

MINUTES OF COUNCIL MEETING
CITY OF UNIVERSITY HEIGHTS
OCTOBER 6, 2008

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

Roll Call: Present: Mrs. Adele H. Zucker
Ms. Frankie B. Goldberg
Mr. Steven D. Bullock
Mr. Kevin Patrick Murphy
Mr. Peter R. Bernardo
Mr. Frank Consolo
Mr. Steven Sims

Also Present: Clerk of Council Nancy E. English
Law Director Kenneth J. Fisher
Finance Director Arman R. Ochoa
Chief of Police Gary Stehlik
Fire Chief John Pitchler
Building Commissioner David Menn
Service Director Christopher Vild

Minutes of the regular meeting held on September 15, 2008

There were no corrections or additions to the minutes of September 15, 2008.

MOTION BY MRS. ZUCKER, SECONDED BY MS. GOLDBERG to approve the minutes of the September 15, 2008 meeting. On roll call, all voted "aye."

Comments from the Audience:

Sarah Wilder, 3706 Meadowbrook Blvd., announced that she formed the Coalition of Concerned University Heights Residents in response to the establishment of Charter Review Commission (CRC). She noted that the ordinance (No. 2008-45) sets a tight time line with the Commission's report due in April, 2009, and provides for majority control over the appointment of the Commission to the Council only. She stated that the deviation from the direct election of seven of the fifteen Commission members is undemocratic and disenfranchises residents from the process. Mrs. Wilder stated that the tight time line and lack of time for public input will promote divisiveness within the community. Therefore, the Coalition recommended that Council delay the organizational meeting of the CRC from October 15, 2008 for six (6) months or more in order to provide time for open forums to seek input from residents. Mrs. Wilder also requested that when the CRC does meet that residents be allowed to speak at all the Commission meetings and the agendas of the meeting be published and sent out to residents by email or mailing address at least five (5) business days prior to the meeting.

Mrs. Wilder invited all city officials to an open forum to be held by the Coalition on Tuesday, October 7, 2008 from 6:00 pm to 7:30 pm. in the University Heights Library

Jane Evans, Conover Road resident and assistant athletic director, John Carroll University, invited City officials to attend the university's "Community Night" activities on Saturday, October 18, 2008. There will be a pre-game reception at 6:30 p.m. and football game against Capital University at 7:00 p.m. at Don Shula Stadium. Other youth activities are planned for the night.

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

Mayor Rothschild reported that she has appointed Councilman Steven Sims to be the City's representative to the Northeast Ohio Public Energy Council (NOPEC) replacing former Councilman Steven D. Bennett.

Mayor Rothschild congratulated Fire Lt. Keith Kanner for the department's efforts in hosting The Pink Ribbon Tour on Saturday, September 27, 2008. The Fire Department hosted the pink fire engine which is traveling the United States to heighten awareness about breast cancer. Lt. Kanner recognized Fire Chief Pitchler, Capt. David Rodney, Firefighter/Paramedics Bill Phelan, Tom Hren Jim Faciana, Randy Witczak and Chris Calo, who were present, for their efforts. He also stated that other Fire Department personnel assisted along with many residents.

Firefighter/Paramedic Christopher Calo announced that one day during the weekend of October 25, 2008, the department will sponsor a Community Day. Details will be announced at a later date and everyone is encouraged to wear pink in order to raise awareness about various forms of cancer. Tee shirts are available for sale. For more information go to www.pinkribbontour.com. Fire Chief Pitchler recognized Lt. Keith Kanner for initiating the events.

Agenda Items:

A. Moral Claim - David Post, 4298 Silsby Road

Mr. David Post, property owner of 4298 Silsby Road, filed a moral claim on August 30, 2008 for property damage sustained from a sewer backup when the water main broke on Silsby Road between South Belvoir Blvd. and Baintree Road on May 13, 2008. Mr. Vild reported that this item was tabled from September 15, 2008 in order to get documentation of Mr. Post's loss. An invoice was received in the amount of \$895.00 for new carpeting which was installed in the basement.

MOTION BY MR. CONSOLO, SECONDED BY MR. BERNARDO to approve the moral claim of David Post, 4298 Silsby Road, in the amount of \$300.00. On roll call, all voted "aye," except Ms. Goldberg and Mr. Murphy, who voted "nay."

B. Appeal to Council of the Board of Zoning Appeals' decision of September 10, 2008 regarding the issuance of a fence permit at 2591 Kerwin Road

Mr. Michael Kirincic was present to request that the Board of Zoning Appeals decision of September 10, 2008 regarding the fence permit issued to John Carroll University to install a fence in the back yard of its rental property located at 2591 Kerwick Road be revoked. Mr. Joseph Farchione, Esq., was present representing Mr. Kirincic. Present representing John Carroll University were Ms. Lisa M. Barrett, Esq., attorney, and Mrs. Maria Alvaro-Lopez, tenant of 2591 Kerwick Road.

The court reporter transcript of this portion of the October 6, 2008 Council meeting, as prepared by Jessica M. Hine of Traver & Bishilany Court Reporting Services, LLC, is incorporated herein and attached hereto in its entirety as part of record thereof.

After conclusion of the testimony, the following motion was presented.

MOTION BY MR. MURPHY, SECONDED BY MR. SIMS to deny the appeal. On roll call, all voted "aye," except Mr. Bernardo, who voted "passed."

C. Resolution No. 2008-52 To submit a proposed contract and disclosure statement for public inspection regarding admission to the NORMA Self-Insurance Pool, Inc. (2nd Reading)

Resolution No. 2008-52 authorizes submission of a proposed contract and disclosure statement for public inspection for admission to membership in the NORMA Self-Insurance Pool, Inc. in conformity with Section 2744.081 of the Ohio Revised Code.

MOTION BY MR. SIMS, SECONDED BY MR. CONSOLO to approve the passage of Resolution No. 2008-52 as an emergency measure. On roll call, on suspension of rules, all voted "aye." On roll call, on passage, all voted "aye."

D. Ordinance No. 2008-54 Amending Section 1072.20 of the Codified Ordinances by reducing the number of days upon which hedge or shrubbery nuisances must be abated after notice from the City (2nd Reading)

Ordinance No. 2008-54, which was placed on first reading on September 15, 2008, amends Section 1072.20 of the Codified Ordinances by reducing the number of days upon which hedge or shrubbery nuisances must be abated after notice from the City from ten (10) to three (3) days. Law Director Kenneth J. Fisher stated that Ordinance No. 2008-54, 2008-55 and 2008-56 were amended to make the language within each ordinance more consistent with one another. Mr. Bernardo, chairman of the Building Committee of Council agreed with the amendments as presented.

MOTION BY MR. BERNARDO, SECONDED BY MR. SIMS to approve the passage of Resolution No. 2008-54. On roll call, all voted "aye."

E. Ordinance No. 2008-55 Amending Section 1084.04 of the Codified Ordinances by reducing the number of days upon which noxious weeds must be cut and disposed of after notice from the City (2nd Reading)

Ordinance No. 2008-55, which was placed on first reading on September 15, 2008, amends Section 1084.04 of the Codified Ordinances by reducing the number of days upon which noxious weeds must be cut and disposed of after notice from the City from five (5) to three (3) days.

MOTION BY MR. BERNARDO, SECONDED BY MRS. ZUCKER to approve the passage of Resolution No. 2008-55. On roll call, all voted "aye."

F. Ordinance No. 2008-56 Amending Section Chapter 1460 of the Codified Ordinances by amending the title of the chapter and reducing the number of days upon which pest nuisances must be abated after notice from the City (2nd Reading)

Ordinance No. 2008-56, which was placed on first reading on September 15, 2008, amends Chapter 1460 of the Codified Ordinances by amending the title of the chapter to "Pest and Sanitary Control" and reducing the number of days upon which pest nuisances must be abated after notice from the City from ten (10) to three (3) days.

MOTION BY MR. BERNARDO, SECONDED BY MS. GOLDBERG to approve the passage of Resolution No. 2008-56. On roll call, all voted "aye."

G. Ordinance No. 2008-58 To repeal Section 210.01 of the Codified Ordinances relative to moral claims (1st Reading)

Ordinance No. 2008-58 repeals Section 210.01 of the Codified Ordinances to eliminate the Moral Claims Policy.

Ordinance No. 2008-58 was placed on first reading. There were no objections.

H. Resolution No. 2008-59 Establishing and Accepting Tax Rates

Resolution No. 2008-59 accepts the amounts and rates as determined by the Budget Commission and authorizing the necessary tax levies and certifying them to the County Auditor.

MOTION BY MR. SIMS, SECONDED BY MRS. ZUCKER to approve the passage of Resolution No. 2008-59 as an emergency measure. On roll call, on suspension of rules, all voted "aye." On roll call, on passage, all voted "aye."

I. Resolution No. 2008-60 Establishing a special committee on University Affairs

Resolution No. 2008-60 establishes a special committee on University Affairs pursuant to Codified Ordinances Section 220.10(b). The committee shall consist of the following members: (1) Councilman Consolo, Chairman, (2) Councilwoman Goldberg, (3) Councilman Bullock, (4) Councilman Sims, and (5) Councilman Murphy.

Vice Mayor Zucker inquired where Resolution Nos. 2008-60 and 2008-61 came from and when the meetings were held regarding the resolutions. Mr. Consolo stated that no meetings were held and explained how the came about. Mr. Consolo noted that the proposal on a University Affairs Committee came about after he attended the Board of Zoning Appeals (BZA) meeting of September 10, 2008 realized that Mayor Rothschild could not be objective in her dealings with John Carroll University (JCU). Mr. Consolo stated that after speaking with Mr. Bernardo after the BZA meeting about the deteriorating relationship between JCU and the City, Mr. Bernardo asked him to put together a committee to deal with JCU and leading it. He added that the special committee was formed in accordance with Section 220.10(b) of the Code. The committee will act as an objective public work session wherein JCU could submit its proposals and compromises to the committee for consideration. Mr. Consolo stated that the second special committee on Planning and Development was formed to deal with such issues as the proposed Waterway development since there has been no discussion on this matter in several weeks. He added that both committees should be made up of Council members except for Councilman Bernardo because of his employment with JCU and Vice Mayor Zucker because of her close association with Mayor Rothschild.

Mr. Consolo noted that once the committees were formulated, he met with Councilman Bullock on September 17, 2008 to solicit his advise on the ideas and then separately telephoned Council members Bernardo, Murphy, Sims and Goldberg on September 18 and 19, 2008 to explain his concept of the committees. He mentioned that each had positive feedback on the ideas, membership and chairmanship of the committees. Mr. Consolo sought the advise of the Law Director to determine if the committees should be formed by ordinance, resolution or motion. Originally, he suggested motions, and two (2) motions were emailed to the Clerk of Council on September 28, 2008 to be added to the agenda of the October 6, 2008 meeting. However, on September 30, 2008 the Law Director recommended that the committees be formed by resolution to afford the Mayor an opportunity to veto the legislation, if desired. Mayor Rothschild stated that Mr. Consolo has made her his "whipping boy" for whatever his agenda is. Mayor Rothschild added that they should take advantage of her and Vice Mayor Zucker's history with the City.

Vice Mayor Zucker stated that prior advise given by the Law Director was that ordinances or resolutions had to come from the Mayor, department head, or from a Council committee. She stated that secret meetings of certain Council members does not make up a committee. Vice Mayor Zucker stated that the introduction of Resolution Nos. 2008-60 and 2008-61 is not a legitimate request because no meeting was scheduled and only those members listed in the resolution know anything about the legislation. Correspondence was done by telephone and/or email on Sunday, September 28, 2008 at 9:29 a.m. in which she was not included. On Friday, October 3, 2008, Mr. Sims took himself off the Planning and Development Committee and he was replaced with Mr. Bernardo. Mrs. Zucker stated that both committees are a good idea, but she objected to how it was done. She noted that not one member of Council gave her the courtesy of a phone call to let her know what was going on, leading her to believe that they want to run University Heights in the dark. Mrs. Zucker stated that she has been elected by the people and will be at every meeting of both special committees. She noted in the past 25 years that she has been on City Council, with the exception of one term, the Council was made up of members who respected one another and worked together for the good of the City. She added that in nine and one-half months they have managed to destroy that working relationship.

MOTION BY VICE MAYOR ZUCKER, SECONDED BY MR. SIMS to remove Resolutions No. 2008-60 and 2008-61 from the agenda and refer them to the agenda of the Committee of the Whole to be discussed as a Council.

Mr. Fisher noted that he works cooperatively with everyone. He noted that he did advise Vice Mayor Zucker that legislation could be introduced by the Mayor, department head, majority of a Council committee or majority of the Council and placed on the agenda. Mr. Fisher stated that under Section 220.10(b) of the Code special committees may be established by the Mayor or Council. After he received the request from Councilman Consolo, it was his opinion that the committees could be established by motion. However, the Mayor wanted the right to consider vetoing the legislation and since motions cannot be vetoed he suggested that the committees be formed by resolution. Mr. Fisher stated that the resolutions be properly placed on the agenda.

Mayor Rothschild stated that committees usually consist of three members and asked if all five members will go to John Carroll University as a committee. Mr. Consolo stated that they were hoping for form the committee at this meeting and then schedule a work session meeting to brainstorm various ideas. He added that nobody was excluded as the meetings will be public and anyone can attend. Vice Mayor Zucker stated that she finds the process disrespectful and insulting.

Mr. Sims stated that 6 out of 7 Council members will be serving on the committees. Mr. Sims noted that he personally made an attempt to reach out to Vice Mayor Zucker in an attempt to bring the Council together. He noted that this was not meant as disrespect to the Mayor or Vice Mayor, the Council is just hoping to move forward with some of the issues facing the City. Mr. Fisher stated that all meetings of the committees will be open to the public and notice of the meeting must be posted.

On roll call, on the motion to remove Resolution No. 2008-60 and 2008-61 from the agenda and refer them to the agenda of the Committee of the Whole all voted "nay," except Mrs. Zucker, who voted "aye" and Mr. Bernardo, who "abstained."

MOTION BY MR. CONSOLO, SECONDED BY MR. MURPHY to approve passage of Resolution No. 2008-60 as an emergency measure. On roll call, on suspension of rules, all voted "aye," except Mr. Bernardo, who "abstained" and Mrs. Zucker, who "passed." On roll call, on passage, all voted "aye," except Mr. Bernardo, who "abstained" and Mrs. Zucker, who "passed."

J. Resolution No. 2008-61 Establishing a special committee for Planning and Development

Resolution No. 2008-61 establishes a special committee for Planning and Development. The committee shall consist of the following members: (1) Councilman Murphy, Chairman, (2) Councilwoman Goldberg, (3) Councilman Bullock, (4) Councilman Bullock, and (5) Councilman Consolo.

MOTION BY MR. CONSOLO, SECONDED BY MS. GOLDBERG to approve the passage of Resolution No. 2008-61 as an emergency measure. On roll call, on suspension of rules, all voted "aye," except Mrs. Zucker, who "passed." On roll call, on passage, all voted "aye," except Mrs. Zucker, who "passed."

K. Motion to advertise for bids for road salt

Service Director Christopher Vild reported that Northeast Ohio will be experiencing a salt storage this winter. He noted that NEO/SO did not receive any bids from its advertisement for bids. Mr. Vild noted that the City's salt storage contract with the City of Cleveland Heights includes a clause whereby University Heights can purchase salt from Cleveland Heights. This is being pursued. But as a backup, Mr. Vild recommended that the City advertise for bids in the hopes of receiving bids since only a small amount of salt (approximately 3,000 tons) will be needed. There was discussion as to possibly eliminating salting of side streets and only salt main streets and areas such as intersections, hills, and bridges. Mr. Vild noted that the City of Westlake has seen a 40% to 60% savings of salt. There was also discussion of using the option of aggregate such as sand, shell, etc. Mr. Vild noted that he would not recommend using aggregate at this time because it would cause additional expense in sewer cleaning.

MOTION BY MRS. ZUCKER, SECONDED BY MR. MURPHY to approve the motion to advertise for bids for road salt. On roll call, all voted "aye."

L. Discussion of interview process for Charter Review Commission

MOTION BY MR. MURPHY, SECONDED BY MR. BULLOCK to hold an executive session immediately following this regular meeting for the purpose of discussing personnel matters. On roll call, all voted "aye."

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

A motion for executive session was made under Item L.

Directors' Reports:

Fire Chief John Pitchler reported the CityWatch notifications have been going out to the residents regarding hydrant flushing.

Community Coordinator Walter Stinson announced that a public meeting will be held on Wednesday, October 15, 2008 at 7:30 p.m. in Council Chambers to discuss possible projects for Community Development Block Grant funds.

Building Commissioner David Menn reported that the house located at 2199 Wynn Road has been demolished. Mr. Fisher noted that the contractor agreed to all asbestos remediation.

Committee Reports:

Finance Committee Chairman Steven Sims reported that the Finance Committee meeting scheduled for Tuesday, October 28, 2008 will have to be rescheduled. He requested that all members of Council try to attend the meeting because the Finance Director will present an update on the operating budget as well as a projection of upcoming years.

Service & Utilities Committee Chairman Adele H. Zucker reported that the Storm Water Management Committee will meet on Tuesday, October 7, 2008 at 7:30 p.m. in Council Chambers.

There being no further business to discuss, the Council recessed into executive session. Following the executive session, the meeting was adjourned.

Mayor Beryl E. Rothschild

Nancy E. English, Clerk of Council