



CITY OF CLEVELAND HEIGHTS, OHIO MINUTES OF THE COUNCIL MEETING OF MONDAY, NOVEMBER 2, 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, Dietrich, Evans, Kelley, Montlack, Tumeo, Wilcox

Council Members absent: None

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

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

Council Member Caplan moved to adjourn into Executive Session at 6:52 p.m. Second by Vice Mayor Evans.

Edward Kelley, presiding

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

Council Members absent: None

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

Topic of discussion included litigation.

Executive Session concluded at 6:55 p.m. and resumed into Committee of the Whole.

Committee of the Whole adjourned at 7:32 p.m.

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:44 p.m.

Edward Kelley, presiding

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

Council Members absent: None

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

The minutes of the Regular Council Meeting held Monday, October 19, 2009 were approved and signed by Mayor Kelley along with the resolutions passed at that meeting.

"Hello Mayor, Members of Council, elected city officials. My name is Dan Mohny, 3969 Orchard Road. I've been a resident for 25 years. I have a question concerning the city's gas aggregation program. At the Council meeting of September 21st, on the committee reports, Council voted on Resolution No. 90-2009 authorizing amendment of the city's gas aggregation supply agreement with Integrys Energy Services. Council directed the law director to renegotiate the contract and he actually did a fine job. We got a nice favorable agreement. The first part of the agreement was a 12-month fixed rate of 6.92 per thousand cubic feet beginning with November, 2009 service. The second part of the agreement is the part that I have a question on, it is the quarterly rate option. According to the Resolution, it said it was guaranteeing that the rate for the variable price program will be at least \$.10 less than the Dominion East Ohio Energy Choice Program. I called Integrys three times - they've said, "Not so, that's not what they agreed upon". What they agreed upon according to Integrys was a rate \$.10 lower than the quarterly rate that they are for Dominion customers. These are two different agreements. Either we misunderstood their intentions or they misunderstood our intentions. But, the Resolution says, \$.10 less than the Dominion East Ohio Energy Choice Program which is a lot lower than the quarterly rate that Integrys says that they are going to give our residents. Any comments on that? Did I explain myself?"

Mayor Kelley replied, "Yes. I'm going to let the law director answer that question since he negotiated the contract and he does a lot of our utility work, not just for our city, but for many cities in the county and the five-county area. Mr. Gibbon, please."

Mr. Gibbon stated, "The P.A. system is such that I followed some of what you said, didn't get all of it, but the program, that is the Dominion Program, which is in the Resolution and specifically cited is exactly the name of the program that we will be *\$.10 less than* and that is in our agreement with Integrys. At one point I went onto the computer to find out what that was, but it's been several weeks, but that is the name of the program at what you're looking at in front of you. I don't have the Resolution in front of me, but what is in that Resolution is in fact the program and if you go on the internet and look that up that's what you'll see."

Mr. Mohny continued, "The Energy Choice Program by Dominion is a monthly program based on an auction. That is not what Integrys is giving our residents. What they're giving us is the rate that they give to Dominion customers minus \$.10. So there is a misunderstanding here, I think you need to straighten them out because they are not giving us what we voted on."

Mr. Gibbon added, "Maybe what we should do is this, because honestly I'm really having trouble hearing you. How about if we talk after the meeting and we'll understand each other and I'll get you an answer?"

Mr. Mohny answered, "Sure, I just didn't know when to address you on this. Okay?"

"Good evening, your Honor and Council, everyone assembled here this evening. My name is Melvin Russell. My wife Deborah is sitting in the audience. I'm from 3432 Euclid Heights Boulevard. It's kind of an echo in here. One of the issues I've had so far is that we have a house next door that's going to be demolished and one of the issues I found that was very disturbing to me was the condition

of the house and how the house got in such a terrible condition without City inspectors really looking at it and saying something about the house. Every year I'm getting a notice from the City inspectors about things on my house, you know, from not knowing how big the number is on my address, to a crack in the window of my garage. Nothing very major but they are annoying. But, I was very appalled at how well they let this house next door get to a condition where now they are justified in tearing it down. That was one of the issues that kind of really disturbed me and I hope there is some type of clarification on that in the near future, because I've had some pretty rough dealings here - the Housing Court, etc., because of things at my house. My house, I feel, is one of the better looking houses on the street and I'm always taking care of it. One of the things we are having is because the school next door wants to tear the house down, we want to make sure that we will be assured of our own privacy. We used to be the fourth house from the corner, now we'll be the first house from the corner. So, we'll be exposed to Taylor Road and a lot of the traffic coming from Taylor and Mayfield, etc., plus the air and the weather exposure to the house will make my house a little bit more accessible to erosion. So these are some of the issues that we are concerned with. I hope there is some type of answer to some of the housing situations and inspections that go on in Cleveland Heights. I feel that they do an adequate job, especially since I get an inspection every year, when they're only supposed to inspect me every three years. I think there is something awry or something misleading in the inspection department and usually when I call them I get some type of funny response or non-caring response.

I have to commend Mrs. Caplan. I also have to commend the Mayor because every time my wife calls he reacts to any issue that she calls upon and she doesn't call frivolously. My wife is a very astute and intelligent woman and she will not call unless it is absolutely necessary. So, I have to commend those people for they're caring and compassionate to some of the problems that we have been experiencing. We hope that hopefully there will be some type of resolution with this house being demolished [and] all parties will be satisfied, especially ours. So we are looking at some type of barrier or something there that is going to help protect our house, protect our privacy when the school demolishes that house. Thank you."

Mayor Kelley responded, "Thank you, Mr. Russell and I thank you, Mrs. Russell for also coming. We are not going to act on this tonight. We're going to read it, but we're going to continue it for two weeks so we can study. We did receive correspondence from you last week. We're going to look at it and some of the issues you brought us and we will bring it back in two weeks, possibly for a final vote. We want to thank you for coming and I know we've talked on the phone a couple times, but we're trying to work out the best solution for all involved and we really thank you for your commitment to Cleveland Heights and we thank you for keeping your property up in such excellent shape. We do appreciate it. Thank you."

REPORT OF THE CITY MANAGER

Mr. Downey stated, "Thank you very much, your Honor. I just have one item this evening and that would be to read into the record a bid tabulation and award of contract. You have received Bid Document No. 2009-09, also known as the Norfolk Road Water Line Replacement and Sewer Improvement Project. The lowest and best bidder is Camino Construction in the amount of \$298,651.00. Your Honor, I would request that the bid tabulation and the award of contract be made a matter of record."

Mayor Kelley made it a matter of record.

REPORT OF THE DIRECTOR OF FINANCE/CLERK OF COUNCIL

Mr. Malone stated, "Thank you, your Honor. I need to notify Council that one notice has been received from the Ohio Department of Liquor Control advising that an application has been made by the following: Daesu Enterprises, Inc., new D2, D2X, D3 and D6 permits, premises 2206 Lee Road & Patio, 44118. Your Honor, I need to make this a matter of record."

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

Mr. Malone continued, "I also need to notify Council that six 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. 3197 Lynette Ellis Anderson, 3806 Mayfield Road, accessory use regulations; BZA Calendar No. 3198 Charles and Genese Hewston, owners of 1308 Yellowstone Road, accessory use regulations; BZA Calendar No. 3199 Ayaz Deen, 3308 Silsby Road, accessory use regulations; BZA Calendar No. 3201 Ann Gecowets, 3849 Bainbridge Road, accessory use regulations; BZA Calendar No. 3202 Mosdos Ohr Hatorah, 3634 Euclid Heights Boulevard, accessory use regulations; and BZA Calendar No. 3203 Majid Taibzadeh, d.b.a. Postulate Investments, 3296 Berkeley Road, accessory use regulations. I need to make these a matter of record."

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

REPORT OF THE ADMINISTRATIVE SERVICES COMMITTEE

Council Member Dietrich stated, "Thank you. There is no legislation from this committee, but there are a couple of events that you might like to attend that are coming up this month. The Doan Brook Watershed Partnership, of which Cleveland Heights is a part, is having its annual meeting on Tuesday, November 17th at 7:30 p.m. at the Nature Center. And besides wine and desserts and celebration, there will be an update from Tori Mills who is our Executive Director and a discussion on the partnership's new watershed action plan and on the proposed lake to lake trail. This meeting is free and open to the public.

The following Sunday, which is November 22nd at, I think 5:00 p.m., and last I knew it was being held at Beaumont School, I know that isn't exact, but there was a little question about that. But, anyway, Sunday in the afternoon of November 22nd will be Heights Community Congress' annual meeting. This is also free and open to the public and includes a light supper. There will be the announcements of the Bernice and Lacy Lott Citizen Award, the Civic Fusion Award and the Robert J. Goble Award and as always an inspiring speaker. So, these are two events that you might want to support. They are local non-profits of which the City of Cleveland Heights is a part.

Once again, I'd like to make a request for applicants for our boards and commissions. I will say once again, our biggest lack is of African American applicants. All applicants are welcomed, but if you are an African American person who would like to volunteer on one of our city's boards or commissions, we would love for you to apply. Several openings will be coming up at year-end. So, if you would like to serve the city in that way just call City Hall and request an application or you can go online on the website and it's quite a simple two-page application.

The only last thing I have to do is to wish good luck in tomorrow's election to Ed, Bonnie and Mark and that completes my report."

REPORT OF THE COMMUNITY RELATIONS AND RECREATION COMMITTEE

Vice Mayor Evans stated, "Thank you, your Honor. There is no legislation this evening, but I have a few tidbits of information that I'd like to share with you. First, Congresswoman Marcia Fudge's office has scheduled a housing event for November the 17th at our Community Center. The focus is for folks who are in danger of having a foreclosure on their homes. If you need some additional information, perhaps you could go online or maybe call the office. We don't have the final details, we just know that there is something scheduled at the Community Center.

The next is another great event scheduled for November the 21st which happens to be National Shop Local Day. So, some of our local merchants and Future Heights are going to have a *Cleveland Heights Shop Local Day*. It is scheduled from 11:00 a.m. to 6:00 p.m. There will be a passport that can be picked up and I'm not sure of those details either that can be used at all of the different stores in our city. There will be a drawing at the Rockefeller Building at the end of the shopping day. It should be a great event and I certainly would like to encourage all of you to participate that day. I'm looking forward to it and hopefully you will as well. You'll be able to find more information on our website and there will be an e-mail blast.

Cleveland Heights has a Youth Scholarship Fund. This is the first time that we've started running short of funds for obvious reasons. We'd love to have all of our youth have an opportunity to play. So, we need to ask for donations to this fund and the checks can be made payable to the City of Cleveland Heights Youth Recreation Fund and mailed to City Hall, 40 Severance Circle. These donations are tax deductible and we would certainly appreciate your help making it possible for any youth who wants to participate in the activities here to have that opportunity.

I, too, would just like to remind you to vote. This will air at least a couple of times between now and tomorrow. The polls open at 6:30 in the morning. They close at 7:30 in the evening. Hopefully, everyone has done their homework. This seems to be one of those times when you need to spend a little bit of time thinking about the issues particularly. There are some great candidates and three of the great candidates are sitting at this table. But, I do encourage all of you to vote. 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 Ordinance No. 108-2009(F), amending Chapter 171, *Contracts*, of the Codified Ordinances of the City of Cleveland Heights to enact a new Subsection 171.021 to authorize the establishment of blanket purchase orders in amounts not to exceed Twenty-five Thousand Dollars (\$25,000.00); and declaring an emergency. The Ohio Revised Code provides that a local council may authorize the chief fiscal officer to appropriate or direct sums of money not exceeding the amount specified in the ordinance to the credit of line-item appropriation accounts as explained to us where there are multiple orders subject to a purchase order or a series of purchase orders for various work. The State Auditor's Office has advised cities, including Cleveland Heights, to set the specified limit on such "blanket purchase orders" to increase effectiveness in processing expenditures. It would be in the best interest of Cleveland Heights to do so. Therefore, under this Ordinance, Chapter 171, *Contracts*, of the Codified Ordinances of the City of Cleveland Heights would be amended to enact a new Section 171.021, to be entitled *Blanket Purchase Orders*, with said Section to read as follows: *The City Manager is hereby authorized to create rules and regulations for the use of blanket purchase orders, pursuant to Ohio Revised Code Section 5701.41(D)(3), with all purchase orders not to exceed the sum of Twenty-five Thousand Dollars (\$25,000.00) per vendor for each fiscal year.* Ordinance No. 108-2009(F) is presented on first reading for passage tonight."

Mayor Kelley accepted Ordinance No. 108-2009(F).

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

Nays: None

Ordinance passed

REPORT OF THE MUNICIPAL SERVICES COMMITTEE

Council Member Caplan stated, "Thank you. I have no legislation, but I do have two announcements. One is that on Wednesday, November 11th, it's Veterans Day, so City Hall will be closed as will the Community Center. That means also that there will be no trash collection. Consequently, we're going to be into this double-pickup day. So the people whose trash would be picked up on Wednesday and their recycling will be picked up on Thursday. The Thursday people will be picked up on Friday and the Friday people will be picked up on Friday. So there will be a double collection on Friday. So that would be November 13th. There will be no Saturday collection. We've done this before and we're getting better at it. So it's usually the Thursday and Friday people who have to get their act together there. So pay attention, it's next week, actually.

The other is the leaves. The trees have been quite cooperative and they are falling down because they know we only have a four-week window so lots of the leaves have come down. For the most part people have really been great about putting them on their tree lawn and not in the street. Not everybody has been great about it, but for the most part everybody has been. Leaf collection began today. So, your leaves and I am reiterating this, the leaves will only be picked up two times at your house. So, you can sort of figure that it will be picked up two weeks from the time it was picked up the first time. So, the people whose leaves were picked up today, will probably be picked up two weeks from today. Probably, because if it rains or something happens then all of that gets changed and of course well, it'll be complicated because of the holiday. So more or less it will be two times in four weeks. You can sort of gauge when it is. Don't count on it being December 2nd because it's not going to happen that way. So you are going to get them picked up twice. Sort of pay attention. Be ahead of it and the trees have been quite cooperative so maybe we can get all the leaves collected so when the fall snow falls we won't have leaves on the street and on the tree lawns. That's all I have. Thank you."

REPORT OF THE PLANNING AND DEVELOPMENT COMMITTEE

Council Member Wilcox stated, "Thank you, your Honor. There are six Board of Zoning Appeals Resolutions tonight coming from the Wednesday, October 21st meeting of the Board of Zoning Appeals. Councilwoman Dietrich attended that meeting and will have the pleasure of reading these into the record."

Council Member Dietrich stated, "The first one is BZA Calendar No. 3197 Lynette Ellis Anderson, 3806 Mayfield Road, in an 'A' single-family district requested a variance from the accessory use regulations of the Zoning Code to permit a 3' tall deck set back 3' from the side property line where the Zoning Code requires the deck to be set back 5' from the side property line. The Board of Zoning Appeals unanimously decided that this is a minor variance with only 2' of encroachment for a very short run of deck, and that also the applicant had already amended her application to address a neighbor's concern, and that the deck is as close to Code-conforming as is possible while allowing a usable deck space. They did grant this variance with work to be completed within 2 months of this Council's approval. What I was referring to when I said that she had already amended her application to address a neighbor's concern also has a condition to it which is that the "wall" portion of the deck is supposed to be only 7' above grade and the posts have to be turned so that they face the applicant's

property so that the good side of the fencing faces the neighbor. I offer BZA Calendar No. 3197 for confirmation.”

Second by Vice Mayor Evans.

Council Member Tumeo added, “We do a lot of these variances and in general they are not problematic, but this one I find extremely problematic, because the rule is you have to have a practical difficulty and while there is one stated, the situation with this was a deck was built without a permit. It wasn’t built according to code and now they want to have it be okay. They have agreed to cut it some to make it almost okay, but had they done this the right way they could have made it all okay and I think that is not a practical difficulty, so I will be voting against this.”

Council Member Wilcox added, “I believe the practical difficulty as stated is that the deck if it was Code-conforming would not be a usable deck, so I’ve tried to look at this as if the deck hadn’t already been constructed and I think based on past variances that we have granted we would have approved this as well. I will point out that the applicant will be cutting off 3’ of the deck and making significant modifications to comply with the variance. So, I will be voting in favor.”

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

Nays: Tumeo

Resolution confirmed

Council Member Dietrich continued, “The second one is BZA Calendar No. 3198 Charles and Genese Hewston, owners of 1308 Yellowstone Road, in an ‘A’ single-family district. They are requesting a variance from the accessory use regulations of the Zoning Code to permit a storage shed overhang to project 2’ into the required 5’ setback where the Zoning Code requires that an overhang projection be no greater than 1’ into the required setback. The Board of Zoning Appeals unanimously decided that this variance should be granted because the proposed shed is in keeping with the unique architecture of the house and that anything less including the overhang would detract from the home’s aesthetics and this would cause no harm to the neighborhood and that in fact the neighbors were supportive of the proposal. So this was granted. Construction should be completed within 12 months and the applicants shall remove a temporary lattice storage area when the shed construction is completed. I offer BZA Calendar No. 3198.”

Second by Council Member Wilcox.

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

Nays: None

Resolution confirmed

Council Member Dietrich continued, “BZA Calendar No. 3199. This is the first of three variances tonight that deal with building a one-car garage where, as you know, two-car garages are required. Ayaz Deen, 3308 Silsby Road, also an ‘A’ single-family district and the variance request is to permit a one-car garage where the Zoning Code requires a two-car garage. The BZA unanimously decided that the applicant will suffer practical difficulty if the variance is not granted because of the small size of the lot, the location of the house on the lot, an existing peach tree, and the topography of the site which has a drop-off right behind where the garage is going to be put. So all those factors would make construction of a two-car garage impossible in that the second bay of the garage would not be able to be accessible to a car. So this variance was granted and construction should be completed within 2 months. I offer BZA Calendar No. 3199.”

Second by Council Member Montlack.

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

Nays: None

Resolution confirmed

Council Member Dietrich continued, "BZA Calendar No. 3201 Ann Gecowets, 3849 Bainbridge Road, in an 'A' single-family district requested a variance also to permit a one-car garage set back 1.7' from the side property line where the Code requires a two-car garage to be set back 3' from the side property line. Again, the Board of Zoning Appeals unanimously decided that because of the small size of the lot and the location of the house on the site that construction of a two-car garage where the second bay would be accessible to a car would be impossible, and that in fact the 3' setback would also make access to the garage very difficult. They have granted this variance with construction to be completed within 18 months. That is BZA Calendar No. 3201 for confirmation."

Second by Council Member Tumeo.

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

Nays: None

Resolution confirmed

Council Member Dietrich continued, "The final two BZA's, I'm going to read them tonight on first reading into the record. We will not be voting on them because there have been some questions that we didn't feel we really answered in our discussion earlier and so we'll actually be voting on these in two weeks, but I will read them.

BZA Calendar No. 3202. This involves Mosdos Ohr Hatorah, which is the school located at 3634 Euclid Heights Boulevard in an 'A' single-family district. The school has requested a variance from the accessory use regulations of the Zoning Code for a 10-space school parking lot addition which would be 40' from the adjacent home at 3432 Euclid Heights Boulevard and also that the parking lot would have a 19'-wide drive aisle. Now the Zoning Code requires a minimum parking lot side-yard setback of 50' and a 22'-wide drive aisle. You may remember that this is the case that Mr. Russell was talking about earlier in the meeting. The Board of Zoning Appeals decided that the applicant would suffer practical difficulty if the variance is not granted because of the constraints of the existing location of the school building, and because of the parking lot and drive aisles, and that a Code-conforming setback would render the parking unusable. Also, included in this plan along with this 10-space parking lot is a bio-retention rain garden and that would be made on the spot where the demolished house stood and so this has several positive effects. It has environmental benefits by reducing hard surfaces, it minimizes storm water runoff and it has educational benefits of creating an environmentally friendly parking lot storm water drainage system and rain garden, and it would be enhanced by landscaping. The Board of Zoning Appeals did vote to grant this variance. They did put some conditions on this: 1) Permanent planting be installed by December 1, 2009; which maybe would have to be put back a little bit because we are not voting on it yet; 2) Landscaping on the demolished house footprint be installed by June 1, 2010; 3) That the neighboring property owners be notified of today's meeting; and, 4) That construction be completed within 18 months of Council approval. I am just offering this on first reading tonight and we will do it again two weeks from tonight and vote on it then."

Mayor Kelley accepted BZA Calendar No. 3202, first reading.

Council Member Dietrich continued, "Similarly, BZA Calendar No. 3203 is also on first reading and this is the case of Majid Taibzadeh, d.b.a. Postulate Investments at 3296 Berkeley Road, in an 'A' single-family district requesting a variance from the accessory use regulations of the Zoning Code to permit a one-car garage set back 0' from the side property line and 2' from the rear property line, and 9' from the house where the Zoning Code requires a two-car garage setback 3' from the side and the rear property lines and to be 10' from the house. The Board of Zoning Appeals voted 3 to 2 to grant this variance saying that the applicant would suffer practical difficulty if the variance is not granted because the small size of the lot and the location of the house on the site make construction of a two-car garage where the second bay is accessible to a car impossible; the previous 0' side yard and 2' rear yard setbacks have already been established by a previous garage, and the required 3' yard setbacks and the required 10' distance between the garage and the house would make access to the garage very difficult. So they did grant the variance with the condition that the applicant would submit a property survey for staff approval prior to any construction. All construction be completed within 2 months and if the survey shows the site's dimensions to be different than what we think they are then the plan may be adjusted so that the garage could actually be no less than 8' from the building instead of 9'. So for that reason, because we think the survey has been done and we have more information now this too will be just offered on first reading and we'll vote on it next time. So BZA Calendar No. 3203 on first reading."

Mayor Kelley accepted BZA Calendar No. 3203 on first reading only.

Council Member Wilcox continued, "I just wanted to state that one of the items that this committee will be undertaking in the next several months is looking at our Zoning ordinances and particularly the issue of two-car garages and in certain properties where it may be difficult to replace two-car garages with newer two-car garages because of accessibility. We may be looking at our Zoning Code in a way to deal with this different than having each and every variance go to our Board of Zoning Appeals. That's something that we're going to be looking at in the Zoning Code.

I just wanted to end by wishing my colleagues on Council who are running for re-election tomorrow, good luck and remind everybody to make sure they vote. That concludes my report."

REPORT OF THE PUBLIC SAFETY AND HEALTH COMMITTEE

Council Member Tumeo stated, "Thank you. We have two Ordinances tonight and I do apologize for the echo, that's so you can all vote upstairs tomorrow. The first is Ordinance No. 109-2009(PSH), authorizing the renewal of an agreement with the Cuyahoga County General Health District for public health services; providing compensation therefor; and declaring an emergency. The Ohio Revised Code authorizes cities to enter into contracts with general health districts for public health services; and we've done this for several years where we contract with the Cuyahoga County General Health District. They have actually provided our services for several years.

Some of the contract services that they do provide for us under this contract includes the annual inspections of food establishments, responses to food poisoning, people call in and report that, inspection of child care facilities, sanitation both residential and commercial for various activities if you have rats, those kinds of things, mosquito surveillance. They help us with those kinds of stuff. They run immunization clinics. They run blood pressure clinics and they respond to ongoing issues and help us with vaccinations. They also help us with rabies and hepatitis shots for our employees. So it is quite an extensive list of services and because they provide this for the entire county, of course, our contract is a lot less than if we tried to do this ourselves or contract privately for this.

So, via this Ordinance, the City Manager is hereby authorized and directed to enter into an

agreement with the Cuyahoga County General Health District (hereafter the "District") for the provision of certain public health services to the City and its residents which are required to be provided under State law, including, without limitation, school health services, community health services, family health services and environmental health and sanitation services. The agreement shall be for a period of one year, commencing January 1, 2010. The fee for the basic mandated services shall be the sum of One Hundred Eighty-four Thousand Eight Hundred Forty-five Dollars (\$184,845.00). In addition, we are authorizing for non-mandated health services to be provided by the District at its standard rates, these are our hepatitis and rabies' vaccines for our employees as necessary. These additional services shall not exceed Seventy Thousand Dollars (\$70,000.00). I offer Ordinance No. 109-2009(PSH) for passage tonight."

Mayor Kelley accepted Ordinance No. 109-2009(PSH).

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

Nays: None

Ordinance passed

Council Member Tumeo continued, "Thank you. Next I have Ordinance No. 110-2009(PSH), amending Section 541.05, *Criminal Trespass*, of the Codified Ordinances of the City of Cleveland Heights to enact a specific prohibition of trespass upon vacant property; and declaring an emergency.

You'll recall, there have been several ordinances that have come forward and this is a result of a retreat that this Council had earlier this year to take a look at some of the issues that we've been dealing with; vacant houses, behavior problems, those sorts of things and to make sure that we had all the tools in the toolbox that we could have to help address these. We're going to continue some of these discussions next week with housing. But, this was a specific one that came out of a problem that exists with our current criminal trespass rules. Those rules require that if someone is on property that they shouldn't be on, we have to get the owner to complain before we can charge them with criminal trespass because the owner is the person who can say these people are trespassing. The problem is if you have vacant house or bank-owned properties there is really not an owner around that can complain. So, the police have their hands tied, because they really can't charge these individuals who may be loitering on the property, may be doing potentially things they shouldn't do, but you can't charge them with trespassing, because the owner is not there to complain.

This Ordinance actually reverses that and what it specifically says is: *In the case of land or premises which is vacant, a person who enters or remains on the land or premises of another shall be deemed to be in violation of this section unless the person provides written authorization by the owner.*

So in essence it's the reverse of what the law currently is. So now if someone is on the property that shouldn't be there and we come, they can't say, 'Well, the owner, you know, isn't complaining.' But what we can say is, 'You have to have written permission to be on the property.' And so, in that way we can help protect those vacant properties and hopefully start to interdict some of the problems that we've seen in our neighborhoods with these vacant properties and individuals loitering on them.

So I would like to introduce Ordinance No. 110-2009(PSH) for passage tonight."

Mayor Kelley accepted Ordinance No. 110-2009(PSH).

Council Member Caplan commented, "I think this is a really good piece of legislation and one that we've needed to work on uncivil behavior, quality of life issues and it gives us another tool in the

box of maintaining the quality of life the way we want it to be in Cleveland Heights. So, I'm really glad we're doing this."

Mayor Kelley commented, "Thank you. I just want to briefly comment. What you're seeing has come from our residents when we go to neighborhood meetings complaining about young adults, young teenagers hanging out on properties, thumbing their noses at people, just making neighborhoods undesirable. So, this is your Council's response in conjunction with our law director to make sure we will be proactive in this area. No longer will we have to wait to hunt down an absentee landlord or someone in a vacant property or bank. We will be very aggressive. It gives our police the tools to do this and hopefully, as soon as the weather breaks next spring, you'll see a lot of this happening, and if you see this happening, the important thing is to call our police and let them know, whether it is your neighborhood or you're driving by. If you see a group of kids that shouldn't be on somebody's property just call us and let us know. An ounce of prevention will go a long way in this cause here."

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

Nays: None

Ordinance passed

Council Member Tumeo continued, "Thank you, your Honor. I have two things I'd like to announce. As you know, there is still a lot of potential individuals out there who are facing the threat of foreclosure or some kind of problem with their mortgage. You've heard about one workshop that's coming up. There is another. It is called the Eastside Mortgage Workshop. It is being held by the County and the County Auditor's office, the Treasurer's office and the Center on Urban Poverty and Community Development at Case Western Reserve. This is going to be on Thursday, November 5th from 6:00 to 9:00 p.m. at the Church of the Savior in the Great Hall and that is at 2537 Lee Road. If you are going to come to this there is going to be staff from the Treasurer's office to answer questions about real estate taxes and tax payment plans. There is also going to be staff from the local non-profit housing agencies who can review your mortgage situation and advise you on options even if you've already missed some payments. These are HUD approved foreclosure counselors and they'll be ready to meet with you. What you do need to do is bring copies of your mortgage papers so that they'll have that information there so they can work with you to try and save your home and there is always a lot more options available than going into foreclosure [end of tape]. The Treasurer's office and if you're a renter and you received this letter [displaying letter] it's because they believe that the mortgage on the home that you're renting or living in could be a high-risk mortgage, so we've had this happen where renters are paying the rent, but the owners of the property aren't paying the mortgage, so the house goes into foreclosure and the renters are SOL. So if you got one of these letters, please call the Cleveland Tenant's Organization. There are all kinds of options if a foreclosure has been filed on a house or property that you're renting. The number for the Cleveland Tenant's Organization is 216-432-0609. Once again, the workshop is this coming Thursday, November 5th from 6:00 to 9:00 p.m. at Church of the Saviour at 2537 Lee Road in Cleveland Heights and that's all, your Honor."

REPORT OF THE MAYOR

Mayor Kelley stated, "Thank you, Councilman Tumeo. Just briefly, the campaign is just about over, if not over by the time you watch this. I believe there are over 4,000 council signs and another 1,000 school board signs and probably about 500 issue signs. So, I would ask that our residents and the candidates involved, including myself, make sure that you get these signs off your front yard, put them on the tree lawn and our trash people will be more than happy to collect them. Let's end this race on a good, positive note, no matter who wins or loses by getting these signs which have dominated many neighborhoods for the last 6/7 weeks. Let's get them up, get them out, put them out with your leaves

and everything and our guys will be more than happy to get them out. There will be a whole new set of signs come next May and March when we have a primary for state offices and county offices, if indeed there are county offices, we don't know, but please help us with this thing. I ask the candidates in Cleveland Heights, including myself, if there are signs that are still there a few days or before this next meeting, take them up, get rid of them and get them out of there and the clutter. It'll be a nice thing to do for the community.

This meeting is adjourned at 8:34 p.m. Our next meeting will be Monday, November 16, 2009. Thank you for coming. Good luck to all tomorrow."

Respectfully submitted,

Edward J. Kelley, Mayor
President of Council

Thomas K. Malone
Clerk of Council

/mwc