

Council Committee of the Whole of the City of Cleveland Heights, Ohio, met on the above date at 6:27 p.m. to discuss the contents of the City Manager's memo and reports by City Department Directors.

Council Members present: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow

Staff present: Boland, Butler, Briley, Freeman, Juliano, Lambdin, Mannarino, McRae, Mecklenburg, Michalec, Niermann O'Neil, Smith, Wong

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

The Council of the City of Cleveland Heights, Ohio, met on the above date at 7:40 p.m., Mayor Stephens presiding.

Council Members present: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow

Staff present: Boland, Butler, Briley, Freeman, Juliano, Lambdin, Mannarino, McRae, Mecklenburg, Michalec, Niermann O'Neil, Smith, Wong

Mayor Stephens stated, "Good evening and welcome to the Cleveland Heights City Council meeting of Monday March 6, 2017. Mr. Michalec, if you would call the roll please."

Roll Call: Ayes: Dunbar, Roe, Seren, Stein, Stephens, Ungar, Yasinow

Mitch Michalec stated, "Six present, Your Honor."

Mayor Stephens stated, "Thank you. We're all here with smiles on our faces and so the next item is approval of the minutes of the regular Council meeting held on Tuesday, February 21, 2017. Edits have been provided to our Clerk? Thank you. Next is our favorite time of the evening - personal communications from citizens. Sometimes we have many to speak; sometimes we have none. Is there anyone who would like to share something with City Council this evening? Yes, ma'am. If you would move to the podium, give us your name, your address and try to keep your comments to three minutes or less."

Palida Moody stated, "My name is Palida Moody. The address is 1686 Lee Road and I'm here because when we were having all those meetings about the change in our water, I came to them, I thought I understood it. Then I get a letter from Cleveland explaining about this transition that Cleveland Heights is now going to charge for the next five years and that came at the same time the Focus did. As I started talking to people, everybody is like, 'What are you talking about? What transition?' My bill is now double. The amount I got from Cleveland - great price - I was fine with it, but the amount of the transition was more than my water bill and I'm like, 'This is crap.' You know, it was like one of those things that to me seems like it was a secret, you kept it hidden until it happened, and now I know about it and there are a lot of other people they know about it because I've been sharing it because a lot of people did not know about the transition until they started getting the bill. So, I need to understand why we needed to do that. Yes, you're not getting money for water, but I don't know if that was from

mismanagement or what, but you needed to give our water to Cleveland. I'm okay with that. Whoever provides is... but I still need to understand why that happened and why was kept so quiet."

Mayor Stephens stated, "The best way to handle this, because it's not a real concise short five second answer...."

Palida Moody stated, "But I kept mine to three minutes like you asked or less."

Mayor Stephens stated, "Yes, you did a great job and I'd like to refer you to our City Manager and the Water Commissioner so that you can get a detailed answer back and forth if you need to."

Palida Moody stated, "I've talked to the Commissioner in Cleveland. He couldn't explain to me why it was necessary."

Mayor Stephens stated, "We can do that. Yes ma'am."

Althea Cheatham stated, "Good evening. My name is Althea Cheatham and I reside at 3012 East Derbyshire Road. Mayor Stephens, members of Council and members of the staff, I have several bullet points here today and I'm just going to mention them very briefly, but they are very important and I hope you will just take heart to what is being said tonight. It's a point of interest to me and to my neighbor who is with me tonight. These are concerns and we want you to be aware of them because they could have some negative impact on our life in our homes.

Several weeks ago I noticed some work going on a roof and a day or so later I noticed an item appearing on a roof at the rear of the location that will now be called Horizon Health Care Center. It's located in the former Grace Lutheran Church. I want to mention also as a part of this notation that during the time of the Grace Lutheran Church was residing in that facility, they had installed a very large air conditioning condenser at the rear of the church and it was not done in the appropriate fashion and it resulted in them having to move it and place it to the front of the church. During the discussions when this sale of the church went over to Horizon Health Center, I did mention in the meetings the neighborhood meetings that we had that we didn't really want to see anything like that happen again. In any event, in terms of about a month or so an item went up on the roof in that same location. Now it's a small item, but it is a condenser and I began to question that I found out that another condenser was placed farther to the west. The church has (or the building has) two parking lots - a west side and east side and the west side is going towards Coventry the east side is going towards Lee Road. I was shown some information about the condenser that is placed on the fire escape steps and to the west of the building, but I still saw some people working up there and so I made another inquiry and I was told yes, it's going to be a third condenser going up. I can't see that. I don't know if it's as small as the one that is there now. It's not really small, but it's small compared to what was there previously that had to be moved. I was given an opportunity to go and, not to go, but to hear some sounds from that. I have been promised over and over again and that it is so quiet I won't hear it, but now we've gone from one to two and then there's a third one that I just happened to inquire about and found out, and then in pursuing this a little further, I learned that several of those are going up around the building. I call that to your attention because all in all there are several answers that I don't know how that building is going to

operate. I know that whatever size the condenser is to cool rooms in that facility, they're going to make some noise. I don't know if they all run at the same time. I don't know what hours they will run. I don't know how early they'll start, whether they'll go all day, whether they'll run through the night. None of those questions are clear to me. It's a very serious concern to me as it is to my neighbor and I hope this – that it will be looked at. I ask members of Council to please pursue this further and give us some reassurance. Now I also want to say that in discussing this, I was told unequivocally that if that noise becomes a nuisance to US residents, it will be removed, so I am holding to that - that if that becomes a nuisance to us in terms of noise - that was the big issue before - when all of them are operating and we make a request to you again that there will be a follow through, that noise will cease, that those conditioners, well, not conditioners, but they're not the air conditioners, they're the thing that... the word that I used. It's not coming to me right now."

Councilwoman Yasinow stated, "The condenser?"

Althea Cheatham stated, "The condenser, yeah, that they will be moved. Thank you. I want to also say that in the in the rear of the church I made some observations and I want to mention that I'm now retired, so it's not like before where I was coming home in the evening to this. Now I'm in and out more sporadically and I'm home quite a bit of the time much unlike before. And I've noticed cars coming and going. Utility trucks you expect to see. There's about, I don't know, maybe four or five-foot alleyway from the rear of the church to where our backyards are. It's a very narrow space and I've noticed some cars coming and going not all that frequently, but it does concern me that that might become a pattern of behavior once all the people who work in the building begin to work there. If they want to go from the east side to the west side of the building instead of going out to Cedar Road, they just may take that route. It's right upon us. You just have to see it to understand how close the rear of that facility is to our backyards. That again needs some inquiry. Today I happened to come out. I was leaving home just at 12:30 and a car pulled in from Cedar road on the east side and came barreling around behind the church and I said, 'Wow!' I mean even if a vehicle was going the other way they would have hit each other.

I also made another observation since Horizon Health Center has taken over the building. Trash receptacles were always placed way in the back on the west side of the property. Now they've moved to the east side. I don't know if any of the neighbors for a little bit more to the east of me have taken note of that, but they've moved the trash containers over to the east side, so that's another factor of noise because usually in private property like that, those trucks come to get those barrels fairly early in the morning. I don't know what constituted the change from the west side to the east side, but it has taken place.

And then lastly on my list - there is to be a fence installation. I'm told that that will be one of the last remodeling that will take place with the with the facility I have requested and I'm stating it again today that there was a chain link fence that had been installed there many years ago when it was up and running full church, Grace Lutheran Church, and at least in my part of the rear it still remains and it's in reasonably good shape and I made a request that my chain link be left intact and that the wooden fence that they proposed to put up be on the other side of that closer to the building.

I also want to call to your attention that you have on your street a curb and the curb sort of controls the water, especially when there's a lot of water going down the street. It's on like a curb bump. We all have them in front of our houses and there is a good sized one that runs along the back. I don't know if that curb bump is going to be removed when they put the fence up, but if it is removed, if they dig that up, then there's going to be a concern for water. How is that water going to run and is that water going to start coming down into the yards and, you know, at some points we have a lot of rain and water settles in the yard as it is so that's another item that really needs to have a second look at. So, I'm asking City Council tonight to just be aware that these concerns are here. They certainly are, for me, they are for this is well I happen to be a person who is not too fearful about getting up and speaking in voicing their concerns and I thank you very much for your time and for your attention this evening. May I please mention that the neighbor who I have referred to a couple of times is Joy Roller. I don't know if Joy wants to speak or not, but she's here in support of my concerns tonight. Thank you."

Mayor Stephens stated, "Thank you."

Councilman Ungar stated, "Cheryl, can I say one thing real quick?"

Mayor Stephens stated, "Sure. Councilman Ungar."

Councilman Ungar stated, "Ms. Cheatham, I don't know if you remember me, but I'm pretty sure I was on the Planning Commission when you came in and spoke in a very articulate and polished way as you just did a moment ago when this project was being discussed and you recall that the Chair of our, the guy who runs the Planning Department is Richard Wong and as I recall and Richard will correct me if I'm wrong - I think in the past, many of the same concerns that were just addressed were raised during the hearing on that project. It doesn't matter whether it falls in the category of trash or noise or divergence of water or traffic or I think I covered all the things that you just mentioned, but I might have missed a few, but it doesn't matter. When our Planning Commission grants a conditional use permit, it is conditioned upon that contemplated use not interfering with our neighborhoods' right to quiet enjoyment of their property and that and the way it works and so and I'm saying this to you only so that you don't... you know how to most efficiently deal with this. This guy is one of the most responsive people you could ever imagine and you just, if there are issues with respect to that conditional use permit, that you or Ms. Roller or anybody else in the neighborhood see, pick up the phone and call Richard or his designated staff people so that they can investigate it because again, I can speak with my with my old Planning Commission hat on - nobody intended to grant that conditional use permit believing that it would interfere. Look at the big picture point - everybody wishes that it was and remained Grace Lutheran Church. That was a proverbial no brainer, but that wasn't going to happen for reasons that were beyond the City's control and beyond your control and probably beyond the church's control. However, nobody intended to interfere with your right to enjoy your property by granting that conditional use permit and again, there is a mechanism for dealing very directly and very swiftly with the issues that you just raised. So, I applaud you or your coming in here. I know you're not afraid to speak. I heard you at Planning Commission and very articulate and a great spokesperson for your neighborhood, but that's the way to deal with it. Call Richard again or his designee and that will cut right to the chase. I thank you for being here."

(Inaudible.)

Joy Roller stated, "Thank you, Council. Joy Roller. I live in 30 East Derbyshire. I just moved there this summer and thank you, Councilman Ungar because that was my question and I'm concerned that, you know, how we can follow up with this. So, that's great to know how that if I'm very, very fortunate to have such a wonderful neighbor it is Mrs. Cheatham, but I am very concerned that I bought the house when there was an absolute silence and now I understand that with a condenser, the neighbor to the other side of me, you can't even sit outside in the backyard on the deck because of the noise, so I'm going to be on alert about that as well and luckily I'll have to work with me and with Mr. Wong. So, thank you very much for that."

Councilman Ungar stated, "You know, if I can just piggy back here and don't think I'm just here to promote Richard Wong, but he's very (because I've seen him in action) and he's very, very good at addressing these issues. You know, obviously the building has some mechanical concerns, understandably so, and the neighbors have concerns and he's really good at working with folks to figure out a solution that works for everybody. I watched him do it with lighting and noise abatement and things of that sort. So, I really think we'll be able to find a solution that works. I hope so."

Mayor Stephens stated, "Thank you both. Is there anyone else who'd like to speak to Council this evening? If there's no one else, then we'll move to the report of the City Manager."

Report of the City Manager

Tanisha Briley stated, "Thank you, Your Honor. I have several items to report this evening. The first is to request a motion to approve an emergency agreement made pursuant to Chapter 171.02 of the Cleveland Heights Codified Ordinances to secure a 36-month break for power supply through Dynegy Energy Services. I'd like to make this a Matter of Record and refer to the Municipal Services Committee."

Councilwoman Yasinow stated, "Thank you very much. I hereby but I make a motion to approve an emergency agreement made pursuant to Chapter 171.02 of the Cleveland Heights Codified Ordinances to secure a 36-month rate for power supply through Dynegy Energy Services."

Mayor Stephens stated, "Is there a second?"

Councilwoman Dunbar stated, "Second."

Mayor Stephens stated, "Mr. Michalec, would you call the roll please?"

Roll Call: Ayes: Roe, Seren, Stein, Stephens, Ungar, Yasinow, Dunbar

Nays: None

Authority Granted

Mayor Stephens stated, "The motion passes. You've been given full authority. Next."

Tanisha Briley stated, "Thank you, Your Honor. I would like to notify Council that sealed bids were received for the 2017 Street Resurfacing Program Number #17-01. Bids have been tabulated and reviewed and Ronyak Paving, Inc. whose base bid of \$870,280.25 is the lowest responsive bid. We are rejecting the Alternate A and B bids and I would like to make this a Matter of Record."

Mayor Stephens stated, "And this is also referred to the Municipal Services Committee, Councilman Yasinow. No, but I just refer to you."

Councilwoman Yasinow stated, "Okay. So referred."

Tanisha Briley stated, "The next notification is to inform Council we receive sealed bids for the 2017 Surface Treating Program #17-03. Bids have been tabulated and reviewed and Specialized Construction, Inc. whose base and alternate A bid of \$595,543.05 is the lowest responsive bid and I would ask to make this a Matter of Record."

Mayor Stephens stated, "And this is also referred to Municipal Services Committee."

Councilwoman Yasinow stated, "So referred."

Tanisha Briley stated, "Thank you. I would next like to request permission to go to bid for the replacement of the sidewalk around City Hall and I would like to make that a Matter of Record."

Mayor Stephens stated, "Thank you. That is also referred to the Municipal Services."

Councilwoman Yasinow stated, "That is so made a Matter of Record and I actually do have something to ask the Councilmembers on this, so I hereby move that the City Manager be authorized to go to bid for their placement of the sidewalk around City Hall."

Mayor Stephens stated, "Is their second?"

Vice Mayor Stein and Councilwoman Roe stated, "Second."

Mayor Stephen stated, "Mr. Michalec, if you would call the roll please."

Roll Call: Ayes: Seren, Stein, Stephens, Ungar, Yasinow, Dunbar, Roe

Nays: None

Mitch Michalec stated, "Seven ayes, Your Honor."

Authority Granted

Mayor Stephens stated, "Thank you. You have authority to take care of that business."

Tanisha Briley stated, "Thank you, Your Honor."

Mayor Stephens stated, "Is there anything else, ma'am?"

Tanisha Briley stated, "No, just to announce that with that approval, progress began in the City and progress barrels will be seen everywhere."

Councilwoman Yasinow stated, "So many progress barrels."

Tanisha Briley stated, "That concludes my report."

Mayor Stephens stated, "Thank you. We have the report of the Interim Director of Finance/Clerk of Council, Mr. Michalec."

Mitch Michalec stated, "Yes, thank you. I have three items tonight. The first is - I would like to notify Council that a resolution of the Board of Zoning Appeals has been received pertaining to variances in the Zoning Code and is requested by the following: BZA Cal. No. 3413: Larry and Christina DeAngelis, 2655 Derbyshire Road, to permit a 4-foot tall fence in a portion of the front yard. I'd like to make this a Matter of Record."

Mayor Stephens stated, "Thank you. This is made a Matter of Record and referred to the Planning and Development Committee and they will have a formal report on this later."

Mitch Michalec stated, "I'd also like to notify Council that two notices have been received from the Ohio Department of Liquor Control advising that applications have been made by the following:

- Q70 Grille LLC, 2573 Noble Rd., Cleveland Heights, Ohio 44121, D5 permit
- Wine Cave, Inc. dba La Cave, 2785 Euclid Heights Blvd., SE Lower Level, Cleveland Heights, Ohio 44106, transfer D5 and D6 permits from W G Gresham, Inc. dba La Cave Due Vin, 2785 Euclid Heights Blvd., SE Lower Level, Cleveland Heights, Ohio 44106; and I'd like to make these a Matter of Record as well."

Mayor Stephens stated, "Thank you. Make these a Matter of Record. However, Council has a concern on Q70 Grille LLC. Councilman Dunbar, do you have a recommendation for Council?"

Councilwoman Dunbar stated, "Yes, our Police Chief, Chief Mecklenburg, provided us with a letter objecting to Q70's application for the liquor license and I would like to ask Council to join me in adopting a motion objecting to the liquor license application. This establishment has proven troublesome and that's it."

Mayor Stephens stated, "Is their second?"

Councilwoman Roe stated, "Second."

Mayor Stephens stated, "Mr. Michalec, if you would call the roll."

Roll Call: Ayes: Stein, Stephens, Ungar, Yasinow, Dunbar, Roe, Seren

Nays: None

Authority Granted

Mitch Michalec stated, "Seven ayes, Your Honor."

Mayor Stephens stated, "Thank you. A letter will be forwarded to the State Board of Liquor Control. Is that correct?"

Jim Juliano stated, "Yes, Your Honor."

Mayor Stephens stated, "Thank you. If there is nothing else in this category, Clerk of Council, does this complete your...?"

Mitch Michalec stated, "This completes my report, Your Honor."

Mayor Stephens stated, "Thank you. Moving right along, committee reports - Community Relations and Recreation Committee. Vice Mayor Stein."

Report of the Community Relations and Recreation Committee

Vice Mayor Stein stated, "This committee has no report."

Mayor Stephens stated, "Thank you. Finance Committee. Mr. Ungar."

Report of the Finance Committee

Councilman Ungar stated, "Nothing to report. Thank you."

Mayor Stephens stated, "Municipal Services Committee. Councilwoman Yasinow."

Report of the Municipal Services Committee

Councilwoman Yasinow stated, "Thank you very much. I do have a resolution for the consideration of Council this evening. This is Resolution Number 18-2017. This is a resolution amending Resolution Number 6-2017 to extend the term of the letter of intent with Evans Energy for an additional 90 days and declaring an emergency whereas on January 17, 2017 under Resolution Number 6-2017, this Council authorized the City Manager to execute a letter of intent with Evans Energy to negotiate an agreement for an energy conservation project. Check. Whereas the terms of that letter of intent are set are set to expire on March 17, 2017; and whereas this Council is determined that it would be in the best interest of the city to extend the term by an additional 90 days to permit further negotiations another for it be resolved at the Council for the City Manager being authorized to extend the term of said letter of intent for a period of 90 days from March 17, 2017 to June 15, 2017 as well as authorized to execute any needed amendments to the existing letter of intent with Evans Energy in a form approved by the Director of Law to bring about said extension where all remaining provisions of Resolution Number 6-2017 and the documents incorporated by reference therein shall remain in full force and effect. I hereby present Resolution Number 18-2017 for consideration this evening."

Mayor Stephens stated, "Thank you. Is there a second?"

Councilwoman Dunbar stated, "Second."

Councilman Ungar stated, "Before we move, I have a friendly amendment to propose to Councilwoman Yasinow if I might."

Mayor Stephens stated, "Okay."

Councilman Ungar stated, "My friendly amendment is to ask to insert into the motion a provision, or into the resolution under consideration, a provision that immediately refers this matter to our Law Department for review. I raised during the Committee of the Whole meeting some concerns that I have this is not a de minimus project. It's a \$6,000,000 contract ballpark. We need, we as a city need, to make sure that we are doing everything right, and I would ask that this project, we members of Councils (not all members of Council) have received some materials at home raising issues and concerns about this project and I would like to have it reviewed very carefully by our Law Department pronto."

Councilwoman Yasinow stated, "I'm really confused."

Mayor Stephens stated, "Hold on a second. This always goes to the Law Department for additional review for creation of the legal document."

Councilman Ungar stated, "And you'll be for it. That's good."

Councilman Seren stated, "Additionally, if I may, all amendments have to be submitted in written form."

Councilman Ungar stated, "That's not true as a matter of Robert's Rules."

Councilman Seren stated, "No, it's actually our rules. Robert's Rules only apply when our rules don't speak to it and our Administrative Code does mandate that all amendments to legislation..."

Mayor Stephens stated, "Did you give something in writing to the Law Director before we came in? Because sometimes we amend in work session."

Councilman Ungar stated, "I didn't. I just I just spoke to him about it."

Mayor Stephens stated, "Okay."

Tanisha Briley stated, "If we may, Jim can..."

Mayor Stephens stated, "We can suspend the rules to accommodate this. Did you explain what your concerns were?"

Councilman Ungar stated, "You know, I'd rather not. I mean what I did do is I showed what would happen - let me just be a little more transparent - what happened is when I was in New York today I received a call from a very well-known lawyer who (and I told him that I didn't have time to talk

about it) he raised a number of issues that have been already raised with each member of Council I believe, but he raised some additional issues as well. I shared that Email with Jim and with Tanisha and I think it warrants, to protect the City's interest, I think it warrants immediate legal involvement. I don't want to go much further than that because there was a slightly threatening tone to it so I'd like to leave that in executive session."

Mayor Stephens stated, "How about this, Councilman Ungar?"

Councilman Ungar stated, "I just want to protect the City."

Mayor Stephens stated, "And Councilwoman Yasinow - we refer the written words received by Councilman Ungar to the Law Department for additional scrutiny and use in preparation of the contract."

Councilman Ungar stated, "Well, mine was a little broader than that."

Jim Juliano stated, "Can I offer a suggestion? Rather than moving to amend the resolution itself, would City Council consider amending that motion and have it be a motion to approve the resolution and to refer the resolution to the Law Department for immediate review as part of the motion without amending the resolution itself. May I make that suggestion?"

Mayor Stephens stated, "Thank you. If the maker of the motion would agree?"

Councilwoman Yasinow stated, "Yes."

Mayor Stephens stated, "And the seconder?"

Councilwoman Dunbar stated, "I agree."

Mayor Stephens stated, "Then now we can go to a vote."

Jim Juliano and Councilman Ungar stated, "Thank you."

Roll Call: Ayes: Stephens, Ungar, Yasinow, Dunbar, Roe, Stein

Nays: Seren

Motion Passed

Jim Juliano stated, "And that would have been the motion to amend the motion, so may I suggest a motion to adopt the now amended motion?"

Mayor Stephens stated, "Okay. Mr. Michalec, would you call the roll?"

Roll Call: Ayes: Ungar, Yasinow, Dunbar, Roe, Stein, Stephens

Nays: Seren

Mitch Michalec stated, "Six, Your Honor."

Motion Passed

Mayor Stephens stated, "You've been given authority to do additional review. Next we have, oh I'm sorry. Do you have something else?"

Councilwoman Yasinow stated, "I did not. No resolutions or for consideration this evening, but I would be remiss if I didn't take a moment and just let people know what's happening in the City as well as to always remind people to lock their car doors. That is something I care to do regularly, but one thing I did want to say is to give a take a moment and acknowledge an award, an honor really, given upon the City of Cleveland Heights through the hard work of our City Manager Tanisha Briley. She was nominated and selected as one of only six City Managers to participate in the City Managers Design Academy sponsored by the American Architectural Foundation. The City Managers Design Academy is intended to strengthen City Managers design leadership skills and support for the development of ongoing projects, downtown commercial and residential revitalization, multi-modal transportation, affordable housing, waterfront development and green infrastructure implementation. The academy itself will be held in Dallas, Texas, April 5-7 and all costs are underwritten by the American Architectural Foundation and in preparation for this event, staff from the American Architectural Foundation visited with the City Manager today."

Tanisha Briley stated, "Friday."

Councilwoman Yasinow stated. "Friday - for an hour and a half touring the City from tip to tail where we at the Design Academy will be presented a case study concerning properties within Cleveland Heights. This gives us an excellent opportunity to bring in experts to help us plan for what's next for certain potential properties within the City of Cleveland Heights. The next step in the selection of a case study is to present to the panel of experts during the Academy in April and following the Academy, a formal report will be provided to participant outlining practical next steps to net to move forward with the selected project. This is an honor for the City of Cleveland Heights to be able to have expert opinions come and help us figure out how to keep our City strong, to revitalize places that could use a little more love, and I think I speak for all of Council when we congratulate our City Manager and share in her pride in this development."

Mayor Stephens stated, "Next is Public Safety and Health Committee. Councilman Seren."

Report of the Public Safety and Health Committee

Councilman Seren stated, "I have nothing to report, Your Honor."

Mayor Stephens stated, "We have one piece of legislation. Oh, I'm sorry. We need to come back and go to Planning and Development."

Report of the Planning and Development Committee

Councilwoman Dunbar stated, "Yes, but you want BZA."

Mayor Stephens stated, "Oh yeah, and he didn't want."

(Inaudible.)

Councilman Seren stated, "No, that's just under Planning and Development, so."

Councilwoman Dunbar stated, "But you went to the BZA meeting, right?"

Councilman Seren stated, "Yeah, but for Public Safety and you said Public Safety?"

Mayor Stephens stated, "I meant to say Planning and Development Committee."

Councilman Seren stated, "All right, if you'd like for me to go first, yes, I can I can proceed. So, I move that we approve BZA Calendar Number 3413 allowing Larry and Christina DeAngelis, 2655 Derbyshire, to permit a 4-foot tall fence in a portion of the front side yard where a 3-foot maximum fence height is allowed."

Mayor Stephens stated, "Is there a second?"

Councilman Ungar stated, "Second."

Mayor Stephens stated, "Mr. Michalec, if you would call the roll please."

Roll Call: Ayes: Yasinow, Dunbar, Roe, Seren, Stein, Stephens

 Nays: None

 Abstain: Ungar

Vice Mayor Stein stated, "I object."

Mayor Stephens stated, "Hold on a second. The reason that vice Mayor Stein made an objection is because in order to abstain, we have to vote to allow the abstinence."

Councilman Ungar stated, "Do I have to do that for this?"

Jim Juliano stated, "Yes, that's true. May I suggest that to City Council that it was my advice to Mr. Ungar and the reason why he was not present for the presentation by Mr. Wong as to the record of this variance and so, if Mayor Stephens would invite a motion to allow Mr. Ungar to place his abstention, I'd appreciate that."

Councilman Seren stated, "I move to excuse Mr. Ungar from the vote."

Mayor Stephens stated, "Is there a second?"

Councilwoman Yasinow, Vice Mayor Stein and Councilwoman Roe stated, "Second."

Mayor Stephens stated, "Mr. Michalec, if you would call the roll."

Roll Call: Ayes: Yasinow, Dunbar, Roe, Seren, Stein, Stephens

Nays: None

Mayor Stephens stated, "It passes. He can abstain."

Jim Juliano stated, "Your Honor, may I suggest a re-vote on the variance?"

Mayor Stephens stated, "If you would please."

Councilman Seren stated, "All right, I move that we approve BZA Calendar Number 3413 to permit Larry and Christina DeAngelis at 2655 Derbyshire, to permit a 4-foot tall fence in the front yard where a 3-foot maximum fence height is permitted."

Vice Mayor Stein stated, "Second."

Mayor Stephens stated, "Would you call the roll please?"

Roll Call: Ayes: Dunbar, Roe, Seren, Stein, Stephens, Yasinow

Nays: None

Abstain: Ungar

Mayor Stephens stated, "Thank you. Is there anything else, Councilwoman Dunbar?"

Councilwoman Dunbar stated, "Yes, I would just like to report on a few developments – one is the Planning Commission will be meeting this Wednesday night. One of the topics for consideration is a drive-through for Daylight Donuts at 3077 Mayfield Road which is something that Matt Gile of Motorcars Cleveland has been longing for and so now it's coming to fruition it would seem, so Planning Commission will deal with that. Also, the Zoning Code amendments that have been discussed previously will be discussed. City Council is having a public meeting on March 13 to go over the Zoning Code amendments and also at that meeting, the Master Plan is going to be discussed and presented. So, you may want to mark their calendars if they're interested in those things. And finally, I would like to mention that Cleveland Heights was due to have its recognition as a Bicycle Friendly Community renewed this year and so, led by the very capable Jennifer Kuzma, who is a Development Officer in the Community Services area, we've reapplied and a lot of the City staff helped with this and I was involved too so we'll hear in March about what our application - the results of that. There are now 17 communities in Ohio that are recognized as Bicycle Friendly Communities, all at the bronze level, and so we're hoping we can move up, but we'll be happy if we get bronze again too. So, we'll see what happens. So, that's it."

Mayor Stephens stated, "Thank you. Next is Public Safety and Health Committee."

Report of the Public Safety and Health Committee

Councilman Seren stated, "Thank you, Mayor. All right. I have one piece of legislation and this will be on for first reading. We've established we're doing first reading for this. Ordinance Number 19-2017. This ordinance enacts Chapter 753 in our Codified Ordinances establishing a chapter for non-bank automated teller machines or ATM's. This legislation will provide guidance and regulation for ATM's that are not associated with a bank. In general, bank ATM's are, I believe, in Cleveland Heights required to be associated with a bank branch but these non-bank ATM says are the ATM's you see in convenience stores or perhaps at a bar. They are not necessarily associated with any particular financial institution, but they become attractants for criminals who do things like smash cars into locations and drag these or attempt to drag these ATM's out of the location. So, this legislation this piece of our code will provide some registration and security regulations that will attempt to, and I think go a far ways to, curbing that kind of behavior and activity so I offer that first reading tonight."

Mayor Stephens stated, "Thank you. Are there comments that anyone else would like to make on this first reading?"

Councilwoman Yasinow stated, "I would like to just make a brief comment thanking the Police Chief for bringing this forward tonight and frankly telling us the history of what has been happening with smash and grabs. This is unfortunately a problem that afflicts many communities throughout Northeast Ohio regardless of location or affluence. This is a real issue and I'm very glad to see that we are being proactive in our response to guarantee the safety and security of our residents and our businesses, so I think that this is an excellent piece of legislation that I look forward to seeing adopted in Cleveland Heights."

Mayor Stephens stated, "Thank you. Councilwoman Dunbar."

Councilwoman Dunbar stated, "I just would like to add I agree in congratulating our Police Chief for bringing this forward. Apparently this is a nationwide problem. It's not... it's everywhere and so I'm happy that we're moving forward to deal with it constructively."

Mayor Stephens stated, "Is there anything else in Public Health and Safety?"

Councilman Seren stated, "No, thank you, Your Honor."

Mayor Stephens stated, "Next we move to the Administrative Services Committee. Councilwoman Roe."

Report of the Administrative Services Committee

Councilwoman Roe stated, "Thank you. This evening I would like to present for first reading Ordinance Number 20-2017. This is an ordinance which establishes salary schedules, position classification and other compensation for officers and employees of the City. We update this annually. There are no major substantive changes. Some of the changes do reflect the projected salary increases that were previously applied. This is on first reading."

Mayor Stephens stated, "Thank you. Is there anything else you'd like to share with us?"

Councilwoman Roe stated, "No."

Mayor's Report

Mayor Stephens stated, "Thank you. That concludes Administrative Services Committee. Next on the agenda is the Mayor's Report. It's fairly simple this evening. The state has begun to do its budget activities between the Governor and the legislature and they have tried to figure out ways to control or remove funding from those communities/cities across the state and so many Mayors and Councils are speaking out about three of their primary changes so that our communities can stay financially healthy. So, please pay attention to the budget activities with the State of Ohio, contact our State Representative or our State Senator and make your opinions known. Without any additional activities, the next Council meeting is Monday, March 20, 2017 and I want to thank you for your attention this evening. God bless America and God bless Cleveland Heights. Thank you."

The meeting adjourned at 8:20 p.m.

Respectfully submitted,

Cheryl Stephens, Mayor

Mitch Michalec, Acting Clerk of Council

/jkw