolph Neighborhood. Council has determined to use this funding for the purpose of acquiring vacant, abandoned and foreclosed properties in these areas and demolishing the houses or rehabilitating the houses for resale to owner-occupants. The City is going to be required to purchase a significant number of properties within a very short time, so it is in the best interest to approve this

legislation to authorize the City Manager to purchase those properties without individual authorization for each property. So Section 1 of this Ordinance authorizes the City Manager to purchase these vacant, abandoned or foreclosed single- and two-family homes which are eligible through the Neighborhood Stabilization Program without first obtaining authorization from City Council. The purchase agreement shall be approved by the Director of Law, who shall specifically certify that the home being purchased is eligible under the Neighborhood Stabilization Program. All monies used to purchase the homes and expenses in connection with the purchase shall be from the Neighborhood Stabilization Program funds, that I mentioned, and the purchase price shall not exceed Seventy Five Thousand Dollars (\$75,000.00) for a single-family home and One Hundred Twenty Five Thousand Dollars (\$125,000.00) for a two-family home. The City Manager shall report all the purchases to City Council within one week of execution of a binding purchase agreement. Section 2 of the Ordinance provides that in anticipation of the properties being demolished or rehabilitated through these Program funds they will be resold in compliance with all requirements of the Neighborhood Stabilization Program and any authorization for demolition or rehabilitation and resale shall be made with subsequent legislation of City Council. The Ordinance's authorization is effective through December 31, 2012. I offer Ordinance No. 65-2009(PD) for passage tonight."

Mayor Kelley accepted Ordinance No. 65-2009(PD).

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

Nays: None _____ **Ordinance passed**

Council Member Wilcox stated, "I just wanted to mention a couple of events that occurred last Thursday in the City showing vitality of our city's business areas and the development that's ongoing in our development efforts. One is the Coventry Street Arts Fair if you had a chance to go up and participate in that. I think the last street fair had something like 20,000 people and I think there were at least that many last Thursday - 90 some booths with different artists and so forth and it just showed the vitality of that business district and that business area.

The other thing I wanted to mention is there was an open house for a company that just moved into Cleveland Heights in the Rockefeller Building called NeuroWave. It's a high tech company that's developed a device to measure EEG of brain waves that can be used by EMS and emergency rooms to determine if a patient has a seizure or other type of brain malfunction. We welcome Robert Schmidt, the chairman, Tatjana Zikov, the president of the company. This company is a growing bio-tech company that has, I think, ten to fifteen employees on-site now and we hope that in the next several years will be doubling that amount of employees and we're really happy to welcome them into our city. I want to thank our planning staff, Richard Wong for all the efforts in working with our block grant funding to help this company get into town, but this committee and this council and this City staff will be working more and more in the future to try to bring companies like this into Cleveland Heights and help develop our tax base and grow the economy.

Finally, I wanted to mention - and I've mentioned this before, that there will be a special meeting of our Planning Commission tomorrow night in Council Chambers at 7:00 p.m. and that is to further discuss an update of the Strategic Development Plan for the city. So, if anybody is listening and anybody here in chambers wishes to attend that will be tomorrow night at 7:00 and that concludes my report."

REPORT OF THE MAYOR

Mayor Kelley stated, "We do have one announcement, an open house on East Derbyshire on

Sunday, July 26th from 12:00 to 4:00. This is part of our project on East Derbyshire where we appropriated nearly three quarters of a million dollars with block grant funds, not just for this house, but for the block between Cottage Grove and Lee to really take back that neighborhood and change the dynamics over there and make it safer, make it more like Cleveland Heights and really do a nice job. So, if you're interested or you have someone else who may be interested, a son or daughter who may be moving back this way, have them come and look at some of our properties on East Derbyshire. It is an award winning rehab job. It is a great area to be in. You're a stone-throw away from Cedar and Lee, the movie theater, the great restaurants, the arts, entertainment and of course you're in the heart of Cleveland Heights. So come again this Sunday from 12:00 to 4:00. 3150 East Derbyshire Road. Come to just see the house, you don't have to be a potential buyer. I will be there from 12:00 to 4:00 and a lot of good things will be happening in Cleveland Heights.

One more thing, I just want to thank baseball season is over. Softball season was over on Saturday and I want to thank all the coaches for doing a superb job this year. This is one of the first years I can remember where each and every coach really taught these kids about cooperation and playing together and getting along and moving the kids all over and letting them play just about every position instead of the usual (some cities - not necessarily in this city) to win at all costs, cut-throat mentality. I'm very proud to watch my eight year old son play in this league. The coaches he had - the family fun day - the work that Larry Shaw, Mike Discenzo and of course our public works' staff to keep Forest Hill fields in shape - I don't think we missed a Saturday game even though a couple days were rain, they also do Oxford and Denison and Boulevard and Roxboro and some of these other fields, but this was a fantastic year. When most cities had their games cancelled because of a little bit of rain or a lot of rain we were playing ball and this city starts at 9:00 Saturday morning, four year olds, five and six year olds, seven and eight year olds. We had baseball and softball and we had a big family fun day at the community center on Saturday with pizza and pictures and trophies and awards and it was just a fantastic thing. It's time for Larry and the gang to take a little bit of rest after this. It starts basically at the end of April. So another great season.

Again, as I said before, our parks are welcome to you, especially those of you who are dealing with the economy. Cain Park, award winning performances coming up, including one of my favorite acts, the Beach Boys will be there. Cumberland Park, we heard about it what's going on there. Forest Hill will still have activity. I'm sure soccer and football will be starting before we know it. But, again, you heard it tonight. If you are in our parks, be respectful of others. We have a lot of activities that over-mingle each other, whether it's the basketball and swimming or whether it's the skate board park and the tennis court park or the ball fields or the passive recreation of people or the running. Be respectful of each other. Don't smoke in our parks, don't drink in our parks, just be nice people and enjoy the parks, enjoy the neighborhoods and be glad you are here. If you bring your friend from outside the city, some of the activities you're allowed to do, some you're not allowed to do. Be respectful of what is for our citizens what is not for our citizens. If you are a visitor, enjoy our town and maybe you'll like it and come back and buy a house here.

That concludes the Mayor's Report. The meeting is adjourned at 8:53 p.m. Our next meeting will be August 3, 2009. Thank you for coming, especially the people that came tonight to speak to us on issues that are very near and dear to them and we will be working on them in the days and weeks to come. Thank you."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc