

MINUTES OF COUNCIL MEETING  
CITY OF UNIVERSITY HEIGHTS  
MAY 17, 2010

Mayor Infeld called the meeting to order at 7:30 p.m.

Roll Call: Present: Ms. Frankie B. Goldberg  
Mr. Steven D. Bullock  
Mr. Kevin Patrick Murphy  
Mr. Frank Consolo  
Mr. Steven Sims  
Mr. Phillip Ertel

Absent: Mrs. Susan D. Pardee

Also Present: Clerk of Council Nancy E. English  
Acting Law Director Dennis Nevar  
Finance Director Jennifer L. Esarey  
Chief of Police Gary Stehlik  
Fire Chief John Pitchler  
Building Commissioner David Menn  
Service Director Christopher Vild  
City Engineer Joseph R. Ciuni

**MOTION BY MS. GOLDBERG, SECONDED BY MR. BULLOCK to excuse the absence of Mrs. Pardee. On roll call, all voted “aye.”**

Pledge of Allegiance

Minutes of the regular meeting held on May 3, 2010

There were no corrections or additions to the minutes of the May 3, 2010 regular meeting.

**MOTION BY MR. SIMS, SECONDED BY MR. CONSOLO to approve the minutes of the regular meeting held May 3, 2010. On roll call, all voted “aye,” except Mr. Bullock, who “passed.”**

Comments from the Audience:

Mark Jones, 2604 Ashurst Rd., commented that the Ashurst Rd. residents had a neighborhood meeting regarding the future status of the vacant lot at 2603 Ashurst Rd. where a single family home was demolished. Mr. Jones stated that the residents want to be involved in what happens with the property going forward. He added that as mentioned in the petition submitted regarding the property, the residents would like the property to remain a green space. He noted that they are willing to help the City develop an innovative green space. Mr. Jones suggested that the property could be used for neighborhood integration, having a place for people to gather, a play area for the children, a place where native plants can be planted to educate the public, and a place for collaborative efforts. Mr. Jones reiterated that many of the residents are willing to stay involved and assist in developing the green space.

Kevin Holmes, 3887 Bushnell Rd., opposed the McDonald’s development proposed for Warrensville Center Road. He suggested that the City take the lead on being a progressive City and secure a development which will be more beneficial to the community or utilize it as green space.

Sarah Kurka, 3877 Bushnell Rd., opposed the McDonald’s proposed project. She commented on the hidden danger connected to fast food and the national obesity epidemic. Ms. Kurka suggested that other options be pursued for the site such as green space or small business.

Casey Solis, 2595 Ashurst Rd., thanked city officials for their efforts to raze the deteriorated structure at 2603 Ashurst Road. She asked everyone from Ashurst Road to stand in order to show the support of the residents in the neighbor. Several people stood. Councilman Ertel commended the residents of Ashurst Road for their commitment. Ms. Solis also opposed the McDonald’s project.

Jim Sennett, 2632 Ashurst Rd., suggested that the property at 2603 Ashurst Rd. be used as a pocket park. He mentioned that the green space could increase property values in the area. Mr. Sennett inquired if anyone has checked into private equity funds which may be supportive of green space.

Robin Gilbert, 2623 Ashurst Rd., stated that the residents are committed to the 2603 Ashurst Road site even to the point that they are willing to contribute funds to the cause.

Meleeda Holmes, 3887 Bushnell Rd., opposed the proposed McDonald's project and suggested that a local business be considered for the Warrensville Center Road site. She also noted that with McDonald's there would be a potential for increased traffic from customers and delivery trucks. She pointed out that the likely increase in traffic would be a hazard to children walking in the streets during the winter months.

Reports and Communications from the Mayor and the taking of action:

Mayor Infeld reported that the City is finalizing the preliminary audit work with James G. Zupka, CPA, in preparation of the 2009 audit. Mayor Infeld stated that she is aware that the financial record keeping has not been good and that she is working with the new Finance Director to correct that. She also stated the finance department is working diligently with the auditors to get a handle on the true financial picture of the City.

Mayor Infeld thanked the Ashurst Road residents for their commitment to the property located at 2603 Ashurst Road. She noted that the City is also committed to the property and is obligated to maintaining the property. At a minimum, the will clean up the brush and leaves and cut the grass. Mayor Infeld reported that the City has submitted a grant application to the Northeast Ohio Regional Sewer District (NEORS) to fix the water remediation problem on the property.

Service Director Christopher Vild reported that he and Mayor Infeld met with the residents of Ashurst Road to get ideas on what could be done with the lot. He noted the NEORS has a grant that could possibly be used to install a rain garden or bio-swale in order to manage the storm water on the property and alleviate flooding downstream.

Councilman Consolo noted that water supply is important for a garden and inquired if the water connection is still on the Ashurst Road site. He also inquired if there is a way to obtain the water free of charge. Mr. Vild replied that the contractor who demolished the house capped the utility lines. He also noted that the City should be able to receive water at the summer rate. Councilman Sims requested a copy of the grant application that was submitted.

Mayor Infeld stated that John Carroll University (JCU) is interested in helping with the proposed garden on Ashurst Road and a larger community garden envisioned for the north side of Taylor Road at Washington Boulevard. She is hoping to secure funding to make the community garden a reality in the spring of 2011 and to make the project a community effort and educational for those involved.

Councilman Sims stated that he is supportive of innovative approaches and requested that the Council receive a copy of the document from Neighborhood Progress, Inc. in order to see what options are available for properties.

In regards to the proposed McDonald's project, Mayor Infeld reported that the review process has begun. She noted that letters were mailed to the residents in the general vicinity of the site informing them of McDonald's intent. Also an extended public notice mailing, beyond the 100 ft. requirement, was given for the Board of Zoning Appeals (BZA) meeting held on May 12, 2010 and the Architectural Review Board (ARB) meeting held on May 13, 2010. Mayor Infeld noted that the BZA approved McDonald's request for a special permit to operate a restaurant in a U-7, Local Retail District. The ARB made its initial review on aesthetics and tabled the application. McDonald's will present revised architectural renderings at another ARB meeting to be scheduled. Other meetings to be scheduled to hear the proposal are the Planning Commission and City Council, dates to be announced. Mayor Infeld announced that the proposed plans are available for public viewing in the Building Department.

Councilman Consolo inquired if the zoning issue relative to the U-3, Automobile Parking District, has been resolved on the site proposed for the McDonald's. Mayor Infeld stated that the review of the Planning and Zoning Code by D.B. Hartt has not been addressed as requested. However, Mr. Menn stated that the building as proposed by McDonald's is situated completely within the U-7, Local Retail District. Mayor Infeld mentioned that the proposed McDonald's building is approximately 4,000 sq. ft. compared to the existing building which is approximately 30,000 sq. ft.

Councilman Bullock hoped that the various ways the proposed project would impact the community will be addressed during the review process. Mayor Infeld concurred that they would.

Councilman Sims requested copies of the plans submitted by McDonald's. Mayor Infeld mentioned that the plans are likely to change given the comments of the ARB members. Building Commissioner David Menn stated that he would request additional copies of the plans from McDonald's for the Council members.

Vice Mayor Goldberg inquired if the plans could be placed on the city's website. Mayor Infeld suggested that the revised plans be posted on the website, if the project continues. Mr. Ertel stated that it is important to provide the community with as much information as possible about the project because it effects the entire community.

Mayor Infeld stated that many verbal, written and telephone comments have been received. Mayor Infeld noted that the next ARB meeting will be in the morning, but she is willing to schedule an evening meeting if the residents prefer.

Councilman Sims inquired if the City is limited in its authority because the McDonald's project meets the standards of the Code. Acting Law Director Dennis Nevar stated that there are limitations on the property currently, which required McDonald's to request a special permit to operate a restaurant in a U-7 District. Mr. Sims mentioned that Council may not be a driving force of what business or development goes into the site, but it can be firm in setting the standards for the development which are in the long term best interest for the community such as landscaping, signage, and finishes on the exterior of the buildings.

In regard to the summer recreation programs, Mayor Infeld reported that the recreation brochure has been mailed to the residents.

Agenda Items:

**A. Certificates of Recognition to Gesu School Destination Imagination Team for qualifying for the national competition Global Finals**

Mayor Infeld presented a Certificate of Recognition to the Fifth Grade Destination Imagination Team of Gesu School. Team members Molly Zachlin, Madeline Howarth, Kevin Callanan, Andrew Scherson, Conor McConville, Andrew Benisek, lead by their team manager Lana Zachlin, will compete in the Global Finals of the Destination Imagination Problem-Solving Program in Knoxville, Tennessee on May 25-29, 2010. The team was congratulated for the honor which it has brought to Gesu School and University Heights.

**B. Planning Commission Recommendation:  
Gesu Church, 2470 Miramar Blvd., final approval for renovation  
and additions to the Parish Center and Church.**

Mayor Infeld reported that at its meeting on May 10, 2010, the Planning Commission passed the following motion with respect to the application of Gesu Church:

*"MOTION BY MR. REICHEK, SECONDED BY MR. LOEFFLER to recommend to Council the approval of the plans for Gesu Church, 2470 Miramar Blvd., as presented on Drawings SS-01, SD-01, SD-02, SD-03, A1-01, A1-02, A1-03, A1-04, A1-05, A1-12, A1-13, A1-14, A1-14A, A2-01, A2-02, A2-03, A2-07, A2-08, A2-09, A2-10, A3-01, M1-23, E1-01 dated 04-26-10, subject to: 1) use of the temporary office building being approved by the Fire Chief and Building Commissioner; 2) the temporary parking for the temporary office building shall be subject to the approval by the Chief of Police; and 3) if temporary parking is approved that the landscaping be restored within 60 days after completion of the project. On roll call, all voted 'aye.'"*

Present representing Gesu Church were Mr. Tom Graveno, architect with Milan Bender & Associates, and Mr. John Reali, project manager.

Mr. Graveno described the proposed project by reviewing the site plan, floor plans and elevations. The project consist of three components. The first and major component will be the renovation of the former rectory into the Parish Center, which will include: major interior renovation on all floors; new elevator serving all floors; new entry and handicapped ramp; existing garage space to be converted into a meeting room; new meeting room added on second floor; building to be compliant with current code; and new mechanical, electrical, plumbing and tele data systems.

The second component will be renovations to the church which will include: new north entrance to the church to be made handicapped accessible with new ramp; new elevator to social hall/meeting facility on lower level; new baptismal font; new ramp from the nave to the sanctuary; new finishes, lighting and sound system in the church; and additional miscellaneous construction.

The third component will be the construction of a new storage building to take the place of the former rectory garage. The new 14ft. x 14ft. storage building will be adjacent to the dumpster area.

Mr. Graveno noted that all building materials will match the existing materials of surrounding buildings. Vice Mayor Goldberg inquired as to the time frame for the start and completion of the project. Mr. Graveno replied that, if approved, the project would be bid immediately and construction would take ten (10) months to complete.

With regard to the temporary parking issue, Mr. Graveno stated that he met with the Chief of Police and they came up with three (3) options in order to provide parking for the people who come to do Parish Center business while in the temporary location at the Religious Education Center. The options include: 1) borrow space from John Carroll University, 2) install a 4-space temporary parking lot and chain it off during school dismissal, 3) do nothing. Mr. Sims mentioned that he attended the meeting as the alternate councilmanic representative to the Planning Commission and the options as proposed addresses the concerns raised by residents at that meeting.

Mr. Consolo noted that the change in the use group classification of the Parish Center was not included in the recommendation. Mr. Menn stated that Council action is not required for a change in the Ohio Building Code use group classification.

**MOTION BY MR. ERTEL, SECONDED BY MS. GOLDBERG to accept the recommendation of the Planning Commission and approve the final plans of Gesu Church, 2470 Miramar Blvd., as presented. On roll call, all voted "aye."**

#### **C. Presentation by WOW Internet, Cable and Phone**

Mr. Kirk Zerkle, vice president & system manager of WOW!, announced that WOW! will be providing service to the residents of University Heights by June, 2010. He noted that once the infrastructure is complete, the residents will have another choice for internet, cable and phone services. Mr. Zerkle mentioned that WOW! has been in Shaker Heights for nine years as well as 17 other communities in Cuyahoga County. He also mentioned that WOW! has been in business since 1999 and has won numerous awards for exceptional customer service. The company can be researched at [www.wowway.com](http://www.wowway.com).

Mr. Zerkle reported that construction should begin June 1, 2010 and should be completed by the end of September, 2010. He noted that WOW! will have to access the residents' backyards in order to hang the cable, but they will install above the existing phone and cable providers lines so as not to cause clearance issues.

Mr. Zerkle stated that WOW! has a statewide franchise agreement with the State of Ohio. He added that 10 days prior to its first installation WOW! will send the City and its competitors a formal letter of its intention to be a provider in the city.

In response to a question from Councilman Ertel, Mr. Zerkle stated that WOW! is currently in Northeast Ohio in the cities of Shaker Heights, Garfield Heights, Maple Heights, Independence, Valley View, North Royalton, Strongsville, Brookpark, North Olmsted, Fairview Park, Brooklyn, Westlake and Bay Village.

Councilman Sims inquired how the residents will be notified of the construction and how long the workers will be in backyards. Mr. Zerkle replied that doorknob hangers will be left on the areas of construction. Crews should be in and out of each property very quickly. Mr. Sims inquired if WOW! has a local office. The current office is in Berea and a new office will be opening in Valley View. Mr. Sims asked where the company is getting its workers. Mr. Zerkle noted that the University Heights project has been awarded to Future Cable Construction. Mr. Sims requested information on the company. Mr. Zerkle agreed to provide the information and mentioned that he will also introduce the company to City officials. He also noted that a 10% discount is available for seniors (65 and over) on basis cable rates.

Councilman Consolo inquired if there is an issue with Wide Open West's (WOW!) internet service that the City should be concerned about. Mr. Zerkle responded that WOW was listed in a lawsuit a few years ago that involved several entities regarding perceptive advertising, but he assured the City that WOW!'s level of service is exceptional.

In regard to the franchise agreement, Mr. Zerkle explained that S.B. 117 allows cable companies to obtain their franchise through the State instead of locally. Mr. Nevar further explained that the passage of S.B. 117 in 2007, which took franchise agreements for video service providers out of the hands of local communities and localized it with the state. He added that it established provisions for some video service providers to opt-out of franchise agreements with communities if there is competition in that community. Mr. Nevar reported that instead of the former "franchise fee," the City charges a video service provider fee in the amount of five percent (5%) of gross revenues, including advertising revenues in accordance with Ordinance No. 2007-55. He added that once the City receives the formal letter of WOW!'s intent to offer service, the City has ten (10) days to respond and inform the company of the its charge.

**D. Ordinance No. 2010-32 Authorizing an agreement with the Board of County Commissioners of Cuyahoga County for the 2013 Resurfacing of Belvoir Blvd. from Fairmount Blvd. to Cedar Road**

Ordinance No. 2010-32 authorizes the Mayor to enter into an agreement with the Board of County Commissioners of Cuyahoga County for the 2013 Resurfacing of Belvoir Blvd. from Fairmount Blvd. to Cedar Rd. and also authorizes the expenditure of an amount not to exceed \$63,000 for professional engineering services.

Mayor Infeld noted that passage of the ordinance is necessary in order for the City to be placed on the County's docket for road resurfacing. She noted that the County will pay 100% of the construction costs and the City will split the engineering costs with the City of South Euclid as a joint project. She added that the it has not been decided which city will take the lead on engineering services and then bill the other city. Mayor Infeld also mentioned that the City will be saving \$40,000 by not having to pay the 10% of the local share on the project.

**MOTION BY MR. SIMS, SECONDED BY MR. ERTEL to approve the passage of Ordinance No. 2010-32 as an emergency measure. On roll call, on suspension of rules, all voted "aye." On roll call, on passage, all voted "aye."**

**E. Ordinance No. 2010-33 Establishing the Department of Senior Services**

Ordinance No. 2010-33 establishes the Department of Senior Services to be headed by a part-time Director of Senior Services to provide and coordinate senior service activities.

Vice Mayor Goldberg stated that providing senior services is vital to the community, but she would like more discussion on the description of the department. Mayor Infeld stated that her purpose of establishing a Department of Senior Services and a Director of Senior Services was to provide additional services to a population within the community.

Councilman Consolo questioned the need for University Heights needs to have its own Department of Senior Services. He suggested that the City contact the City of Beachwood or other communities to determine if itsfeasible to join with another city in its senior program. Mr. Consolo noted that the City would receive more value for the seniors if the City would collaborate with another program.

Mayor Infeld pointed out that the salary for the Director of Senior Services was included in the budget. She noted that Council was apprised of the selection of a person with many years of service to the City. Councilman Sims agreed that there was discussion regarding the appointment of a part-time person to administer senior services, but he added that there was no discussion of establishing a department. He mentioned that Council should have the opportunity to discuss whether a department should be established to deliver the services to the residents.

Mr. Ertel suggested that the Director of Senior Services be hired immediately.

**MOTION BY MR. SIMS, SECONDED BY MR. CONSOLO to table Ordinance No. 2010-33 and to refer the ordinance to Council for discussion and further consideration. On roll call, all voted "aye," except Mr. Ertel, who voted "nay."**

Mayor Infeld referred the study of joining a senior network in another community to the Civic Information Committee.

**F. Ordinance No. 2010-34 Establishing the rate of compensation for the part-time position of Director of Senior Services**

Ordinance No. 2010-34 establishes the rate of compensation, fringe benefits and certain conditions of employment for the part-time appointed position of Director of Senior Services at a rate of \$15,000 per annum.

Mr. Nevar advised that if a Director of Senior Services is to be hired, the position must be a director of a department or a division of an existing department, both of which are created by Council.

Mr. Sims suggested that the position be an employee of the Mayor's office. Mr. Nevar stated that the ordinance could be amended to change the title to Manager of Senior Services under the Office of the Mayor. Mr. Sims questioned as to why the person could not be a director. Mr. Nevar replied that directors are heads of departments. It was clarified that a person cannot hold the title of director unless he/she is overseeing a department or a division of a department.

Mr. Sims deferred to Mr. Nevar's opinion and recommended that Ordinance No. 2010-34 be amended to change the title of the position to Manager of Senior Services and that the position be an employee of the Office of the Mayor. Mayor Infeld stated that she proposed the department being established strictly for accounting purposes in order to apportion costs to that department.

**MOTION BY MR. SIMS, SECONDED BY MR. ERTEL that Ordinance No. 2010-34 be amended as published to read as follows: AN ORDINANCE ESTABLISHING THE RATE OF COMPENSATION, FRINGE BENEFITS, AND CERTAIN CONDITIONS OF EMPLOYMENT FOR THE PART-TIME APPOINTED POSITION OF MANAGER OF SENIOR SERVICES OF THE CITY OF UNIVERSITY HEIGHTS AND DECLARING AN EMERGENCY AND THAT THIS EMPLOYEE WOULD BE A STAFF THROUGH THE OFFICE OF THE MAYOR.**

Mayor Infeld stated that she is uncomfortable with the motion and mentioned that Council has the job description for the position. Councilman Murphy asked Mayor Infeld what would make her comfortable. He mentioned that Walter Stinson is worth his weight in gold, but suggested that the ordinance be tabled until the Council has an opportunity to discuss it further. Mr. Bullock stated that no one is objecting to Mr. Stinson and his capacity to deliver the service. He added that since Council only received the ordinance on Friday, May 14, 2010, he would prefer that the matter be tabled until everyone is clear on what they want to accomplish. Mayor Infeld noted she wants the community to know that the position and the services for seniors are important to her. She stated that if Council cannot come to an agreement then it should be tabled. Mr. Sims stated that since the Mayor was uncomfortable, he would withdraw his motion. Mr. Sims added that the Council is supportive of providing services to the senior residents also, which is why Council passed the budget with resources for senior services. Mr. Ertel preferred moving forward by taking a conservative approach – changing the title to manager and hiring Mr. Stinson for the benefit of the seniors in the community. Mayor Infeld stated that titles do matter and it may give the impression to the community that senior services are not important. Mr. Ertel deferred to the Mayor and withdrew his second.

Vice Mayor Goldberg stated that the impending action to table is not a delay to providing services to seniors, but rather it is a vote to allow time to fine tune the position and to enhance providing those services and fine tune what the department would look like. She added that everyone is supportive of Mr. Stinson and the services that he would provide to the senior community.

**MOTION BY MR. MURPHY, SECONDED BY MR. BULLOCK to table Ordinance No. 2010-34. On roll call, all voted "aye."**

**G. Oath of office administered to Director of Senior Services Walter Stinson**

This item was placed on hold pending approval of Ordinance No. 2010-34.

**H. Motion to hold an executive session immediately following this regular meeting for the purpose of discussing personnel, litigation and real estate matters**

An executive session was not required.

Directors' Reports:

**Finance Director** Jennifer L. Esarey reported that the firm of James G. Zupka, CPA, will start the 2009 audit on Monday, May 24, 2010.

In response to a question from Mr. Sims, Ms. Esarey explained that in the GAAP Conversion converts the City's cash basis statements to the modified accrual basis that conforms to the generally accepted accounting principles (GAAP) as required by the Auditor of State.

**Fire Chief** John Pitchler reported that hydrant flushing has been completed. Out of 565 hydrants, only two (2) hydrants were out of service.

Mr. Sims requested an update on the new fire truck. Chief Pitcher stated that they are in the process of researching two manufacturers. A decision should be made soon.

Committee Reports:

**Building Committee** Chairman Frankie B. Goldberg reported that she will reschedule a Building Committee meeting.

**MOTION BY MR. GOLDBERG, SECONDED BY MR. SIMS to add an item to the agenda with regard to the position of Law Director. On roll call, all voted "aye."**

Vice Mayor Goldberg announced that the City Council intends to re-employ as Law Director effective July 16, 2010, Kenneth J. Fisher, who retired December 1, 2009, and is presently drawing a pension. She added that a public hearing to discuss the issue of the re-hire in the same position will be conducted on Monday, June 21, 2010, at 7:30 p.m. in City Council Chambers, 2300 Warrensville Center Road, University Heights, Ohio, 44118.

**MOTION BY MS. GOLDBERG, SECONDED BY MR. CONSOLO authorizing City Council to re-employ Kenneth J. Fisher as Law Director at an annual salary of forty thousand dollars (\$40,000.00) subject to compliance with applicable Ohio Public Employees Retirement System (OPERS) rules and regulations. On roll call, all voted "aye."**

**Civic Information Committee** Chairman Frank Consolo reported that he attended the Heights-Hillcrest Regional Chamber of Commerce Business Expo on May 13, 2010. He commended Mrs. Kelly Thomas of the administration department, who presented an excellent booth at the expo on the City's behalf. He added that she was the only representative of a city who used computer technology and she showcased University Heights very well with a PowerPoint presentation. Mayor Infeld also commented on the excellent job that Mrs. Thomas did representing the City.

Mr. Consolo stated that he will contact neighboring community regarding senior services.

**Safety Committee** Chairman Steven D. Bullock reported that he will schedule a Safety Committee meeting during the week of March 24, 2010. He noted that the Memorandum of Understanding (MOU) for SWAT has been completed and is ready for the committee's review and Council action.

Chief Stehlik stated that the chiefs of the cooperating cities have a vision that goes beyond the SWAT team. They are looking at cooperating in special investigations and purchases. He mentioned that there is a mechanism in the MOU to allow other cities to join. Mr. Sims commended Chief Stehlik for thinking beyond SWAT.

There being no further business to discuss, the meeting was adjourned.

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Susan K. Infeld, Mayor

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Nancy E. English, Clerk of Council