



CITY OF CLEVELAND HEIGHTS, OHIO MINUTES OF THE COUNCIL MEETING OF TUESDAY, SEPTEMBER 8, 2009

Tuesday evening
September 8, 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: Caplan, Evans, Kelley, Montlack, Tumeo, Wilcox

Council Members absent: Dietrich

Mayor Kelley excused the absence of Council Member Dietrich.

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

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

Vice Mayor Evans moved to adjourn into Executive Session at 7:09 p.m. Second by Council Member Caplan.

Edward Kelley, presiding

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

Council Members absent: Dietrich

Mayor Kelley excused the absence of Council Member Dietrich.

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

Topic of discussion included litigation.

Executive Session concluded at 7:20 p.m. and resumed into Committee of the Whole, adjourning at 7:34 p.m.

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

Edward Kelley, presiding

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

Council Members absent: Dietrich

Mayor Kelley excused the absence of Council Member Dietrich.

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

The minutes of the Regular Council Meeting held Monday, August 17, 2009 were approved and signed by Mayor Kelley along with the ordinance and resolutions passed at that meeting.

“David Bernstein, 2487 North Taylor Road, Apartment #9. Several days ago, there were a lot of ceremonies in Europe regarding one of the greatest tragedies that happened in the world. It was the invasion of Poland by Germany. It was the beginning of World War II. Many people died, millions - and I think we have to remember, at least - there haven't been too many ceremonies in our country, but we need to remember when the Prime Minister of Sweden finished his speech, he said, “This should never happen again”. Today, we see our troops are fighting at home and abroad to try to prevent evil from growing and that's what happened in history. At the beginning, when it started, nobody gave too much importance and then one of the greatest tragedies [happened] since the world existed - fifty million people; civilians, army, everybody that was involved in that big tragedy. So, I think at least what we can do now is to give our greatest moral support to our troops that are fighting the same evil in a different way in other parts of the world and not only for them but their families and not only when they are fighting over there also support them as much as we can when they come back. They need our support and it's very important. They are doing a very great mission. Thank you very much.”

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 four 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. 3190 Allan and Tanita Taub, owners of 3663 Bendemeer Road, yard and accessory use regulations; BZA Calendar No. 3191 Barbara Townsend, d.b.a. Bab's Yum Yums Candy, 13246 Cedar Road, sign regulations; BZA Calendar No. 3192 Travis Cox, 2500 Edgehill Road, yard and accessory use regulations; and, BZA Calendar No. 3194 Dobama Theater, Inc., 2340 Lee Road, sign 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 FINANCE COMMITTEE

Council Member Montlack stated, “Thank you, your Honor. There is one piece of legislation from this committee and it is Resolution No. 84-2009(F), authorizing the reprogramming and reallocation of Community Development Block Grant Funds; and declaring an emergency.

Thanks to the excellent monitoring of these funds by our housing manager, making sure that we get the greatest use of them. It was found that there was a need for reprogramming of \$43,000.00 in funds. So, this Resolution authorizes that \$23,000.00 would be taken from the Contingency Fund and put into a program or replenish, I should say, known as HRRC Assist Incentive Grant Program, which is a program well administered by HRRC. Twenty Thousand Dollars taken from the Nuisance Abatement Fund and put into five different related funds and all of these are applied to our East Derbyshire Condominium conversions in different aspects of that.

My only comment for offering this Resolution is that perhaps knowing what the City has accomplished on that stretch of East Derbyshire, really addressing some critical problems/related problems between housing and behavior - it lets us know - it reminds us that being a block grant entitlement city has been so important to Cleveland Heights. As the 2010 census is now upon us, recognizing absent special legislation at this time, the City must meet the 50,000 population point. We're facing a time when this entitlement status could be gravely threatened. I know we're all working on this, but it's a reminder.

Resolution No. 84-2009(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Resolution No. 84-2009(F).

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

Nays: None

Resolution passed

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Caplan stated, "Thank you. I have several pieces of legislation. The first is Resolution No. 85-2009(MS), authorizing the City Manager to enter into an agreement with Camino Construction, Inc. for emergency sewer repairs on Woodward Road; and declaring an emergency.

We were in the process of resurfacing Woodward Road and discovered that there was a problem, so the city recently determined that a section of the sanitary sewer on Woodward Road had collapsed and sunk enough to interfere with flow. If the City had formally bid the sewer repair work, it would have resulted in the postponement of the planned 2009 resurfacing of Woodward Road until 2010, which was not desirable in light of the condition of that road. So at the direction of the City Manager, the Utilities Commissioner solicited itemized bids from five qualified contractors to perform the sewer repairs, of which Camino Construction, Inc. was the lowest. It was necessary to authorize such repairs on an emergency basis to provide essential governmental services. Therefore, be it resolved that the City Manager be authorized to enter into an agreement with Camino Construction, Inc. for emergency sewer repairs on Woodward Road. The agreement shall provide for compensation for such repairs in the sum of Fifty-two Thousand Eight Hundred Eighty-four Dollars (\$52,884.00) in accordance with the contractor's invoice dated August 31, 2009. Notice of passage shall be given and this Resolution is declared to be an emergency for passage tonight. I offer Resolution No. 85-2009(MS)."

Mayor Kelley accepted Resolution No. 85-2009(MS).

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

Nays: None

Resolution passed

Council Member Caplan continued, "Thank you. I have Resolution No. 86. 2009(MS) and we do this every year. This is Resolution No. 86-2009(MS), authorizing the City Manager to enter into an agreement with Mackay Engineering & Surveying Company for professional services for the inspection of twelve City culverts and the completion of ODOT Bridge Inspection Reports; providing compensation therefor; and declaring an emergency.

I know you didn't know we had all these bridges. We really don't exactly. All of our water is covered over with culverts, but according to ODOT they're really bridges.

The Ohio Department of Transportation ("ODOT") formerly required the biannual inspection of twelve culverts in the City and submission of Bridge Inspection Reports, but now requires that such inspections be conducted annually. So, Mackay Engineering & Surveying Company has submitted a proposal to provide the necessary engineering services for this project, the terms of which are reasonable and competitive. Such services are professional services for which no bidding is necessary. Therefore be it resolved that the City Manager be authorized to enter into an agreement with Mackay Engineering & Surveying Company for professional services for the inspection of twelve City culverts and the completion of the ODOT Bridge Inspection Reports. The scope of the work shall be as set forth in the Engineer's proposal dated September 1, 2009, a copy of which is on file. Compensation for such services shall be at the Engineer's usual hourly rates, with total fees and expenses not to exceed the sum of Thirteen Thousand Seven Hundred Thirty Six Dollars and 28/100 (\$13,736.28). Notice of passage shall be given and I offer Resolution No. 86-2009(MS) as an emergency Resolution."

Mayor Kelley accepted Resolution No. 86-2009(MS).

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

Nays: None

Resolution passed

Council Member Caplan continued, "Thank you. I have Resolution No. 87-2009(MS). This one I am rather pleased about, it makes some sense to me and shows you where your federal dollars are going. Resolution No. 87-2009(MS), authorizing the City Manager to enter into an agreement with the United States Department of Energy for a grant for an energy audit and energy efficiency improvements to the North Ice Rink and to take all other actions necessary to administer such funding; and declaring an emergency. The Energy Efficiency and Conservation Block Grants ("EECBG") Program, funded by the American Recovery and Reinvestment Act of 2009, is intended to assist United States cities, counties, states, territories and Indian tribes to develop, promote, implement and manage energy efficiency and conservation projects and programs to: reduce fossil fuel emissions, reduce the total energy use of eligible entities, improve energy efficiency in the transportation, building and other appropriate sectors, and to create and retain jobs. The City Manager was authorized to submit an application for a grant under the EECBG Program; and the City has been awarded an allocation in the sum of One Hundred Eighty-Two Thousand Three Hundred Dollars (\$182,300.00) for an energy audit of the North Ice Rink and energy efficiency improvements to the Rink. Acceptance of the grant will allow the City to reduce energy consumption and costs at the North Rink and to use the Project as an educational tool to inform its residents about energy efficiency in buildings. Therefore be it resolved that the City Manager is authorized to enter into an agreement with the United States Department of Energy ("DOE") for a grant in the sum of One Hundred Eighty-Two Thousand Three Hundred Dollars (\$182,300.00) for an energy audit and energy efficiency improvements to the North Ice Rink, and to take all other actions necessary to administer such funding in accordance with federal regulations. Notice of passage shall be given and I want this to be cast as an emergency measure.

Just so you know, there are ninety light fixtures over the North Rink and just replacing those with energy efficient lighting is \$140,000 and then the rest will be used in various other ways that will carry out an energy audit that we had already done, so we were prepared for this stimulus money sometime ago.

I offer Resolution No. 87-2009(MS) for passage as an emergency tonight.”

Mayor Kelley accepted Resolution No. 87-2009(MS).

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

Nays: None

Resolution passed

Council Member Caplan continued, “Thank you. I have a couple of announcements. One is this coming week you’ll get a letter from the City explaining that we’re going to have an opt-out electricity program. We had in the year 2000, voted as a city, to have an electricity aggregation program and that you could opt-out of the program and it worked really well for us and we did very well in comparison to cities around the county. In 2006 there wasn’t an offer from the energy companies. Well, the electricity companies are offering again and we got a 33-month program that will be an opt-out electricity program and next week you’ll get a letter from the city explaining it and probably a week to ten days later will come a letter from the electric company and they will describe the program and you have the choice of staying within the program or opting out. We hope it will work for all the citizens in our community.

I have an important message for the people whose garbage gets picked up on Thursdays and Fridays. This was a holiday this past weekend. So there was no garbage collection on Monday. There will, as you recall, no longer be garbage pickups on Saturday. Therefore, Thursday’s garbage pickup (when they usually get their garbage picked up) will be on Friday, but Friday’s [garbage] will also be on Friday. So it is a double pickup on Friday. There will be no garbage pickup on Saturday. So, those of you who have your garbage picked up usually on Friday and after a holiday and are used to Saturday pickup - remember no more Saturdays, it will be on Friday and the Thursday people put their garbage out for pickup for Friday. So it will be a great big garbage pickup on Friday.

The following week starts the Jewish holidays. I would like to wish all of our residents a healthy sweet New Year and that’s all I have. Thank you.”

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Wilcox stated, “Thank you, you Honor. There are four Board of Zoning Appeals Resolutions before this committee as well as one ordinance. I’m going to read the Board of Zoning Appeals Calendars first. These were all as a result of our Board of Zoning Appeals’ meeting held on Wednesday, August 19, 2009 at 7:30 p.m. here in Council Chambers. First one is BZA Calendar No. 3190 Allan and Tanita Taub, owners of 3663 Bendemeer Road, in an ‘A’ single-family district making an application to request a variance from the yard and accessory use regulations of the Zoning Code, to permit construction of a 20’-6” x 20’-6” addition that is 28’-4” from the rear property line, 5’-4” from the new garage and covers 30% of the rear yard. The Zoning Code says that the principal building be no closer than 30’ from the rear property line, and that the garage be no closer than 10’ from the principal building and cover no more than 20% of the rear yard. The Board of Zoning Appeals found that the applicant demonstrated practical difficulty if the variance was not granted because the constriction of a first floor master suite and the creation of accessible housing is in keeping with the city’s desire

for a mix of housing in the city, there is a strong support for this request from the neighborhood, a smaller addition would not be appropriate to accommodate the needs of a first floor master suite, the resulting rear yard coverage is actually more code-conforming than the existing site. In other words we're actually creating more green space with this change. Other similar variances have been granted on this street with no adverse affect. The condition is that the Architectural Board of Review approve and that there be screening of the air conditioning units as required by the code. All construction be completed within 12 months. I offer BZA Calendar No. 3190 for passage."

Second by Vice Mayor Evans.

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

Nays: None

Resolution confirmed

Council Member Wilcox continued, "Thank you. Next, I have BZA Calendar No. 3191 Barbara Townsend, d.b.a. Bab's Yum Yums Candy, 13426 Cedar Road, in a C-2 Local Retail district, applying for a variance from the sign regulations of the Zoning Code, to permit a 52 s.f. sign located on the west side of the building. The Zoning Code allows 30 s.f. maximum. Again, this was held at the same time as the previous one and the Zoning Board found that the applicant would suffer practical difficulty because the business' rear entry puts it at a disadvantage without a visible presence on the street; the uniqueness of the graphic breaks up the large mass of a 52 s.f. sign; the siting of the business is such that its rear entrance makes a sign facing the principal street not easily associated with this business; the sign is in proportion and scale with the building and not otherwise be visible from the main thoroughfare. The applicant is to complete this sign within 6 months of the date of approval and the important feature here is that future signage, that is the subject of this variance, shall be discontinuous signage of a graphic composition which is not concentrated into one single mass.

In other words, the various elements of the sign need to equal 52 s.f., but not to have a 52 square rectangle on the building. I make a motion to approve BZA Calendar No. 3191."

Second by Council Member Tumeo.

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

Nays: None

Resolution confirmed

Council Member Wilcox continued, "Next, I have BZA Calendar No. 3192 Travis Cox, 2500 Edgehill Road, seeks a variance from the yard and accessory use regulations to permit construction of an in-ground pool behind the garage and located 12' to 14.75' from side and rear property lines with a total maximum rear yard coverage of 67%. The Code requires a setback of 15' from those property lines and coverage not to exceed 60%. The Board found that the applicant would suffer practical difficulty because of the uniqueness of the property with its "dog leg" at the rear of the property and the irregular site and lot lines making it difficult to construct a pool and maintain the required setbacks; and to accommodate the applicant's desire to construct a rectangular pool so that a safety cover can be installed. The applicant shall also obtain a fence permit for a 6' tall fence with a self-locking gate to surround the pool; lighting shall not go into the adjacent property; storm water drainage around the pool shall be dealt with in a manner approved by the City's Building Department; and the pump shall be properly screened to visually reduce its impact and dampen the sound. This shall be completed within 12 months of the date of approval. I make a motion to approve BZA Calendar No. 3192."

Second by Council Member Caplan.

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

Nays: None

Resolution confirmed

Council Member Wilcox continued, "Finally, I have BZA Calendar No. 3194 Dobama Theater, Inc., 2340 Lee Road seeking a variance from the sign regulations to permit four 3' x 10' projecting sign banners (120 s.f.) made of fabric on the front of the building. The Code allows no more than 16 s.f. and no more than 100 s.f. of total signage. The applicant would suffer practical difficulty because this is a unique use on a unique property and the proposed use is appropriate to permit signs to vary for different theater productions; the signs are in proportion to the large mass of the building; banners are in keeping with other theater uses locally and nationally; the Architectural Board of Review has approved the aesthetics and will review future changes to the banners to be sure they are in keeping with the neighborhood character; and also the banners will be removed or replaced when they show signs of wear. If the banners are discontinued, the mounting brackets will be removed from the building. I make a motion to approve BZA Calendar No. 3194."

Second by Council Member Montlack.

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

Nays: None

Resolution confirmed

Council Member Wilcox continued, "Next, I have Ordinance No. 88-2009(PD), authorizing the grant of a permanent easement to Landau Enterprises, LLC for parking and other customary uses for paved lots, and the grant of a license to Landau Enterprises for the placement of a dumpster, on portions of the City-owned property adjacent to Landau's property at 2211 Lee Road and the City's Cedar-Lee Parking Lot; and declaring an emergency. Council previously authorized the City Manager to enter into an agreement with Landau Enterprises, LLC ("Landau") for a property exchange, easement, temporary parking and construction of parking and dumpster improvements. This was in contemplation of the Cedar-Lee-Tullamore Parking Deck. After we designed, and in fact, realized that the acquisition of the property was not necessary. However, Landau had been occupying City-owned property, and they claimed certain title to that property. As a result, there was a disagreement between the parties and an agreement has been reached between the City and Landau to resolve that disagreement. This Ordinance authorizes the City Manager to execute two documents granting an easement and license to Landau Enterprises, LLC ("Landau") as provided hereinbelow. One document shall grant to Landau a permanent, exclusive easement on the City-owned property identified in Exhibit "A" attached herein and incorporated by reference for the purposes of parking and other customary uses for paved lots, retaining the right of the City to enter the property when necessary or helpful in the maintenance or repair of the adjacent City-owned retaining wall and sidewalk. The second document shall be a license agreement permitting to Landau to maintain his dumpster on City-owned property as shown in Exhibit "B" attached hereto and incorporated herein by reference. I offer Ordinance No. 88-2009(PD) for passage tonight."

Mayor Kelley accepted Ordinance No. 88-2009(PD).

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

Nays: None

Ordinance passed

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Tumeo stated, "Thank you, your Honor. I have one piece of legislation. This is Ordinance No. 89-2009(PSH), amending Chapter 1351 "Housing Code" of the Cleveland Heights' Codified Ordinances to enact a new Section 1351.991 Civil Penalty Against the Owner of Property if trash, yard waste, rubbish, garbage or other debris or litter are left on the tree lawn, gutter, street, tree well, planter or sidewalk in front of the owner's premises at times other than those permitted under Section 1351.14; and declaring an emergency.

Currently, what we have in our ordinances prohibition on setting out your trash and garbage and your yard waste except on the night before the morning of the day it's going to be picked up. As was noted earlier there's a relationship between some of our housing issues and behavior problems. One of the things we've noticed is that we've seen an increase in what I would just call the anti-social behavior of setting garbage out pretty much anytime they want and it has to sit there for several days, sometimes up to a week until it is picked up in the next round. That is a violation of our ordinances. However, right now, the way those ordinances are written that's a criminal violation. So there has to be a warning and then a ticket and then you go to court and it's a relatively long and laborious and costly to both the resident and citizen process for something that should not be so complicated to address and it can be fined up \$150.00. What this Ordinance would do is create another option for us to address this issue through a civil action, kind of a - like a parking ticket or those cameras that you see where the fact is you're setting garbage on public property and the owner of the property that's behind that is responsible to make sure that doesn't happen. That's part of being a property owner. If that would happen, we can take a picture of it and re-cite the property owner and it's a \$50.00 per occurrence under this proposed ordinance and if it happens again within thirty days the fine goes up to \$100.00. But this is a civil penalty not a criminal penalty. There is a right-of-appeal to the Nuisance Abatement Appeal Board which the City already has. So, the specifics of the Ordinance was that we would add this new Section 1351.991 and it would add these provisions. This Ordinance is presented tonight only on first reading. I would like to therefore, present Ordinance No. 89-2009(PSH), first reading only tonight."

Mayor Kelley accepted Ordinance No. 89-2009(PSH), first reading only.

Council Member Montlack commented, "I'm a very strong supporter of fair and effective enforcement of all of our code objectives, whether it relates directly to property maintenance or behavior. I think that whether your objective here is good city maintenance, sustaining the neighborhood or just encouraging responsible owners, good effective enforcement is something that we ought to support. I have a problem with this Ordinance. I think it's one draft away from being the kind of effective enforcement that we need. The problem really relates to the multi-family districts and I'm thinking of places where you may have two-family houses, but even more so the areas where you have apartment buildings, many units. This Ordinance as it is now written should be directed, hopefully, to the most dense districts. I think the more dense the district, the more important it is to have a good well-written ordinance. It doesn't distinguish between responsible and irresponsible landlords of the multi-unit buildings - and it frankly is not fair to responsible landlords - and so it's not sufficiently effective in policing irresponsible landlords. I can give you some examples.

Let's say you have a ten-suite apartment building and let's say the management of that building, the owner - the title-holder has done a good job of informing the tenants (the residents) of their obligations, in terms of when to usually put out recyclables. Because in most such cases a large building has a dumpster and the employee of the management company is responsible for getting that dumpster out on time and getting it back on time. And if the employee doesn't do that job properly,

it's altogether appropriate to cite the employer. Sometimes, even the most-well meaning tenants - say they want to recycle aren't aware of the time, even if it's shown to them in literature that's given to them when they move in and letters are posted. So it seems to me that it's not fair on what is called in law "a strict liability basis" to punish a responsible owner who has tried to meet this challenge. Now, landlords have definite obligations to inform and to monitor tenant behavior in this area. They are not all-seeing and cannot necessarily guarantee absolute compliance. What is important is that they act responsibly at all times. Sometimes we have situations where third parties will drop off bulk items on someone else's tree lawn. In these kinds of situations it's very important, it seems to me, to separate out those who are doing the right job and those who aren't. Unlike ordinances and laws that we have that protect against excessive noise, illegal parking, and similar kinds of offenses we have a situation where often times if bags are refuse [and] are put out, the owner cannot identify which tenant 'done it'. So, again, a responsible owner is at a loss to try and make this work. When I said that this was one draft away, this proposal - it provides for an appeal - in this case, the Nuisance Abatement Board. Well, that's a nice procedure, but I think we ought to go one step further and define what would be a fair defense, even putting the burden on for example landlord in a dense multi-family district, and it would seem to me that the elements there would be reasonable actions by the cited owner to gain compliance with the code and the lack of actual or constructive notice as to an offense. By lack of constructive notice, I mean that under all the circumstances, the owner was not really in a position to be able to determine if this was happening. Now, here we have a situation with a maximum penalty, civil penalty of fifty or a hundred dollars. So, I suppose we could say, "Oh well, the means justify the ends." Regardless of the penalty, I think once again, it's very important to have laws that encourage responsible behavior and absolutely go after those who have not been acting responsibly. Thank you."

Council Member Caplan commented, "Thank you. I understand my colleague's frustration with what feels like an unfairness to the good landlords and we have lots of really good landlords. On the other hand, I think there's an unfairness to the community-at-large. There are two separate neighborhoods that we're talking about, one of the single-family house where one family doesn't care much about their neighborhood and puts out the garbage and it is there for days and days and days and it makes the whole neighborhood look terrible. It gives an impression that one doesn't care and in more densely populated areas I understand the frustration of the landlord being responsible ultimately for one of his tenants whether or not he's been an advocate for putting out trash in an appropriate way. However, there again, because the most densely populated areas in general have their trash picked up on Mondays, sometimes trash is put out on Friday and it sits there all weekend or a weekend like we just had which was a long weekend. So, that Monday the trash wasn't picked up, so trash stayed out Friday, Saturday, Sunday, Monday - wasn't picked up 'till Tuesday. It gives a terrible message. It isn't nice to drive by. It isn't nice to walk by and I have come strongly to the feeling that if we don't use money as a way to encourage people to be more neighborly, more civil to each other, that nothing else will do and so I strongly support this and I think that it's time that we really get strong about encouraging people one way or another to be part of a community in helping our community really look good. Thank you."

Mayor Kelley added, "I just want to briefly say the reason Ordinance No. 89-2009(PSH) is before us and will be voted on in two weeks is definitely irresponsible behavior in our city. To me it is plain and simple and whether it's in an apartment district, a single-family district or however, I don't like it. I've lived here for many years. It's not going to be tolerated. We are not moving towards Cleveland or East Cleveland, as far as the way our city looks nor should we. This is an important tool in the box to make it happen. I appreciate great landlords. But, on the other hand they are responsible for their tenants, not this City Council."

Council Member Tumeo continued, "As you can tell, this is one of those unique times, because

we always get to this - and you can see these discussions are - we take these very seriously and I will make sure that we look over this in committee and I know that we'll look at this. But, I do think that - a couple of things I would add just to close that out. We had them looking at pickup times, because that is an issue, especially in our densely populated [areas]. Those are mostly contract pickups - BFI and those sorts of things, not the city's. We've tried to get those moved to a different day of the week to minimize the chance that garbage hangs out over the weekend. I think that this having a law that encourages responsible behavior is important. I can sympathize with my colleague who feels that - you know - you've got ten people in an apartment complex, ten apartments and one of them is messing up and you don't know which one. When I lived in a very densely populated area in D.C. that was often handled by the landlord by not only having garbage bins but also having recycle bins. The recycle was put out on the appropriate days as well. That put that back into the control of the responsible landlord and it might be something that we encourage our landlords to do rather than just to tell people to put stuff out on the curb. Ultimately, money is an accountability and neighbors if they start seeing in an apartment complex their rents going up because someone is misbehaving those neighbors know who is misbehaving and a little peer pressure now and again helps. So, I think that we will, of course, discuss this. We'll see this again in two weeks.

Finally, talking about good things in our community. A couple years ago, as you know, when we started first doing the budget cuts, one of the things that we unfortunately did have to cut back on and eliminate was the city's putting up of flowers. Now, the commercial districts still do that from their own monies, but other areas did not get those from the city. Two years ago, one of our residents, Miss Anna Leonetti stepped forward and donated money and time and effort and actually put flowers up/down in the Cedar-Fairmount not in the SID but in that area. We mentioned that several times here on Council. I was recently out-of-town for the holiday and there is another city where this kind of volunteer activity goes on every year. I wanted to personally thank Miss Leonetti for pulling this together and getting it going and hopefully we can revisit this in the future if our citizens like that and want to come together and garden clubs, whatever, to get the flowers, maintain them, water them, that kind of stuff. That's one way that we can all pull in together to make our city prettier and I think that Miss Leonetti should be commended on her stepping forward and getting that done and I just wanted to thank her on behalf of myself and this Council and that concludes my report."

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Tumeo stated, "There is no report from the Administrative Services Committee."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Vice Mayor Evans stated, "Thank you, your Honor. There is no legislation this evening, but I would like to certainly thank Community Services Department for such a fine summer with the programming and everything that goes along with it down at Cain Park, as well as with the other activities in all of our parks. Certainly, Public Works under the direction of Alex Mannarino deserve an applaud too for all the help that they do with the parks. So, Cain Park is officially closed. All the buildings are shut tight, the rented lights for the Evans Theater are returned, and we're thinking about next summer. But, before we get to next summer we will be starting our fall and winter programming. Those of you who have youngsters that are interested in being a member of one of the basketball teams for the winter league registration is open. Keep in mind that sometimes that program fills up pretty quickly, so if your child is really interested it might behoove you to sign them up pretty quickly.

Yesterday was the last day, which was Labor Day, the last day for Cumberland Pool to be open. Everyone had a great time there at the pool this summer. I'd also like to remind our residents that

Council many years ago set our senior age as sixty. We could have made it seventy, eighty, fifty, but we set it at sixty. So, if you want to participate in any senior activity you'll just have to wait until you are sixty to benefit from some of the little perks that go along with being a mature person. That concludes my report."

REPORT OF THE MAYOR

Mayor Kelley stated, "There is no Mayor's Report tonight. Our meeting will be adjourned at 8:34 p.m. Our next meeting will be Monday, September 21, 2009. Thank you for coming."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc