

MINUTES OF SPECIAL COUNCIL MEETING  
CITY OF UNIVERSITY HEIGHTS  
JANUARY 11, 2010

Mayor Infeld called the special meeting to order at 7:10 p.m.

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

Also Present: Acting Law Director Dennis A. Nevar  
Clerk of Council Nancy E. English  
Finance Director Anthony L. Ianiro  
Chief of Police Gary Stehlik  
Deputy Chief of Police James Rohal  
Fire Chief John Pitchler  
Executive Fire Captain Steve Ineman  
Building Commissioner David Menn  
Community Coordinator Walter Stinson

Agenda Items:

**A. Motion to reappoint Nancy E. English as Clerk of Council and oath of office**

**MOTION BY MS. GOLDBERG, SECONDED BY MR. CONSOLO to reappoint Nancy E. English as Clerk of Council. On roll call, all voted "aye."**

Vice Mayor Goldberg administered the Oath of Office to Ms. English.

**B. Discussion regarding position of Safety Director**

Mayor Infeld stated that at the request of Councilman Bullock she postponed the appointing herself Safety Director at the Council meeting of January 4, 2010 until a future meeting in order for the Mayor and Council to have a discussion regarding the appointment. She opened the floor to Mr. Bullock.

**MOTION BY MR. CONSOLO, SECONDED BY MR. SIMS to move into executive session to discuss this personnel matter.**

Mayor Infeld requested that the issue be discussed in public. Acting Law Director Dennis A. Nevar advised that under Ohio Revised Code Section 121.22 (G)(1), Council may hold an executive session on matters of personnel and compensation unless the employee or official in question request a public hearing. Mayor Infeld mentioned that Mr. Bullock wanted openness and transparency, and therefore, she suggested that the matter be discussed in open session so that the large number of audience members could hear the discussion. Mr. Sims stated that he is willing to abide by the Law Director's counsel.

Mr. Bullock thanked Mayor Infeld for obliging his request to hold the appointment of the Safety Director until such time that the Mayor and Council could have a conversation about the appointment and salary with the hope of the matter being resolved without controversy. Councilman Bullock mentioned that he made the request because Council had a lengthy discussion last year regarding the Mayor's salary and the Safety Director position, but did not reach a conclusion.

In starting the conversation, Mr. Bullock questioned the need for a Safety Director position, even though he believes the functions of Safety Director should exist within the organization. Next, he addressed the issue of the Mayor's salary. Mr. Bullock suggested that the Council arrive at a decision which provides for a more appropriate salary for the Mayor and assign the functions of Safety Director to the Mayor. Mr. Murphy agreed.

Vice Mayor Goldberg stated that the Mayor's salary was established in the fall of 2009 and cannot be amended mid-term. She added the Mayor presently earns approximately \$33,000 annually which may not be appropriate for a fully engaged, full-time Mayor. Vice Mayor Goldberg mentioned that some cities add on the salary for the position of Safety Director as a way to pay the Mayor additional compensation; a practice which she questions because the Mayor may not have the proper training in law enforcement to oversee for Police and Fire Departments. She suggested that perhaps the better option would be to increase the Mayor's salary and add the duties of economic development director or city planner as a way to enhance a full-time Mayor's position.

Councilman Murphy stated that he would like to see the Mayor's position full-time with a salary increase. But, he inquired if Council could revisit the issue of the Mayor's salary. Mr. Bullock replied that the Mayor's salary cannot be changed during the 4-year term. Mr. Nevar concurred citing Article 8, Section 3 of the City Charter.

Mr. Ertel inquired if a Charter amendment would be required in order to change the Charter provision which prohibits a salary increase mid-term. Mr. Nevar replied that it would require a Charter amendment submitted to the electorate. Mr. Consolo mentioned that State law also prohibits changes in an elected official's salary mid-term.

Councilman Consolo inquired if a consensus of Council is needed to approve the appointment of the Mayor as Safety Director. Mr. Nevar advised that Council approval is not required and cited Article 5, Section 4 of the Charter, which gives the Mayor authority to appoint all officers and employees of the City with the exception of certain officers and employees of the Council, judges, the Clerk of Council, the Director of Law and their assistants. Mr. Consolo stated that one reason he moved for an executive session was because he is concerned about a conflict with the Ohio Ethics Laws as it relates to the Mayor appointing herself to a paid position. Mr. Nevar stated that he researched the Ohio Ethics Laws and did not find any prohibitions against it. Mr. Nevar stated that if Council so directs, he will request an advisory opinion from the Ohio Ethics Commission.

Mr. Nevar reported that Codified Ordinances Sections 230.01 and 236.01 are in direct conflict with the Charter by requiring a vote of a majority of Council in order for the Mayor to appoint herself to the position of Safety Director. He advised that in this case, the Charter supercedes the Codified Ordinances and a vote of Council is not required. He added that there are checks and balances, in this instance, because the Council controls the pay ordinance relative to the Safety Director.

Mr. Consolo inquired as to the consequences if the Mayor is not in compliance with the Ohio Ethics Laws and proposed that an advisory opinion request be made to the Ohio Ethics Commission. Mayor Infeld was amenable to the suggestion if that was the Council's desire. Vice Mayor Goldberg stated that the previous Mayor appointed herself to the Safety Director position for many years. Mr. Ertel added that it has also been done in other cities as well.

Vice Mayor Goldberg stated that for her personally the concern was not ethical consideration, but rather she questioned whether Mayor Infeld has the training and experience to be the Safety Director. However, she does want the Mayor to be fully engaged and full-time and compensated as such, but not under the pretense of the Safety Director where it is a sham to increase the salary. Vice Mayor Goldberg added that the Mayor should be fairly compensated for the job she doing. Mr. Bullock stated that he wants that also, but the salary cannot be changed mid-term.

Mr. Sims stated that Councils in the past have acted to appoint the Mayor as Safety Director, and added that personally, he believes the Mayor should be the Safety Director because the responsibilities of the Safety Director belong with the Mayor. However, he inquired as to the what the functions of the Safety Director are and whether those functions are above and beyond the position of the Mayor to a point where it would deserve more than nominal compensation. Mr. Bullock stated that there are also certifications that go with being a Safety Director.

Mayor Infeld stated that according to the Charter, the Department of Public Safety oversees the Police, Fire and Building Departments. She believes that the Safety Director is the civilian control over those departments. She also believes it is necessary to have civilian control, especially over Police and Fire. That way, if anyone has a grievance with either service, they could come to the Safety Director as the civilian authority to have the grievance addressed. Mr. Consolo inquired if Mayor Infeld was requesting compensation from the Council for the additional duty. Mayor Infeld responded that she would leave the compensation to the Council's deliberation to determine if that position has value. She added that past Councils have determined that the position had value and set the compensation accordingly.

Mr. Sims stated that it is important for the Council to focus on the compensation of all employees and it should be considered in the total context of the City's budget. He mentioned that the City is facing challenges and it is important to have a clear sense of direction as to where the City is, where it is headed, and how all employees will be compensated for the work that they do. Councilman Sims indicated that because Council has not received the budget and was not prepared to make a recommendation regarding the compensation of the Safety Director, he had no problem continuing the Mayor as Safety Director under the same level of compensation as the previous budget. He suggested that during the budget process, the Council should make a decision as to whether there are other functions which the Mayor will be performing which deserves compensation.

Mr. Consolo inquired if the Safety Director's salary will be a budgeted item going forward. Finance Director Anthony L. Ianiro stated that the Safety Director's salary of approximately \$36,575 has been budgeted in the past and it is his intention to incorporate it into the 2010 budget. He added that there is an ordinance in place for all directors, including the Safety Director, which will carry over into 2010 until another ordinance is passed. Mr. Sims pointed out that when the budget is reviewed in total it may be necessary to reconsider if the appropriations should carry through at the current levels. He added that the Mayor and Council have some difficult and hard decisions to make. Mr. Sims stated that the budget has been balanced because Council has been diligent in making sure that they do what is necessary in order to reduce costs, save money and increase efficiencies. He added that nothing is set in stone and Council will have to consider the overall outlook before a final determination is made.

Mr. Consolo stated that he is concerned about the Mayor appointing herself to another paid position without Council's consent. Therefore, he suggested that Council give its consent to the Mayor to be Safety Director until March 31, 2010 at \$3,000 in order to get through the budget process and then reconsider the salary issue. Mr. Nevar explained that according to Section 230.01 of the Codified Ordinances, in the absence of a Safety Director, the Mayor is the de facto Safety Director. Mr. Consolo stated the he still believes the salary should be acted upon. Mr. Ianiro mentioned that the directors' salary ordinance for 2009 will continue in full force and effect until it is repealed or replaced by another ordinance.

Mr. Murphy agreed with Councilman Sims that there must be a detailed review of the budget because tough decisions have to be made as to where the money is to be spent. He also agreed with Mr. Consolo that the Mayor continue as Safety Director until March 31, 2010 and the budget is reviewed. Mr. Ertel also agreed that the matter should be discussed in the context of the total budget.

Mr. Bullock stated that since Council does not have to approve the Mayor's appointment as Safety Director, but will approve the salary, he is willing approve the salary to be continued as it was until the issue is resolved.

Mr. Consolo inquired if the Mayor is asking for Council's consent of her appointment as Safety Director. Mayor Infeld replied that she was pleased to hear the Council members expressing confidence in her abilities to be Safety Director, which she appreciated. But, she added the approval of Council has more to do with the salary that Council sets than the appointment because even though there is a conflict between the Charter and the Codified Ordinances, the Charter supersedes the ordinances. Mr. Consolo stated that since the Mayor is not going to seek the consent of Council, he would prefer to get an advisory opinion from the Ohio Ethics Commission. Mr. Nevar stated that he would request an opinion.

At the conclusion of the discussion, Mayor Infeld stated she is currently the Safety Director by default, and she intends to follow the Charter and appoint herself Safety Director at the Council meeting of January 19, 2010.

Mayor Infeld opened the floor to the comments from the audience.

Wendy Deuring, League of Women Voters, inquired if the position of Safety Director is required by the City Charter, City Ordinances, or State Code. Mr. Nevar replied that Article 6, Section 1 of the City Charter requires the position because it establishes the Department of Public Safety, therefore, it is inherent that there be a director of that department. Mr. Nevar stated that he would have to research the State Code to determine if there is a State requirement. Mr. Bullock suggested that Mr. Nevar review the State Code because there are qualifications in the State Code for Safety Director.

Harvey Morrison, 2424 White Road, former chairman of the City's Charter Review Commission, stated that the commission's proposed amendments to Article 6, Section 1, which were submitted to the electorate, provided for a Director of Public Safety, but the voters defeated the measure.

Charles Perkel, 4325 Groveland Rd., stated that it is an American tradition that there be civilian oversight; therefore, the Chief of Police and Chief of Fire have the training and the Mayor as Safety Director provides the oversight to ensure that everything is being done. Mr. Perkel mentioned that he is grateful for the civility between the Mayor and Council.

Steven D. Bennett, 3716 Hillbrook Rd., stated that it is correct that the purpose of the Safety Director is to have a civilian head of the safety forces. He mentioned that during police and fire contract negotiations the Mayor will be the head of that team representing fiduciary responsibility of the City. He added that a Safety Director in a small city like University Heights does not have the same responsibilities as in a larger city.

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

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Mayor Susan K. Infeld

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Nancy E. English, Clerk of Council