



# CITY OF CLEVELAND HEIGHTS, OHIO

## MINUTES OF THE CITY COUNCIL MEETING OF TUESDAY EVENING, SEPTEMBER 4, 2007

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:21 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, Ruane, Wagner, Wong

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

Committee of the Whole adjourned at 7:25 p.m.

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

Edward Kelley, presiding

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

Council Members absent: None

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

The minutes of the Regular Council Meeting held Monday, August 20, 2007 were approved and 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 disposal for two pieces of Fire Department equipment and they would be (1) a 110 ton aerial ladder truck. It has been replaced by our new one which is now in service, so we can now remove that one; and, our old positron plus friendly telephone system - that is the old dispatch system in our Joint Dispatch office for 911 emphasis. That's been totally replaced. The new one is in service and so we would like to dispose of that as well, your Honor."

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

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

Second by Council Member Caplan.

Council Member Tumeo asked, "I was just wondering what happens to it when you dispose of it?"

Mr. Downey replied, "We'll take bids for it, and this truck will probably be sold to another fire department."

Mayor Kelley added, "Usually a smaller city fire department will take it and maybe refurbish the engine or use some of the parts. We've had an occasion where the Former Mayor of Taylor Road has purchased - not our fire engine, but had a fire engine that he used in parades, and some people will take them as is and use them for Labor Day / Memorial Day parades."

Mr. Downey continued, "More rural communities are always looking to see what they can pick up and that has been the case in the past, so we look for that again."

Mayor Kelley asked, "So, we will possibly recover a few dollars?"

Mr. Downey answered, "Yes, yes, we anticipate that."

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 a letter dated September 4, 2007 has been received from the Assessment Equalization Board stating that the meeting of the Board was held Wednesday, August 29, 2007 to consider objections to proposed assessments for a portion of the expense of street lighting and to consider objections to proposed assessments for a portion of the expense of planting, maintaining and removing of shade trees within the City. I need to make this a matter of record."

Mayor Kelley made it a matter of record.

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

Council Member Evans stated, "Thank you, your Honor. There is no report, no legislation, but I would just like to remind our listeners that State Representative Barbara Boyd has a community forum on public utilities scheduled for September 10<sup>th</sup> from 5:00 to 7:00 p.m. at the Cleveland Heights Community Center. There will be an opportunity to receive information as well as an opportunity to ask questions. That concludes my report."

Mayor Kelley reiterated, "That will be next Monday night at our community center."

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

Council Member Tumeo stated, "Thank you, your Honor. I have no legislation tonight, but I would like to point out that we are in the next round of some appointments to boards and commissions, so if you are interested in serving, perhaps on the Recreation Board or the Commission on Aging, we have a couple of potential appointment spots and would be anxious to receive your application. I believe that application is available on-line or you can contact the city and we can send one out to you so that we have a broad representation on our boards and commissions."

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

Council Member Dietrich stated, "We are moving along so fast tonight. We'll be out of here very early. I have no legislation either. I do want to put in a very enthusiastic plug for the Heights Community Congress' 31<sup>st</sup> Annual Heritage Home Tour which will take place on Sunday, September 16 from noon to 6:00 p.m. The theme this year is the *Art of Living in Cleveland Heights*, [and] it is indeed an art. Hector Vega, the artist is the honorary chair, and in fact, at the silent auction there will be a piece of his work for sale. Tickets are \$20.00 for the tour and they are available at all sorts of local merchants. They are also available here at City Hall or you can call the Heights Community Congress office at 321-6775. This is Heights Community Congress' main fund raiser of the year so in addition to being a fabulous showcase for Cleveland Heights it also raises money for a worthy organization. The other part to the home tour is the preview party which takes place the night before, Saturday the 15<sup>th</sup> from 6:00 p.m. to midnight. For the second year in a row this will be held at Oakwood Country Club and that turned out to be just a wonderful venue for the party last year. It was one of the best preview parties that I can remember; dinner, dancing, a live band, and a silent auction. So, I just urge everybody to remember that it's the weekend of the 15<sup>th</sup> and 16<sup>th</sup> for the Heights Community Congress house tour.

Secondly, on a more serious and personal note, I have a huge thank you to pass along to Cleveland Heights in general. Our family is in sort of a crisis right now, our almost one-year old grandson is quite sick and undergoing chemo and about to have a second surgery and people have been - just come out of the woodwork. There is support coming at us from all directions. My daughter, who is the mother of the child, has lived in Cleveland Heights for her entire life - old and new friends - I mean friends that were her friends when she was three-years old, her 4<sup>th</sup> grade teacher from Fairfax who she hasn't seen since elementary school - this is such a supportive community and our family happens to be on the receiving end of it this time and I am so glad that we have this place to call home and thank you so much for every good wish that is coming Austin's way. That is all I have."

Mayor Kelley said, "You know we are there for you."

Council Member Dietrich replied, "I know you are and I appreciate that."

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

Vice Mayor Montlack stated, "Thank you, your Honor. There is some legislation here and I'll start off with Resolution No. 115-2007(F), approving the report of the Assessment Equalization Board appointed to hear objections to the estimated assessments for a portion of the expense of street lighting within the City of Cleveland Heights; and declaring an emergency.

Some weeks ago, this Council passed once again, as it does about every three years, legislation to reassess as it were special assessments for shade trees on the tree lawns, as well as lighting on most of the tree lawns, etc. As required by statute and through that legislation we set up Assessment Equalization Boards to hear objections within a very narrow range pursuant to the statute for any assessments that were made, and many of you received special notices by mail, as again, required by the statute of

Ohio. There were a few objections raised. They were all heard and adjudicated by the Board and now again, pursuant to statute these four pieces of legislation including Resolution No. 115-2007(F) are required.

So I just gave you the caption of this and I've given you some of the background and so the estimated assessments as equalized by the Board, and the recommendations to this Council would according to this Resolution be directed to be placed on file and accepted. They are adopted in open meeting of the Council pursuant to Chapter 107 of the Codified Ordinances. Resolution No. 115-2007(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 115-2007(F).

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

Nays: None

**Resolution passed**

Vice Mayor Montlack continued, "Thank you. Resolution No. 116-2007(F), approving the report of the Assessment Equalization Board appointed to hear objections to the estimated assessments for a portion of the expense of planting, maintaining and removing shade trees within the City of Cleveland Heights; and declaring an emergency.

In all respects, the information I gave for the previous Resolution applies here, except this relates to the companion assessment for shade trees as opposed to lighting.

Resolution No. 116-2007(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 116-2007(F).

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

Nays: None

**Resolution passed**

Vice Mayor Montlack continued, "Thank you. Now the next two steps for the same legislative initiatives begins with Ordinance No. 117-2007(F), determining to proceed with the assessment of a portion of the expense of street lighting within the City of Cleveland Heights; levying assessments for said purpose; and declaring an emergency. Pursuant to this, the Council determines that in furtherance of the public health, convenience and general welfare, we shall proceed with assessing of a portion of the cost and expense of street lighting within the City, upon all of the dedicated streets of this City, for a period of three (3) consecutive years beginning with the 2007 tax duplicate for collection in the years 2008 through 2010, inclusive, at the annual rate of Sixty-eight Cents (\$.68) per front foot, on all of those streets.

There was a full discussion of this at the time that we passed the Special Assessment legislation previously.

Ordinance No. 117-2007(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 117-2007(F).

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

Nays: None

**Ordinance passed**

Vice Mayor Montlack continued, "Thank you. Ordinance No. 118-2007(F), determining to proceed with the assessment of a portion of the expense of planting, maintaining and removing shade trees within the City of Cleveland Heights; levying assessments for said purpose; and declaring an emergency.

Here again, except that it relates to shade trees as opposed to lighting, the Ordinance is identical to the prior Ordinance that I just read, except that in this case for the three years of this Special Assessment the annual rate shall be Fifty-nine Cents (\$.59) per front foot, on all of those streets and portions of streets within Cleveland Heights.

Ordinance No. 118-2007(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 118-2007(F).

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

Nays: None

**Ordinance passed**

Vice Mayor Montlack continued, "Thank you. Now, we're finished with those special assessments and the legislation thereto, hopefully, for another three years.

Resolution No. 119-2007(F), authorizing the reprogramming and reallocation of Community Development Block Grant Funds; and declaring an emergency.

In this instance, the Housing Department and related departments in this city determined that we have a great need for some additional help and counseling in foreclosure prevention for reasons which I'm sure everyone who is here tonight or viewing these proceedings is aware in this city and region, state and nation.

From some Contingency Funds, unused funds within the special block grant budget - two (2) funds the amounts of \$17,235.00 from one such Contingency Fund and \$2,765.00 from another or about \$19,000.00 altogether was presented to the CAC, the Citizens Advisory Committee relating to block grant funding recommendations for reprogramming to hire a housing counselor or to provide at least a portion of that salary in order to do the things that I just described before. That is in effect what this reprogramming and reallocation authorized by Resolution No. 119-2007(F) is about. This Resolution is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 119-2007(F).

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

Nays: None

**Resolution passed**

Vice Mayor Montlack continued, "Thank you. A few weeks ago, this Council spoke to legislation and passed legislation establishing a program on one block of East Derbyshire and that program, of course, is directed to rehabing housing and proceeding towards owner-occupied housing and attempting to directly confront conduct and other problems in that block. Of course, we talked about it as a pilot program and did, of course, allocate a substantial amount of block grant funding for

this long-term effort. Many of us on Council tried our best to give you rational explanations about the necessity of this and thinking that went into that, but every once in a while a resident writes us or speaks to us and somehow puts this in human terms that resonates. At least it certainly has resonated to me. I almost never read letters as part of a Council report, but this one, I think, merits your consideration and since I spoke to the letter writer and she is brave enough to have her name attached to the letter I'm going to give you the full letter. It is in e-mail, naturally. Everything is today and it's addressed to Cleveland Heights City Council Members.

*On behalf of my family and the good neighbors of East Derbyshire and Washington Boulevard, I want to thank you in the strongest possible way for approving the resolution Monday night to invest in and rehabilitate the rental block of East Derbyshire - just read about it in the Sun-Press.*

*There are a number of us who have struggled with, and despaired of, the negative conduct and anarchic conditions on that street over the years. As you all know, Rick Wagner, Housing Manager, has been a wonderful and steadfast ally of those who want peace, quiet and safety in their homes. Without his listening ear, innovative and strong leadership, and desire to be of real service, I can pretty much guarantee that I and my husband would have left the community a few years ago. We've also been extremely grateful to police for responding to the many, many calls we've made over the years - not quite sure how they stand dealing with these issues at times, and Officer West died doing just that. Both real danger and day-to-day aggravation and exhaustion from fighting such blight tear at the fabric of any neighborhood, which makes this project so welcome and appreciated.*

*It's deeply gratifying to know that our city government does hear, respond, and act under such circumstances - the many pieces of legislation passed over the past few years to strengthen neighborhoods have been important and effective. This pilot project gives hope that at least some of these run-down and neglected properties can be made beautiful again and cared for by citizens who also care about their neighbors and about the goodness and uniqueness of Cleveland Heights. Hope that the worst of the absentee landlords can be brought on board, and that the project can be a model for the rest of the city. Very happy that it's starting here.*

*Best wishes and many thanks. Donna Lalewicz, 3096 Washington Boulevard.*

Of course, many of us have spoken with Donna and in my last conversation with her she intends to stay in her beloved Cleveland Heights and, yes, we have heard your comments and many others and we're going to continue on this path.

A second comment is congratulations to another great staff member, Karen Knittel, who was one of just the first six in Ohio to achieve state-certification in Community Development and also has achieved certification for work in the HOME Program. It's no surprise to the Citizens Advisory Committee, which is one of Karen Knittel's charges or to the council members or certainly her fellow staff members who witnessed Ms. Knittel's quiet professional excellence everyday. With those two comments, that concludes this report."

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

Council Member Caplan stated, "Thank you. I have one piece of legislation, Ordinance No. 120-2007(MS). It is good when we do discuss and then pass a resolution or an ordinance that has real impact on the community. Some of our ordinances, if you pay any attention, don't seem quite so spectacular and I have one of those not so spectacular ones, but it is how you do the business of government.

This is Ordinance No. 120-2007(MS), authorizing an agreement with Spectra Contract Flooring

for the purchase of carpet for the Cleveland Heights Municipal Court through the Ohio Department of Administrative Services Cooperative Purchasing Program; providing compensation therefor; and declaring an emergency. It is necessary to purchase carpeting for the Cleveland Heights Municipal Court; and the Ohio Revised Code Section 125.04 authorizes municipal corporations and other governmental entities to purchase supplies, equipment and services through the Ohio Department of Administrative Services Cooperative Purchasing Program without obtaining competitive bids. By Resolution No. 115-1988, this Council authorized participation in said Cooperative Purchasing Program. The City Manager has determined that the selected carpet may be purchased through this Program at a lower price than could be obtained through bidding, and that it would be in the City's best interests to purchase said carpet by this means. Therefore, be it ordained that the City Manager be authorized to enter into an agreement with Spectra Contract Flooring for the purchase of carpet. The agreement shall provide for the purchase and installation of carpet for the Court at a cost not to exceed Twenty-nine Thousand Dollars (\$29,000.00). The purchase agreement and all related documents shall be approved as to form by the Director of Law. Notice of passage shall be given and this Ordinance shall be declared an emergency and is up for passage tonight. I offer Ordinance No. 120-2007(MS) for passage."

Mayor Kelley accepted Ordinance No. 120-2007(MS).

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

Nays: None

**Ordinance passed**

Council Member Caplan concluded, "Thank you. I only have a little comment. I haven't talked about recycling very much - can hardly resist. You are going to be getting soon more information about what you can recycle and what really works. I think it will be in the Focus. We recycle numbers 1 through 7 but not really 6. We don't do Styrofoam. So, really, look at the piece that you're going to get because it explains it fairly well and you'll know what you can recycle. Try to make a concerted effort. I want you to know that your efforts did help us recycle about 50% of our garbage last year and that is really fantastic. What happens with that, not only do we not have to pay for the garbage that has to be put into the landfill, we also get some money - we sell our recyclables - our blue bags, scrap metal, the paper and the cardboard. It may not be a lot of money. For example this year, for paper and cardboard and that's the one that I think we can all really do much better on. You can open your mail over the paper bag instead of the plastic bag at the grocery store. If you open your mail over that and you throw away the insides of the paper towels and boxes for your cereal - we received almost \$47,000.00 for the cardboard and for the paper and we didn't pay \$41.00 a ton for it to be put into a landfill. It really matters. So I encourage you to really do your part. It's part of protecting our environment. We're much better, I think about the blue bag stuff - that it somehow seems easier. So pay attention to all that mail that comes in.

The only other thing that I want to say is next week is the beginning of the Jewish New Year and so I wish all of our residents a healthy, happy, peaceful, joyful new year. That's all that I have."

Mayor Kelley thanked Council Member Caplan and remarked, "When Councilwoman Caplan was talking about the Number 6 trays, those are the trays that you get your meat products in and your bakery products on. So if you talk to your sharp grocery store people, preferably the owner or the manager, and ask them maybe to use either a different number 6 tray or a more recyclable friendly tray maybe we could start a trend in our city that our grocery stores' Dave's, Zagara's, Food Deal or - Save - A - Lot. Maybe take their bakery trays and their meat trays and maybe get a different number that is recyclable or get the number 6's that are recyclable so we can recycle all this stuff. It's the meat products you buy and the bakery products you buy, so let us maybe start our own little campaign in the city and

be the first ones to be the pathfinders here and the pioneers here to use them here and then branch out into other cities.”

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

Council Member Wilcox stated, “Actually, there are two pieces of legislation tonight and both of them deal with our cable television activities in the city and both pieces of legislation are a direct result of the recent change in Ohio law that we’ve discussed here on a number of occasions. I just wanted to make a couple comments before I read the legislation. We talked a lot about Senate Bill 117, which is the new law regarding cable tv providers in Ohio. It is now going to be effective September 24, 2007. As a result, cable operators will no longer be required to obtain franchises from the city. Instead cable providers may apply directly to the Director of the Ohio Department of Commerce for authorization to provide services, unlike the prior law the cable provider can provide services to all or a part of the city and the city cannot compel them to provide services to the entire city. In addition, the law reduces the city’s traditional authority to regulate cable services offered in the city and eliminates the city’s authority to negotiate with cable operators for financial support of its institutional network or the public educational governmental access channels, such as the one you’re watching this council meeting on and other services. The tradeoff for this deregulation of cable providers is the promise from proponents of the legislation that the bill will increase competition and lower prices. These two pieces of legislation which are directly a result of the new law. The first one will establish a video service provider fee for the City to be charged and collected through the Department of Commerce as required by the act. Since the bill only allows a one-time designation of the fees to be charged and certain important services may now need to be provided by the City at its cost such as the institutional network and the public educational government channels there will be an increase in the franchise fee from three percent (3%) to five percent (5%). The second piece of legislation deals with providing an alternate cable provider access through portions of the city at specified sites where AT&T has already rebuilt a portion of its system. As a result, some parts of the city will have competition and others will not. The hope is that we will have competition throughout the city ultimately, but there is no guarantee and the city cannot compel that. In any event, the promise of lower prices where there is competition will be something we closely monitor. If we do not see lower cable prices as a result of this bill, we should ask the General Assembly to review the bill and demand amendments to the law to correct that situation.

First, I have Ordinance No. 121-2007(PD), determining the video service provider fee to be paid by a video service provider offering video service in the city pursuant to a video service authorization; authorizing the City Manager to give notice to the video service provider of the video service provider fee; and declaring an emergency. As I noted, the General Assembly recently passed Senate Bill 117 making all these changes that are going to require the City to implement this legislation. The City has had a cable franchise agreement with Time Warner which expired on June 2, 2007; and which they are still operating under. This bill provides, that cable provider must apply to the Director of the Ohio Department of Commerce within ninety (90) days from the effective date if they want to go through that program. Also, any new service provider will have to get authorization from the Director of the Ohio Department of Commerce to implement a system. Ohio Bell Telephone Company Corporation that uses the name AT&T has expressed an interest in offering its Project Lightspeed/“U-Verse” video service in the City; and under the bill that I mentioned the service provider must pay the City a video service provider fee based on a percentage of the provider’s “gross revenues” derived from the service in the City, not to exceed five percent (5%). If the City does not designate a number then that number would be zero percent (0%) unless the City determines by ordinance a fee up to five percent (5%) and also the City can provide that the base gross revenues include not only revenues from subscribers but from advertising revenues which the City is doing in this legislation. The basis of this legislation then, is in order to minimize the negative financial impact of the statewide franchising law upon the City it is

the intent of the Council that the Video Service Provider Fee shall be as equivalent as possible to the franchise fees that Time Warner has been paying under the terms of the expired franchise agreement. What this basically means is that the existing fee of three percent (3%) provides other services such as the institutional network and the public access channels and that is roughly equivalent to the new fee which will be five percent (5%) in light of the fact that the cable provider will not have to provide those services. Section 1 of this Ordinance then provides that in accordance with this new law subject to the law [being] taken into effect, all video service providers providing video services in the City pursuant to authorization obtained from the Director of the Ohio Department of Commerce shall pay a Video Service Provider Fee in the amount of five percent (5%) of gross revenues received from the video service in the City, and that the gross revenue base includes advertising revenues. Those should be paid quarterly, no sooner than forty-five (45) days no later than sixty (60) days after the end of each calendar quarter. It also authorizes the City Manager to give notice of these fees to the Video Service Providers. I offer Ordinance No. 121-2007(PD) for passage tonight.”

Mayor Kelley accepted Ordinance No. 121-2007(PD).

Mayor Kelley stated, “I just want to make one comment. We’ve talked about this before. Our friends in Columbus could be doing a lot more things to effect our quality of life in the City dealing with unemployment, job growth, the state of education in our community, the funding. They decided to get involved in the cable area. The Director of the Ohio Department of Commerce reminds me of someone who issues fishing licenses and hunting licenses, now he’s going to be giving out the cable company licenses throughout the state. I really think that this is a crime that we’re in this position that we have to raise cable franchise fee rates to make sure we have institutional networks and our cable channels to communicate with our residents - our award winning cable channels. I think this is just ridiculous what was done in Columbus. Job growth - that we should be working to simulate the economy with businesses in this state and they spend a few months doing this and [they] are proud of what they’ve done. Senate Bill 117 is a complete and ridiculous farce as far as I’m concerned and it is costing us money and it’s costing us residents’ money. Sure we’ll have competition and AT&T would have been here anyway without this senate bill. We’re going to welcome AT&T into our town. They don’t want to cover our whole town. They only want to cover a percentage of our town. That’s now the way to come into Cleveland Heights, not the way to do business in Cleveland Heights and hopefully we’ll be able to force their hand and get them to do a little bit more. Councilman Wilcox really captured the whole ordinance and what’s going on in the industry and it’s sad that the first six months of this year, when many things could have been done with a new governor - a new group of elected officials - our Republican controlled senate decided to spend a lot of time on this issue and worry about this issue when the poverty rate in Cleveland and many cities is still in the top ten. Crime is rampant, more policemen are needed in the City of Cleveland and other cities and they’re worried about cable and they’re going to tell us how to do this better than what we’ve done for years. We’ve had franchise agreements long before I got on this council, [and they] should have been here long after I left council. It was one of the best systems we have here in town, to communicate with our residents, for our schools, to communicate - that’s all gone now. No more equipment, no more channels. We’re going to have to do it and work on it and we’re going to have competition. AT&T was going to be here no matter what. They want to be here. It’s a big communications agenda as far as phone service, the internet service and cable service - it’s one big package they all want to offer. Hopefully, we’ll see some price reductions, but my guess is you’ll see eighty-cents to a dollar on your sixty dollar bill. That will be the reduction and then they’ll raise the rates come the middle of next year anyway. It is what it is. Thank you Columbus for nothing.”

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

Nays: None

**Ordinance passed**

Council Member Wilcox continued, "Next, I have Resolution No. 122-2007(PD), authorizing the City Manger to enter into an interim video competition agreement with AT&T Ohio.

As has been noted before, the law has changed and Ohio Bell has now come to the City for temporary authorization to utilize communication facilities currently located in the City's public-rights of-way to provide video service including IP Video Service within the City and that the additional competition and provision of the video programming service within the City, should provide benefits to consumers of such services. Therefore, AT&T and the City have negotiated the terms of an interim agreement, a temporary consent agreement concerning their provision of services. We have determined that, that would be in the best interest to implement at this time. There is attached to this Ordinance a copy of the agreement. I am not going to read it nor will I read the streets that are involved or the areas involved because to give these locations it would probably not be an accurate description of exactly where those services might be provided. I would just suggest you contact City Hall or the cable providers probably better - AT&T, to find out exactly where those competitive services will be. So, that is attached to this Ordinance. I did want to point in that agreement that we were able to have them agree and as we would enforce it in any event that they will comply with our right-of-way ordinances and ensure that any of their equipment is in the smallest enclosures possible.

This Resolution authorizes the City Manager to enter into the interim agreement described. I do want to point out that this is not an emergency measure, as our law director pointed out to us tonight because we are providing the franchise, this won't take effect for thirty (30) days, but we'll get that started tonight. I did want to especially thank our Law Director John Gibbon for his hard work on all of our cable services over the years and especially in this transition with this new Senate bill walking us through this and helping us understand all the nuances to this new state law. So, again, thank you, John. I offer Resolution No. 122-2007(PD) for passage tonight."

Mayor Kelley accepted Resolution No. 122-2007(PD).

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

Nays: None

**Resolution passed**

Council Member Wilcox concluded, "That completes my report other than to wish our residents a safe, peaceful and healthy new year."

## **REPORT OF THE MAYOR**

Mayor Kelley stated. "I have two items, one big item. As I said at the last meeting, school started. When a bus is stopped and the stop sign is out that means to stop, not to drive by and through. Last week, driving around Cleveland Heights, I did not have my cell phone, but I wish I did, because a couple of people just drove right through. I mean, for your own peace of mind and the safety of our children, obey the laws. When you were sixteen, that was probably one of the questions on your test, when school bus is stopped and a red stop sign comes out, you stop. You can't be in such a hurry, because one of these times you are going to slam into one of our kids and it just isn't going to be a nice scene. So, obey the law. Slow down. You can't be in such a hurry that you can't watch out for our children.

The second thing is and I said it before, Rotsky is on fire here at Cleveland Heights, doing great things with our kids. This Friday night they are entertaining a team from Canada. I know they will be sending them back to Canada with a loss, in the lost column. At the first home game, I know Councilman Wilcox was there also, and it was a great sight to look up at half time and see the stands full. I think it was the first time I've seen the stands full in fourteen years that I have been going to the games - the

band, the kids, 110 kids, the positive atmosphere, things going on. I've seen people at the games, the first time I've seen a lot of these people at games in years and there is plenty of time to jump on the bandwagon. It's good, clean fun on a Friday night. He went to Admiral King and lost the first night after being down 29 to 0 and he rallied to only lose 36 to 20, so if he had gotten the ball one more time he would have won.

But more importantly, I want to say to Coach Rotsky, your father is in our prayers and in our thoughts. His father is very sick at this point and time and he's been coaching and working with these young men and giving his time and effort even though his father has been in the hospital and there is a very serious illness there in the family, but I want you to know that this Council is behind you in what you are doing.

One Hundred ten kids strong and another ninety kids from the junior highs on the sidelines - it's a sight we haven't seen at the high school. Most of these kids last year were not playing or as the records pointed out and I got to come in before the game to hear your speech. Last year out of about fifty kids on the team, fifteen were ineligible before grades. This year he has 110 kids on the team and are eligible before grades. He does study tables, he does hard work, he treats these kids with respect and hard work. He makes them trot out their 2x2 - their pants are up, the shirts are on, there are no hats sideways. This guy is doing it and the parents are behind him and a lot of good things are happening. So, I would encourage our community some Friday night see what's happening on Cedar and Lee or wondering why the Channel 8 was there with the helicopter there. A few of us wanted to know if there was a manhunt going on. I said there isn't a manhunt going on, there are great things happening at Cedar and Lee, come on up to see a football game. As I said many of the people hadn't been there in years. No incidents after the game, right, Mr. Downey?"

Mr. Downey affirmed as such.

Mayor Kelley continued, "So it's great. Great things are happening and it is good positive energy for this school, for our community and for everybody involved. So, I encourage you to come up Friday night. I know this year - I'm going to make the prediction for Rotsky, we're going to beat Shaker.

This meeting is adjourned at 8:23 p.m. Our next meeting will be Monday, September 17, 2007. Thank you for coming."

Respectfully submitted,

Edward J. Kelley, Mayor  
President of Council

Thomas K. Malone  
Clerk of Council

/mwc